Senate resolution designating the third week in October of 2009 as disability history week.

Having been placed on the Calendar for action, was taken up and adopted.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 94, H. 6, H. 69, H. 205, H. 430, H. 433.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until eight o'clock and thirty minutes in the morning.

FRIDAY, MAY 1, 2009

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

President Assumes the Chair

Proposals of Amendment; Third Reading Ordered

H. 86.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the regulation of professions and occupations.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 2a to read as follows:

Sec. 2a. VERMONT BOARD OF BARBERS AND COSMETOLOGISTS; LASER PROCEDURES; STUDY

The Vermont board of barbers and cosmetologists shall convene a committee to study the use of laser light and radio frequency devices and shall provide a report and recommendation to the general assembly by January 15, 2010 on the current laws regulating the practice. The committee shall report on the education, training, supervision, and oversight necessary for the safe use of the various types of lasers and their uses in procedures related to skin treatments and care. The committee shall include a representative of the state

board of medical practice, a representative of the board of barbers and cosmetologists, a registered nurse, a practicing dermatologist, a practicing esthetician, and other members of the public, or health and medical or skin care industry experts the board deems necessary to contribute to an informed discussion of the issues.

Second: By adding a new section to be numbered Sec. 2b to read as follows:

Sec. 2b. STATE BOARD OF PRIVATE INVESTIGATIVE AND SECURITY SERVICES; DIGITAL FORENSICS STUDY

The state board of private investigative and security services shall study the profession of digital forensics and whether regulation of digital forensics is necessary to protect the public. The board may solicit the advice of practitioners of the profession and other industry experts the board deems necessary to contribute to an informed discussion of the issues and shall submit a report of recommendations to the general assembly by January 15, 2010.

Third: By adding a new section to be numbered Sec. 12a to read as follows:

Sec. 12a. OFFICE OF PROFESSIONAL REGULATION; BOARD OF DENTAL EXAMINERS; DENTAL HYGIENISTS

The director of the office of professional regulation shall file a report with the general assembly by January 1, 2010 that recommends whether to restructure the board of dental examiners to improve the regulation of dental hygienists. If the board determines that restructuring is necessary, it shall make appropriate recommendations.

Fourth: In Sec. 18, 26 V.S.A. § 1252(a), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) The board may waive the educational and traineeship requirements for examination as a funeral director, provided the applicant possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter.

Fifth: In Sec. 18, 26 V.S.A. § 1252(b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) The board may waive the educational and traineeship requirements for examination as an embalmer, provided the applicant possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter.

Sixth: By striking out Sec. 26 in its entirety and inserting in lieu thereof a new Sec. 26 to read as follows:

Sec. 26. NURSING EDUCATION PROGRAMS; FACULTY; EDUCATIONAL EXPERIENCE

A member of the nurse faculty of a baccalaureate or associate degree nursing education program shall hold at least a master's degree with a major in nursing and clinical experience relevant to the areas of responsibility unless the individual was a member of the faculty prior to March 1, 2004, provided that he or she meets all other requirements of the Vermont state board of nursing rules and has either acquired a master's degree in education or is currently in the process of obtaining a master's degree in nursing.

Seventh: In Sec. 41(b), by striking out the following: "§ 71a(a)(2)(A)(ii)" and inserting in lieu thereof the following: § 71a(a)(2)(A)(i)

Eighth: In Sec. 41, by adding a new subsection (c) to read as follows:

(c) Sec. 26a of this act shall be repealed on July 1, 2013.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Maynard, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, Senator White moved to amend the proposal of amendment of the Committee on Government Operations, by adding a new Sec. 2c to read as follows:

Sec. 2c. LANDSCAPE ARCHITECTS STUDY

By November 15, 2009 the office of legislative council, with the full cooperation and assistance of the office of professional regulation and the Vermont Society of Landscape Architects, shall report to the general assembly whether Vermont landscape architects may currently be restricted in their ability to practice their profession to the full extent of their education and training, and how such restrictions may impact the best interests of Vermonters. The report shall also provide various options for regulation of landscape architects which seek to minimize:

a) any such restrictions on practice, and

b) any inconsistencies with existing laws governing the regulation of new professions.

Which was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Government Operations, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered.

Senator Shumlin Assumes the Chair

Recess

On motion of Senator Mazza the Senate recessed until the fall of the gavel.

Called to Order

At nine o'clock and seven minutes the Senate was called to order by the President *pro tempore*.

Rules Suspended; Proposal of Amendment; Consideration Interrupted by Recess

S. 137.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and Senate bill entitled:

An act relating to the Vermont recovery and reinvestment act of 2009.

Was taken up for immediate consideration.

President Assumes the Chair

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Opportunity Zones * * *

Sec. 1. OPPORTUNITY ZONES; PILOT PROGRAM

(a) For purposes of this section:

(1) "Opportunity zone" means an area within the town of Springfield designated to accommodate a significant amount of industrial activity, high technology, or other job-producing activity; it includes one or more industrial facilities that have been vacant or substantially underutilized for more than ten years; and it has at least 15,000 square feet or a minimum of five acres if the site includes an older structure.

(2) "Qualified business" means any business that intends to locate in or expand into an opportunity zone and:

(A) Is in compliance with applicable local zoning and development criteria for locating in the opportunity zone.

(B) Is in compliance with applicable federal, state, and local regulations.

(C) Will employ at least ten new full-time employees in positions that are not retail sales within a year of approval.

(D) Will pay wages and benefits to all full-time employees that meet or exceed the prevailing compensation level for that particular employment.

(3) "Qualified redeveloper" means any taxpayer that purchases and redevelops an industrial building in an opportunity zone for sale or lease to a qualified business.

(4) "Secretary" means the secretary of commerce and community development.

(5) "Substantially underutilized" means a property or facility of which less than ten percent has been occupied for uses other than storage or warehousing for at least ten years and for which active and sustained marketing has produced no significant employment.

(b) There is created an opportunity-zones pilot program which shall be administered as follows:

(1) The town of Springfield may apply to the secretary for designation of an opportunity zone authorized by this subchapter.

(2) Qualified businesses and qualified redevelopers may apply to the secretary for the benefits provided by this subchapter.

(3) A designation of an opportunity zone under this section shall be for a period of ten years and may be extended by the secretary, upon application by the municipality, for one additional ten-year period.

(4) Applications from the town of Springfield for a designated opportunity zone and from qualified businesses and qualified redevelopers for approval of benefits shall be made in accordance with guidelines established by the secretary.

(5) The secretary shall issue a written decision granting or denying an application within 45 days of receipt of a completed application. If the secretary denies an application the decision shall state the reasons for the denial. The town of Springfield, a qualified business, and a qualified

redeveloper denied designation or approval may submit a new application at any time.

(6) Decisions of the secretary are not subject to chapter 25 of Title 3 and shall be final and not reviewable.

(7) Beginning no later than 12 months after approval by the secretary, qualified businesses and qualified redevelopers shall annually submit a written report to the secretary verifying that the business continues to meet all the requirements of this section.

(8) The secretary is authorized to designate one opportunity zone in the town of Springfield in accordance with this subchapter.

(c) Qualified businesses and qualified redevelopers located in an opportunity zone are eligible for the following benefits:

(1) The sales tax exemption provided under 32 V.S.A. § 9741(48) for the building materials, machinery, equipment, or trade fixtures purchased for use in the opportunity zone.

(2) A ten-year exemption from the education tax imposed under 32 V.S.A. § 5402 on the nonresidential value of the redeveloped property.

(3) An annual income tax credit equal to three percent of the total wages and salaries paid during the taxable year to employees for services performed within the opportunity zone.

(4) Expedited processing of applications for state permits and other state approvals, with all applications being decided, where legally permissible, within 30 days of the receipt of a completed application.

(5) Priority consideration by any state agency for eligibility for state or federal funding or other aid to industrial development based on a cost-benefit analysis.

(6) Priority consideration for financing programs available through the Vermont economic development authority under chapter 12 of this title.

(7) Technical support from the department of public safety and the division for historic preservation for the rehabilitation of older and historic buildings.

(d) Property tax exemptions under this subchapter shall commence in the first tax year in which the qualified business or qualified redeveloper has made expenditures in the designated opportunity zone.

(e) Any benefits received by a qualified redeveloper related to the redevelopment, sale, or lease of improved space to a qualified business within an opportunity zone shall not also be separately available to a qualified

business that purchases or leases all or part of the facility improved by the redeveloper.

(f) Benefits shall not be available for either of the following:

(1) Retail sales activities; or

(2) Relocating a business within Vermont to an opportunity zone.

(g) Benefits granted to a qualified business or a qualified redeveloper may be terminated and recaptured by the secretary upon determination that the qualified business or a qualified redeveloper is no longer in compliance with, or has failed to meet, the requirements of this section. A decision to terminate or recapture benefits shall not be subject to chapter 25 of Title 3 and shall be final and not reviewable.

(h) The secretary, on or before January 15, 2011, and biennially thereafter, shall report to the general assembly on the progress of the opportunity zone designated under this subchapter and its impact on new economic development and the creation of new jobs.

Sec. 2. 32 V.S.A. § 9741(48) is added to read:

(48) Sales of building materials, machinery, equipment, or trade fixtures incorporated into an opportunity zone designated by the secretary of commerce and community development.

* * * Purchase of Firearms * * *

Sec. 3. 13 V.S.A. § 4014 is amended to read:

§ 4014. PURCHASE OF FIREARMS IN ~~CONTIGUOUS~~ OTHER STATES

Residents of the state of Vermont may purchase rifles and shotguns in ~~a~~ another state ~~contiguous to the state of Vermont~~ provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the ~~contiguous~~ state in which the purchase is made.

Sec. 4. 13 V.S.A. § 4015 is amended to read:

§ 4015. PURCHASE OF FIREARMS BY NONRESIDENTS

Residents of a state ~~contiguous to~~ other than the state of Vermont may purchase rifles and shotguns in the state of Vermont, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968,

and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which such persons reside.

* * * Next Generation of Workforce Development * * *

Sec. 5. REPEAL

Sec. 7(a)(3)(A) and (B) of No. 46 of the Acts of 2007 (specifying how monies appropriated for workforce development is to be apportioned between career exploration programs and alternative and intensive vocations/academic programs) is repealed.

Sec. 6. Sec. 6 of No. 46 of the Acts of 2007 is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER~~; LEADERSHIP COMMITTEE; CREATED~~

(a) The commissioner of labor shall be the leader of workforce development strategy and accountability. The commissioner of labor shall consult with ~~and chair a subcommittee of the workforce development council consisting of the secretary of human services, the commissioner of economic development, the commissioner of education, four business members appointed by the governor, and a higher education member appointed by the governor. Membership on the subcommittee shall be coincident with the members' terms on the workforce development council~~ the workforce development council executive committee in developing the strategy, goals, and accountability measures. The workforce development council shall provide administrative support. The ~~subcommittee~~ executive committee shall assist the leader. The duties of the leader include all the following:

(1) developing a limited number of overarching goals and challenging measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding ~~under Act 46 of the Acts of 2007~~ from the Next Generation fund. The reports shall be submitted on a schedule determined by the executive committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the governor and the general assembly on or before December 1, which shall include a systematic evaluation of the accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments, innovations, collaborations, grants received, or new funding sources developed by participating agencies, institutions, and other education and training organizations;

(B) ~~an evaluation~~ identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of next generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; and

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private.

(b) Entities receiving grants through the workforce education and training fund (WETF) and the Vermont training program (VTP) shall provide the Social Security number of each individual who has successfully completed a training program funded through the WETF and the VTP within 30 days. On or before July 1 of each year, the department of labor and the department of economic development shall process the information received within the most recent 12 months and prepare the report required in subdivision (a)(4) of this section. The report shall include a table that sets forth quarterly wage information received pursuant to 21 V.S.A. § 1314a at least 18 months following the date on which the individuals completed the program of study. The table shall include the number of individuals completing the program, the number of those individuals who are employed in Vermont, and the median quarterly income of those individuals.

(c) Other entities, including public and private institutions of higher education, postsecondary and secondary programs, and other training providers who wish to receive grants under the WETF and the VTP may do so by making a request in writing to the commissioner of labor and the commissioner of economic development who shall make a decision regarding inclusion of such programs and the process for the collection of the necessary data.

(d) Confidentiality. Notwithstanding any other provision of law, the departments of labor and of economic development shall collect the Social Security numbers of students for the purposes of this section. The departments shall retain Social Security numbers collected from the entities listed in subsection (b) of this section for no more than five years from the date of receipt by the departments. Access to the Social Security numbers provided to the department of labor and department of economic development shall be limited to those department individuals creating the table required in subsection (b) of this section and shall be confidential. The departments shall prepare the tables in a way that ensures the confidentiality of all trainee and employer information. A department employee who intentionally communicates or otherwise makes available to the general public a Social Security number collected pursuant to this section or who otherwise disseminates the number for purposes other than those specified in this section

shall be subject to the penalties of the Social Security Number Protection Act, subchapter 3 of chapter 62 of Title 9.

Sec. 7. REPEAL

The following are repealed:

(1) Sec. 7(d) of No. 46 of the Acts of 2007 (accountability);

(2) 10 V.S.A. § 543(g) (accountability); and

(3) Section 5.801.1 of No. 192 of the Acts of the 2007 Adj. Sess. (2008).

* * * Report on Work-based Learning * * *

Sec. 8. WORK-BASED LEARNING REPORT

(a) On or before January 1, 2010, the career and technical education coordinator within the department of education, the commissioner of economic development or his or her designee, and the commissioner of labor or his or her designee, shall submit a report to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor regarding work-based learning programs in Vermont.

(b) The report shall include an inventory of existing career and technical education (CTE) work-based learning programs and other non-CTE work-based learning opportunities, such as registered apprenticeships, high school internships, and postsecondary internships, as well as community-based learning programs. The report also shall include the amount and source of funding for each program; the number of personnel hired to administer each program; participation in each program; categorization of learning opportunities offered; and other relevant standards and outcomes. Finally, the report shall include recommendations relative to statewide and regional coordination; creation of timely skill standards based on emerging or growing industry sectors; credentials that articulate postsecondary training and education; and the expansion, restructuring, or elimination of existing programs.

* * * Energy Workforce Stimulus * * *

Sec. 9. 16 V.S.A. chapter 37, subchapter 7 is added to read:

Subchapter 7. Energy Efficiency Training

§ 1594. ENERGY EFFICIENCY CURRICULUM

(a) The president of Vermont Technical College, director of the office of economic opportunity, commissioner of public service, commissioner of labor,

assistant director for adult education, and Efficiency Vermont shall plan for and develop curriculum modules and deliver energy efficiency and renewable energy education and training at all levels, in order to develop a highly skilled workforce in Vermont that is prepared to participate in a growing energy-oriented industry sector.

(b) In all applicable content areas, the curriculum modules shall be designed to meet, at a minimum, the certification standards of the Building Performance Institute, other widely recognized certification standards, or a Vermont-specific certification developed in a process led by Vermont Technical College in collaboration with the aforementioned parties.

(c) The curriculum modules shall be offered through the Center for Sustainable Practices at Vermont Technical College and, on a regional basis, through the regional technical centers and the comprehensive high schools, including adult technical education programs, under agreed-upon terms where they can be appropriately incorporated into the curriculum, which will help prepare students of all ages for careers in the energy-efficiency industry.

(d) The department of labor shall not fund any single-service contract for the implementation of the modules developed in subsection (a) of this section or for the delivery of electrical and plumbing training programs offered under this section.

(e) Vermont Technical College and the regional technical centers shall request state fiscal stabilization funds available through the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, as well as other state or federal workforce training funds available through the Vermont departments of education and of labor, and through the Vermont Energy Investment Corporation. If sufficient funds are not received, then the Vermont Technical College and the regional technical centers are not required to offer the education and training programs outlined in this section.

* * * Miscellaneous VEGI Amendments * * *

Sec. 10. 32 V.S.A. § 5930b(b)(2) is amended to read:

(2) The council shall review each application in accordance with section 5930a of this title, except that the council may provide for ~~a preliminary~~ an initial approval pursuant to the conditions set forth in subsection 5930a(c), followed by a final approval at a later date, before December 31 of the calendar year in which the economic activity commences.

Sec. 11. RETROACTIVE APPLICATION

Sec. 10 of this act shall apply retroactively to all applications received on or after January 1, 2007.

Sec. 12. 32 V.S.A. § 5930a is amended to read:

§ 5930a. VERMONT ECONOMIC PROGRESS COUNCIL

* * *

(b)(1) The Vermont economic progress council, within 60 days of receipt of a complete application, shall approve or deny the following economic incentives:

~~(1)~~(A) tax stabilization agreements and exemptions under subdivision 5404a(a)(2) of this title;

~~(2) applications for allocation to municipalities of a portion of education grand list value and municipal liability from new economic development under subsection 5404a(e) of this title;~~ and

~~(3)~~(B) Vermont employment growth incentives (VEGI) under section 5930b of this title.

(2) All incentives are subject to application of the incentive ratio as determined under subdivision 5930b(b)(3) of this title and no tax stabilization agreement~~,~~ or exemption ~~or allocation~~ shall be approved except in conjunction with the approval of an incentive under subdivision ~~(3)~~(1)(B) of this subsection.

* * *

(d) The council shall apply the cost-benefit model in reviewing applications under subdivisions (b)(1)~~, (2), and (3)~~ (A) and (B) of this section to determine the net fiscal benefit to the state. The cost-benefit model shall be a uniform and comprehensive methodology for assessing and measuring the projected net fiscal benefit or cost to the state of proposed economic development activities. Any modification of the cost-benefit model shall be subject to the approval of the joint fiscal committee. The cost-benefit analysis shall include consideration of the effect of the passage of time and inflation on the value of multi-year fiscal benefits and costs.

(1) In determining the projected net fiscal benefit or cost of the incentives considered under ~~subdivisions~~ subdivision (b)(1) ~~and (2)~~(A) of this section, the council shall calculate the net present value of the enhanced or forgone statewide education tax revenues, reflecting both direct and indirect economic activity. If the council approves an incentive pursuant to this section, the net fiscal costs, if any, to the state shall be counted as if all those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the annual authorization for such approvals established by the legislature for the applicable calendar year.

(2) In determining the projected net fiscal benefit or cost of the incentives considered under subdivision ~~(b)(3)~~ (b)(1)(B) of this section, the council shall calculate the net present value of the enhanced or forgone state tax revenues attributable to the incentives, reflecting both direct and indirect economic activity over the five-year award period. If the council approves an incentive, the net fiscal costs, if any, to the state shall be counted as if all of those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the council's annual authorization for approval of economic incentives as established by the legislature for the applicable calendar year.

(e) Only a business may apply for approval under subdivision ~~(b)(3)~~ (b)(1)(B) of this section. A municipality and a business must apply jointly for approval of a tax stabilization agreement pursuant to ~~subdivisions~~ subdivision (b)(1) ~~and (2)~~(A) of this section.

* * *

Sec. 13. 32 V.S.A. § 5930b(f) is amended to read:

(f) The property of a business whose authority to earn, apply or retain incentives under this section has been revoked is ineligible for property tax stabilization under subdivision 5404a(a)(2) of this title ~~or allocation of property tax value under subsection 5404a(e) of this title for any education property tax grand list~~ after the date of revocation.

* * * Stimulus Oversight and Transparency * * *

Sec. 14. STIMULUS OVERSIGHT COMMITTEE; TRANSPARENCY

(a) The general assembly seeks to ensure a coordinated and efficient means to maximize the use and positive impact of federal stimulus funds in Vermont, pursuant to the American Reinvestment and Recovery Act of 2009 (ARRA), Pub.L. No. 111-5, and consistent with the priorities of Vermonters as determined by the general assembly.

(b) All unencumbered monies made available to Vermont under ARRA, including state fiscal stabilization funds, shall be appropriated to the office of economic stimulus and recovery within the agency of administration.

(c) The director of the office of economic stimulus and recovery shall establish a competitive process for receiving, reviewing, and approving proposals and requests for ARRA monies, subject to the requirements of this section.

(d) The stimulus oversight committee is created. Members shall include three legislators appointed by the speaker of the house; three senators appointed by the president pro tempore of the senate; and two members

appointed by the governor. The committee shall meet as often as necessary to capitalize on the use of federal funds under ARRA. Legislative members shall be entitled to reimbursement under 2 V.S.A. § 406. All other members who are not state employees shall be entitled to reimbursement under 32 V.S.A. § 1010. The committee shall cease to exist upon the complete disbursement and expenditure of ARRA monies.

(e) The director shall provide the stimulus oversight committee a detailed list of all proposals and requests received by the office of economic and stimulus recovery and shall make project- or program-specific recommendations for the disbursement of ARRA funds. No disbursement of funds shall be made unless reviewed and approved by the committee.

(f) The director of economic stimulus and recovery and the stimulus oversight committee shall report monthly to the general assembly and the governor regarding the disbursement and expenditure of federal funds under ARRA. The report shall include an itemized list of all recipients of federal funds, the amount of the disbursement, the purpose for which the funds were disbursed, a complete accounting by the recipient with respect to the expenditure of federal funds, and other reporting requirements required by Title XV of ARRA, or, if disbursements are made to a state agency, the reporting requirements of § 1512 of Title XV of ARRA.

* * * Federal Stimulus and SBA Loan Programs * * *

Sec. 15. SBA LOAN PROGRAMS; STIMULUS PROGRAMS

(a) Significant changes have been made to the Small Business Association (SBA) loan programs pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. These changes create an opportune time for Vermont entrepreneurs seeking to start, expand, or acquire a small business. Time is of the essence, however, because the new opportunities created by ARRA will sunset at the end of 2009.

(b) The commissioner of economic development, in cooperation with the director of the Vermont district office of the United States SBA, shall work with small business lending companies such as the Vermont economic development authority, the Vermont small business development center, the Vermont bankers association, and the association of Vermont credit unions, to promote favorable SBA-loan program changes among potential borrowers.

(c) Some of the SBA-loan program changes under ARRA include a one-time opportunity at very low risk to lenders (90 percent guaranty) and very low cost for small businesses (no guarantee fee, prime at a low of 3.25 percent) to access lines of credit, contract financing (such as government contracts with

the agency of transportation), export financing, and long-term fixed-asset financing of real estate and equipment.

* * * RFPs for Cloud-Computing E-mail Systems * * *

Sec. 16. LEGISLATIVE RFP FOR EVALUATION OF A CLOUD-COMPUTING E-MAIL SYSTEM

The legislative information technology committee established in section 751 of Title 2, with the assistance of the legislative staff information systems team established in section 753 of Title 2, shall issue a request for proposals no later than September 1, 2009 to evaluate a cloud-computing e-mail system for use by members of the general assembly.

Sec. 17. EXECUTIVE RFP FOR EVALUATION OF A CLOUD-COMPUTING E-MAIL SYSTEM

The technology advisory board established in section 2294 of Title 3 shall issue a request for proposals no later than September 1, 2009 to evaluate a cloud-computing e-mail system for use by one or more agencies or departments of state government.

* * * School Construction: Tax-credit Bond Financing * * *

Sec. 18. 16 V.S.A. chapter 125, subchapter 5 is added to read:

Subchapter 5. Tax-Credit Bond Financing

§ 3597. TAX-CREDIT BOND FINANCING; QUALIFIED SCHOOL ACADEMY ZONES; QUALIFIED SCHOOL CONSTRUCTION BONDS

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, expanded existing and created new tax-credit bond programs available to public schools. Accordingly, school districts are authorized to issue bonds to finance public school building construction and rehabilitation, the purchase of equipment, the development of course materials, and teacher and personnel training, consistent with sections 1397E and 54F of the Internal Revenue Code, pertaining to qualified school academy zones and qualified school construction bonds.

* * * School Construction Aid * * *

Sec. 19. Sec. 45(b) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(b)(1) Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, if a school district declares its intent to pay for the cost of a school construction project without state aid provided pursuant to chapter 123 of Title 16 and has received voter approval for the project on or after March 7, 2007, then the commissioner of education shall review the project as a

preliminary application upon the district's request. In this case, the commissioner shall use the standards and processes of chapter 123 for determining preliminary approval, and shall deduct the portion of education spending that is approved from the calculation of excess spending under 32 V.S.A. § 5401(12). Preliminary approval received pursuant to this subsection is to be used solely for purposes of:

(A) calculating whether the district has exceeded the excess spending threshold ~~and neither~~; or

(B) enabling the district to proceed with a project using funds other than those provided under chapter 123 of Title 16, or both.

(2) Neither preliminary approval nor the provision of technical assistance indicates that the district will receive state aid for school construction or preliminary approval for that aid when school construction aid is again available. Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, upon the request of the district, the department shall provide technical assistance regarding the planning and implementation of school renovation and construction.

* * * Entrepreneurs' Seed Capital Fund * * *

Sec. 20. FINDINGS AND PURPOSE

(a) Over the last decade, Vermont has made significant investments in business development and workforce training and, as a result, has begun to foster innovation and entrepreneurship and cultivate a skilled workforce.

(b) In order to fully reap the benefits of our prior investments, however, the general assembly finds that it is now time to expand upon our economic development initiatives. To that end, the general assembly seeks to encourage investments in young start-up companies specializing in technology, agricultural services and products, and clean energy with the goal of creating both jobs and economic prosperity in this state and of filling a gap in the capital financing spectrum for Vermont businesses.

Sec. 21. 10 V.S.A. chapter 14A is amended to read:

CHAPTER 14A. THE ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND

§ 290. DEFINITIONS

For purposes of this chapter:

(1) "Follow-on investment" means any investment in a Vermont firm following the initial investment.

(2) "Fund manager" means the investment management firm responsible for creating the fund, securing capital commitments, and implementing the fund's investment strategy, consistent with the requirements of this section. The fund manager shall be paid a fee which reflects a percentage of the fund's capital under management and a performance-fee share based on the fund's economic performance, as determined by the authority.

(3) "Seed capital" means first, nonfamily, nonfounder investment in the form of equity or convertible securities issued by a firm which had, in the 12 months preceding the date of the funding commitment, annual gross sales of less than $3,000,000.00.

§ 291. ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND; AUTHORIZATION; LIMITATIONS

(a) The Vermont economic development authority shall cause to be formed a private investment equity fund to be named "the ~~Vermont~~ entrepreneurs' seed capital fund" or "the fund" ~~is authorized~~ for the purpose of increasing the amount of investment capital provided to new Vermont firms or to existing Vermont firms for the purpose of expansion. The authority may contract with one or more persons for the operation of the fund as fund manager. Such contract shall contain the terms and conditions pursuant to which the fund shall be managed to meet the fund's objective of providing seed capital to Vermont firms. The terms of the contract shall require that, if the fund manager does not meet the investment criteria specified in the contract, the fund manager may not be awarded the performance fee established under subdivision (c)(2) of this section.

(b) The ~~Vermont seed capital~~ fund shall be formed as ~~either a business corporation or~~ a limited partnership pursuant to Title 11 and shall be subject to all the following:

(1) The ~~Vermont seed capital~~ fund shall not invest in any firm in which ~~a total of more than a 25 percent~~ any interest in that firm is held by an investor of the ~~Vermont seed capital~~ fund ~~combined with any interest held in the firm~~ or by the spouse ~~or dependent~~, children, or other relative of the investor.

(2) The fund shall invest at least 40 percent of its total capital in initial investment in firms which had in the 12 months preceding the date of the funding commitment annual gross sales of less than $1,000,000.00 and may reserve the remainder of its capital for follow-on investments in these businesses, as appropriate.

(3) Before the fund makes any investments, the fund shall~~:~~

~~(A) If organized as a corporation, have and thereafter maintain a board of nine directors to be elected by the shareholders.~~

~~(B) If organized as a partnership,~~ have and maintain a board of ~~three~~ five advisors who shall be appointed ~~by the authority~~ as follows: two shall be appointed by the speaker of the house, two shall be appointed by the president pro tempore of the senate, and one shall be appointed by the governor. The board of advisors shall represent solely the economic interest of the state with respect to the management of the fund and shall have no civil liability for the financial performance of the fund. The board of advisors shall be advised of investments made by the fund and shall have access to all information held by the fund with respect to investments made by the fund.

~~(3)~~(4) The ~~Vermont seed capital~~ fund, within 120 days after the close of each fiscal year of its operations, shall issue a report that includes an audited financial statement certified by an independent certified public accountant. The report also shall include a compilation of the firm data required by subsection (d) of this section. These data shall be reported in a manner that does not disclose competitive or proprietary information, as determined by the authority. This report shall be distributed to the governor and the ~~legislative council~~ senate committee on economic development, housing and general affairs and the house committee on commerce and economic development and made available to the public. The report shall include a discussion of the fund's impact on the Vermont economy and employment.

~~(4)~~(5) The ~~Vermont seed capital~~ fund shall not make distributions of more than 75 percent of its net profit to its investors during its first five years of operation.

~~(5)~~(6) No person shall be allocated more than ~~10~~ 20 percent of the available tax credits. For the purposes of determining allocation, the attribution rules of Section 318 of the Internal Revenue Code in effect as of the effective date of this chapter shall apply.

~~(6)~~(7) The capitalization of the fund is not limited under this section; however, only the first ~~$5~~ $10 million ~~of capitalization of the Vermont seed capital fund~~ raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall be eligible for partial tax credits as specified in 32 V.S.A. § 5830b.

~~(7)~~(8) All investments and related business dealings using funds that qualify for partial tax credits under 32 V.S.A. § 5830b shall be subject to the following restrictions:

(A) The investments shall be restricted to Vermont firms, which for the purposes of this chapter means that their Vermont apportionment equals or exceeds 50 percent, using the apportionment rules under 32 V.S.A. § 5833, and they maintain headquarters and a principal facility in Vermont. Any funds invested in Vermont firms shall be used for the purpose of enhancing their

Vermont ~~investments~~ operations. Investment shall be restricted to firms that export the majority of their products and services outside the state or add substantial value to products and materials within the state. In its investments, the fund shall give priority to new firms and existing firms that are developing new products, and shall take into consideration any impact on in-state competition and also whether the investment will encourage economic activity that would not occur but for the fund investment.

(B) Each ~~Vermont seed capital~~ fund investment in any one firm, in any 12-month period shall be limited to a maximum of ten percent of the ~~Vermont seed capital~~ fund's capitalization and, for the life of the fund, to a maximum of 20 percent of the fund's total capitalization.

(C) At least two-thirds of the monies invested by the ~~Vermont seed capital~~ fund and qualifying for a tax credit under 32 V.S.A. § 5830b shall at all times be invested in the form of equity or convertible securities~~. This provision shall not prohibit~~ unless the fund manager determines it is reasonable and necessary to pursue temporarily the generally accepted business practice of earning interest on working funds deposited in relatively secure accounts such as savings and money market funds.

(c) Any firm receiving monies from the fund must report to the fund manager the following information regarding its activities in the state over the calendar year in which the investment occurred:

(1) The total amount of private investment received.

(2) The total number of persons employed as of December 31.

(3) The total number of jobs created and retained, which also shall indicate for each job the corresponding job classification, hourly wage and benefits, and whether it is part-time or full-time.

(4) Total annual payroll.

(5) Total sales revenue.

(d) The authority, in consultation with the fund manager, shall establish reasonable standards and procedures for evaluating potential recipients of fund monies. The authority shall make available to the general public a report of all firms that receive fund investments and also indicate the date of the investment, the amount of the investment, and a description of the firm's intended use of the investment. This report shall be updated at least quarterly.

(e) Information and materials submitted by a business receiving monies from the fund shall be available to the auditor of accounts in connection with the performance of duties under 32 V.S.A. § 163; provided, however, that the

auditor of accounts shall not disclose, directly or indirectly, to any person any proprietary business information.

(f) In fiscal year 2010 and again in fiscal year 2011, in two installments of $4,000,000.00, an aggregate of $8,000,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the entrepreneurs' seed capital fund for investment in eligible Vermont firms pursuant to this section. If, however, at the end of fiscal years 2010 and 2011, the Vermont economic development authority determines that the public monies appropriated under this subsection have not been invested within a reasonable period of time, the authority shall have the discretion to transfer any remaining unobligated funds to the technology loan program created under Sec. 16 of this act or to the small business loan program.

Sec. 22. REPEAL

10 V.S.A. § 292 (providing for the initial organization of the Vermont seed capital fund) is repealed.

Sec. 23. 32 V.S.A. § 5830b is amended to read:

§ 5830b. TAX CREDITS; ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND

(a) The initial capitalization of the Vermont entrepreneurs' seed capital fund ~~comprising a maximum $5~~, as established in 10 V.S.A. § 291, up to $10 million raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall entitle those taxpayers to a credit against the tax imposed by sections 5822, 5832, 5836, or 8551 of this title and by 8 V.S.A. § 6014. The credit may be claimed for the taxable year in which a contribution is made and each of the four succeeding taxable years. The amount of the credit for each year shall be the lesser of ~~four~~ ten percent of the taxpayer's contribution or 50 percent of the taxpayer's tax liability for that taxable year prior to the allowance of this credit; provided, however, that in no event shall the aggregate credit allowable under this section for all taxable years exceed ~~20~~ 50 percent of the taxpayer's contribution to the initial ~~$5~~ $10 million capitalization of the ~~Vermont seed capital~~ fund. The credit shall be nontransferable except as provided in subsection (b) of this section.

(b) If the taxpayer disposes of an interest in the ~~Vermont seed capital~~ fund within four years after the date on which the taxpayer acquired that interest, any unused credit attributable to the disposed-of interest is disallowed. This disallowance does not apply in the event of an involuntary transfer of the interest, including a transfer at death to any heir, devisee, legatee, or trustee, or in the event of a transfer without consideration to or in trust for the benefit of

the taxpayer or one or more persons related to the taxpayer as spouse, descendant, parent, grandparent, or child.

* * * Technology Loan Program * * *

Sec. 24. 10 V.S.A. chapter 12, subchapter 12 is added to read:

Subchapter 12. Technology Loan Program

§ 280aa. FINDINGS AND PURPOSE

(a) Technology-based companies are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of this increasingly important sector of Vermont's economy is dependent upon the availability of flexible, risk-based capital. Because the primary assets of technology-based companies sometimes consist almost entirely of intellectual property, such companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of technology-based companies and the resultant creation of high-wage employment in Vermont, a technology loan program is established under this subchapter.

§ 280bb. TECHNOLOGY LOAN PROGRAM

There is created a technology (TECH) loan program to be administered by the Vermont economic development authority. The program shall seek to meet the working capital and capital-asset financing needs of technology-based companies. The Vermont economic development authority shall establish such policies and procedures for the program as are necessary to carry out the purposes of this subchapter. The authority's lending criteria shall include consideration of in-state competition and whether a company has made reasonable efforts to secure capital in the private sector.

Sec. 25. TECHNOLOGY LOAN PROGRAM; APPROPRIATION; FEDERAL FUNDS

In fiscal year 2010 and again in fiscal year 2011, in two installments of $1,000,000.00, a total of $2,000,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont economic development authority for use in the technology loan program established in this act.

* * * Wage Threshold for VEGI Program * * *

Sec. 26. STUDY ON THE VEGI PROGRAM

The VEGI technical working group shall make recommendations to the general assembly regarding the following:

(1) whether the VEGI program should target job creation, in general, and not just the creation of new, high-paying jobs; and

(2) options that are consistent with the integrity of the VEGI cost-benefit model but allow for variation in wage thresholds based on regional prevailing wage rates and unemployment rates.

* * * Small Business Loan Program: Loss Reserves * * *

Sec. 27. SMALL BUSINESS LOAN PROGRAM; LOSS RESERVES

In fiscal year 2010 and again in fiscal year 2011, in two installments of $1,000,000.00, a total of $2,000,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont economic development authority under section 223 of Title 10 to be used by the authority for loss reserves in the Vermont small business loan program.

* * * Sustainable Jobs Fund: Loss Reserves * * *

Sec. 28. VERMONT SUSTAINABLE JOBS FUND PROGRAM; LOSS RESERVES; FEDERAL FUNDS

In fiscal year 2010, the amount of $250,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to be used solely for loss reserves in the sustainable jobs fund's flexible capital fund program.

* * * Minimum Wage: Negative CPI * * *

Sec. 29. 21 V.S.A. § 384 is amended to read:

§ 384. PROHIBITION OF EMPLOYMENT

(a) An employer shall not employ an employee at a rate of less than $7.25, and, beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest $0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than $3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip wage rate shall be increased at the same percentage rate as the minimum wage rate. For the purposes of this subsection, "a service or tipped employee"

means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than $120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the United States government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the United States government.

(b) Notwithstanding subsection (a) of this section, an employer shall not pay an employee less than one and one-half times the regular wage rate for any work done by the employee in excess of 40 hours during a workweek. However, this subsection shall not apply to:

(1) Employees of any retail or service establishment. A "retail or service establishment" means an establishment 75 percent of whose annual volume of sales of goods or services, or of both, is not for resale and is recognized as retail sales or services in the particular industry.

(2) Employees of an establishment which is an amusement or recreational establishment, if:

(A) it does not operate for more than seven months in any calendar year, or

(B) during the preceding calendar year its average receipts for any six months of that year were not more than one-third of its average receipts for the other six months of the year.

(3) Employees of an establishment which is a hotel, motel, or restaurant.

(4) Employees of hospitals, public health centers, nursing homes, maternity homes, therapeutic community residences, and residential care homes as those terms are defined in Title 18, provided:

(A) the employer pays the employee on a biweekly basis; and

(B) the employer files an election to be governed by this section with the commissioner; and

(C) the employee receives not less than one and one-half times the regular wage rate for any work done by the employee:

(i) in excess of eight hours for any workday; or

(ii) in excess of 80 hours for any biweekly period.

(5) Those employees of a business engaged in the transportation of persons or property to whom the overtime provisions of the Federal Fair Labor Standards Act do not apply, but shall apply to all other employees of such businesses.

(6) Those employees of a political subdivision of this state.

(7) State employees~~,~~ who ~~shall be~~ are covered by the U.S. Federal Fair Labor Standards Act.

(c) However, an employer may deduct from the rates required in subsections (a) and (b) of this section the amounts for board, lodging, apparel, rent, or utilities paid or furnished or other items or services or such other conditions or circumstances as may be usual in a particular employer-employee relationship, including gratuities as determined by the wage order made under this subchapter.

* * * Stimulus Money and Unemployment Insurance * * *

Sec. 30. ARRA AND UNEMPLOYMENT INSURANCE

(a) The American Recovery and Investment Act of 2009 (ARRA), Pub.L. No. 111-5, authorizes the federal government to transfer up to $13,918,000.00 into Vermont's unemployment insurance (UI) trust fund for UI modernization incentive payments.

(b) Vermont already qualifies for one-third of its allotted incentive payments because the state allows for the use of an alternative base period in determining UI eligibility. In order to qualify for the remaining two-thirds of its allotted incentive payments, Vermont's UI program must meet two of four expanded-coverage requirements.

(c) The state already meets one expanded-coverage requirement: namely, coverage of part-time workers. It is the intent of the general assembly to adopt one additional expanded-coverage requirement, namely the training program specified in Sec. 31 of this act, and to apply to the secretary of the United States Department of Labor for certification of UI modernization so that the state may receive its remaining allotment of incentive payments.

Sec. 31. 21 V.S.A. § 1423b is added to read:

§ 1423b. EXTENDED BENEFITS; APPROVED TRAINING PROGRAMS

(a) An individual who is otherwise eligible for benefits under this chapter, but who has exhausted his or her maximum benefit amount under section 1340 of this chapter shall be entitled to an additional 26 weeks of benefits in the same amount as the weekly benefit amount established in the individual's most recent benefit year if the individual is enrolled in and making satisfactory process in a state-approved training program as defined in subsection (b) of this section.

(b) A state-approved training program is any training program or job training program that meets all of the following criteria:

(1) It is authorized by the Workforce Investment Act of 1998.

(2) It is designed to assist individuals who have been separated from a declining occupation or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment.

(3) It is designed to train the individual for entry into a high-demand occupation.

* * * Farm to Plate * * *

Sec. 32. 10 V.S.A. chapter 15A § 330 is added to read:

§ 330. THE FARM-TO-PLATE INVESTMENT PROGRAM; CREATION; GOALS; TASKS; METHODS

(a) Creation.

(1) The sustainable jobs fund program shall establish the Vermont farm-to-plate investment program to fulfill the goals and carry out the tasks described in this section.

(2) If at least $100,000.00 in funding is not made available for the purpose of this section, the sustainable jobs fund program is encouraged but no longer required to fulfill the provisions of this section.

(b) Goals. The goals of the farm-to-plate investment program are to:

(1) Increase economic development in Vermont's food and farm sector.

(2) Create jobs in the food and farm economy.

(3) Improve access to healthy local foods.

(c) Tasks.

(1) By June 30, 2010, the Vermont farm-to-plate investment program shall create a strategic plan for agricultural economic development, which may be periodically reviewed and updated, based upon the following:

(A) Inventory Vermont's food system infrastructure by gathering existing data, studies, and analysis about the components of Vermont's food system, including:

(i) The types of foods produced in Vermont, the number of producers of each type of food, the amount of each type of food produced, and the financial viability of each food-producing sector.

(ii) The types of food processors in Vermont, how much food produced in Vermont is purchased by Vermont processors, and the financial viability of the food processing sector in Vermont.

(iii) The current and potential markets in which Vermont food producers and processors can sell their products.

(iv) The extent of existing agricultural lands that could be expanded and the resources available to expand Vermont's food production.

(v) The potential for new farmers and food processors to enter the local food economy, the methods for new farmers to acquire land and other farm infrastructure, and the availability and barriers to farm and processing labor.

(vi) The potential for entirely new local products and the barriers to farmers and processors entering new markets.

(B) Identify gaps in the infrastructure and distribution systems and identify ways to address these gaps.

(2) By June 30, 2010, the Vermont farm-to-plate investment program shall distribute grant funding to support farm-to-table direct marketing, including farmers' markets and community-supported agriculture operations and to support regional community food hubs. Funding shall be provided only to applicants contributing at least 200 percent of the grant amount in matching funds.

(3) As an ongoing task, the farm-to-plate investment program shall use the information gathered for the strategic plan to identify methods and the funding necessary to strengthen the links among producers, processors, and markets including:

(A) Support of the work of existing farm-to-school programs to increase the purchase of local foods by Vermont schools, with a particular emphasis on procurement of nutrient-dense animal foods.

(B) Collaborating with the agency of agriculture, food and markets and the department of buildings and general services to increase procurement of local foods in accordance with 6 V.S.A. § 4601.

(C) Collaborating with the agency of agriculture, food and markets and the sustainable agriculture council to increase procurement of local foods by businesses and institutions.

(D) Supporting initiatives that improve direct marketing of foods from the farm to the consumer.

(E) Informing agricultural lenders of the information collected under subsection (c)(1) of this section in order to facilitate availability of agricultural financing.

(d) Methods. To accomplish the goals and carry out the ongoing tasks stated in this section, the Vermont farm-to-plate investment program may:

(1) Create an advisory panel with representatives from the agricultural and business communities.

(2) Hire or assign staff.

(3) Seek and accept funds from private and public entities.

(4) Utilize technical assistance, loans, grants, or other means approved by the board.

Sec. 33. 10 V.S.A. § 329 is amended to read:

§ 329. ANNUAL REPORT

Prior to January 31 of each year, the corporation formed under section 328 of this title shall submit a report concerning its activities to the governor and the legislative committees on commerce, general affairs, natural resources, ways and means, finance, institutions, and appropriations. The report shall include the following information:

* * *

(5) A summary of work completed in the farm-to-plate investment program, including progress toward meeting the program goals, information regarding any advisory panel meetings, an accounting of all revenues and expenses related to the program, and recommendations regarding future program activity. The report shall also include information regarding the status of state government procurement of local foods.

* * * Municipal Revenue Bonds * * *

Sec. 34. 24 V.S.A. § 1898(b) is amended to read:

(b) A municipality shall have power to issue from time to time general obligation ~~and~~ bonds, revenue bonds ~~from time to time~~, or revenue bonds also backed by the municipality's full faith and credit in its discretion to finance the undertaking of any improvements wholly or partly within such district. If revenue bonds are issued, such bonds shall be made payable, as to both principal and interest, solely from the income proceeds, revenues, tax increments and funds of the municipality derived from, or held in connection with its undertaking and carrying out of improvements under this chapter. So long as any such bonds of a municipality are outstanding the local governing body may deduct, in any one or more years from any net increase in the

aggregate taxable valuation of land and improvements in all areas covered by their district the amount necessary to produce tax revenues equal to the current debt service on such bonds, assuming the previous year's total tax rate and full collection. Only the balance, if any, of such net increase shall be taken into account in computing the sums which may be appropriated for other purposes under applicable tax rate limits. But all the taxable property in all areas covered by the district, including the whole of such net increase, shall be subject to the same total tax rate as other taxable property, except as may be otherwise provided by law. Such net increase shall be computed each year by subtracting, from the current aggregate valuation of the land and improvements in all areas covered by the district, the sum of the aggregate valuations of land and improvements in each such area on the date the district was approved under this section. An area shall be deemed to be covered as a district until the date all the indebtedness incurred by the municipality to finance the applicable improvements have been paid. Notwithstanding any provisions in this chapter to the contrary, any provision of a municipal charter of any municipality which specifies a different debt limit, or which requires a greater vote to authorize bonds, or which prescribes a different computation of appropriations under tax rate limits, or which is otherwise inconsistent with this subsection, shall apply.

Sec. 35. EFFECTIVE DATE

This act shall be effective upon passage.

And that when so amended the bill ought to pass.

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

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. SPRINGFIELD REDEVELOPMENT; PILOT PROGRAM

(a) For purposes of this section:

(1) "Redevelopment area" means an area within the town of Springfield that: is identified by the town to accommodate a significant amount of industrial activity, high technology, or other job-producing activity; includes one or more industrial facilities that have been vacant or substantially underutilized for more than ten years; has at least 15,000 square feet or a minimum of five acres if the site includes an older structure; and does not detract from the planned economic development of the downtown designated district.

(2) "Qualified business" means any business that intends to locate in or expand into the redevelopment area and:

(A) Is in compliance with applicable zoning and other local bylaws and requirements for locating in the redevelopment area.

(B) Is in compliance with applicable federal, state, and local regulations.

(C) Will employ at least ten new full-time employees in positions that are not retail sales within a year of approval.

(D) Will pay wages and benefits to all full-time employees that meet or exceed the prevailing compensation level for that particular employment.

(3) "Qualified redeveloper" means any taxpayer that purchases and redevelops an industrial building in the redevelopment area for sale or lease to a qualified business.

(4) "Secretary" means the secretary of commerce and community development.

(5) "Substantially underutilized" means a property or facility of which less than ten percent has been occupied for uses other than storage or warehousing for at least ten years and for which active and sustained marketing has produced no significant employment.

(b) There is created a redevelopment pilot program which shall be administered as follows:

(1) The town of Springfield may apply to the secretary for approval of a redevelopment area authorized by this section.

(2) Qualified businesses and qualified redevelopers may apply to the secretary for the benefits provided by this section.

(3) Approval of a redevelopment area under this section shall be for a period of ten years and may be extended by the secretary, upon application by the municipality, for one additional ten-year period.

(4) Applications from the town of Springfield for approval of a redevelopment area and from qualified businesses and qualified redevelopers for approval of benefits shall be made in accordance with guidelines established by the secretary.

(5) The secretary shall issue a written decision granting or denying an application within 45 days of receipt of a completed application. If the secretary denies an application, the decision shall state the reasons for the denial. The town of Springfield, a qualified business, or a qualified redeveloper denied approval may submit a new application at any time.

(6) Decisions of the secretary under this section are not subject to chapter 25 of Title 3 and shall be final and not reviewable.

(7) Beginning no later than 12 months after approval by the secretary, qualified businesses and qualified redevelopers shall annually submit a written report to the secretary verifying that the business continues to meet all the requirements of this section.

(8) The secretary is authorized to approve one redevelopment area in accordance with this section.

(c) Qualified businesses and qualified redevelopers located in a redevelopment area are eligible for the following benefits:

(1) The sales tax exemption provided under 32 V.S.A. § 9741(48) for the building materials, machinery, equipment, or trade fixtures purchased for use in the Springfield pilot zone or redevelopment area.

(2) A ten-year exemption from the education tax imposed under 32 V.S.A. § 5402 on the nonresidential value of the redeveloped property.

(3) An annual income tax credit equal to three percent of the total wages and salaries paid during the taxable year to employees for services performed within the Springfield pilot zone or redevelopment area.

(4) Priority given to applications by such businesses or redevelopers for state permits and other state approvals over any other pending application.

(5) Priority consideration by any state agency for eligibility for state or federal funding or other aid to industrial development based on a cost-benefit analysis.

(6) Priority consideration for financing programs available through the Vermont economic development authority under chapter 12 of this title.

(7) Technical support from the department of public safety and the division for historic preservation for the rehabilitation of older and historic buildings.

(d) Property tax exemptions under this section shall commence in the first tax year in which the qualified business or qualified redeveloper has made expenditures in the approved redevelopment area.

(e) Any benefits received by a qualified redeveloper related to the redevelopment, sale, or lease of improved space to a qualified business within a redevelopment area shall not be separately available to a qualified business that purchases or leases all or part of the facility improved by the redeveloper.

(f) Benefits shall not be available for either of the following:

(1) Retail sales activities; or

(2) Relocating a business within Vermont to a redevelopment area.

(g) Benefits granted to a qualified business or a qualified redeveloper may be terminated and recaptured by the secretary upon determination that the qualified business or a qualified redeveloper is no longer in compliance with, or has failed to meet, the requirements of this section. A decision to terminate or recapture benefits shall not be subject to chapter 25 of Title 3 and shall be final and not reviewable.

(h) The secretary, on or before January 15, 2011, and biennially thereafter, shall report to the general assembly on the progress of the redevelopment pilot program under this section and its impact on new economic development and the creation of new jobs.

Second: By inserting twenty-five new sections to be numbered Secs. 34a - 34y to read as follows:

* * * Small-Scale Hydroelectric Projects * * *

Sec. 34a. FINDINGS

The general assembly finds and declares that:

(1) The generation of renewable power within Vermont is critical to the economic development, energy independence, and financial security of the state.

(2) Section 401 of the federal Clean Water Act, 33 U.S.C. § 1341, requires any applicant for a federal permit that may involve a discharge to navigable waters to obtain certification from the state that the permitted activity does not violate the state's water quality standards.

(3) As set forth in 10 V.S.A. § 1004, the secretary of natural resources is the agent that the U.S. Environmental Protection Agency delegated to conduct Clean Water Act § 401 certifications in the state of Vermont.

(4) The secretary of natural resources should be required to adopt procedures establishing an application process for certification of hydroelectric projects in a timely manner that allows for the predictable and affordable development of small-scale hydroelectric power projects.

Sec. 34b. 10 V.S.A. § 1006 is added to read:

§ 1006. CERTIFICATION OF HYDROELECTRIC PROJECTS; APPLICATION PROCESS

(a) As used in this section:

(1) "Bypass reach" means that area in a waterway between the initial point where water has been diverted through turbines or other mechanical means for the purpose of water-powered generation of electricity and the point at which water is released into the waterway below the turbines or other mechanical means of electricity generation.

(2) "Conduit" means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar constructed water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(3) "Hydroelectric project" means a facility, site, or conduit planned or operated for the generation of water-powered electricity that has a generation capacity of no more than 1 megawatt and does not create a new impoundment.

(4) "Impoundment" means any artificial structure used to collect water in a pond, reservoir, or similar collection area for the purpose of water-powered generation of electricity.

(b) On or before December 15, 2009, the agency of natural resources, after opportunity for public review and comment, shall adopt by procedure an application process for the certification of hydroelectric projects in Vermont under Section 401 of the federal Clean Water Act.

(c) The application process adopted by the agency of natural resources under subsection (b) of this section may include an application form for a federal Clean Water Act Section 401 certification for a hydroelectric project that meets the requirements of the Vermont water pollution control permit rules. The application form may require information addressing:

(1) a description of the proposed hydroelectric project and the impact of the project on the watershed;

(2) the preliminary terms and conditions that an applicant shall be subject to if a federal Clean Water Act Section 401 certification is issued for a proposed hydroelectric project; and

(3) time frames for the agency of natural resources review of and response to an application for a federal Clean Water Act Section 401 certification of a hydroelectric project.

(d) In adopting the Clean Water Act Section 401 certification application process required by subsection (b) of this section, the agency may, consistent with its authority to waive certifications under 33 U.S.C. § 1341(a)(1), adopt an expedited certification process for:

(1) hydroelectric projects when data provided by an applicant provide reasonable assurance that the project will comply with the state water quality standards;

(2) hydroelectric projects utilizing conduits; hydroelectric projects without a bypass reach; and hydroelectric projects with a de minimis bypass reach, as defined by the agency of natural resources; and

(3) Previously certified hydroelectric projects operating in compliance with the terms of a Clean Water Act Section 401 certification as demonstrated by existing administrative, monitoring, reporting, or enforcement data.

Sec. 34c. AGENCY OF NATURAL RESOURCES REPORT ON APPLICATION PROCESS FOR CERTIFICATIONS OF HYDROELECTRIC PROJECTS

On or before January 15, 2010, the agency of natural resources shall submit to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, the house committee on fish, wildlife and water resources, and the house and senate committees on natural resources and energy a copy of the application process required under 10 V.S.A. § 1006 for the certification of hydroelectric projects.

* * * STORMWATER PERMITTING * * *

Sec. 34d. EXTENSION OF SUNSET

Sec. 10 of No. 140 of the Acts of the 2003 Adj. Sess. (2004), as amended by Sec. 8 of No. 154 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 3 of No. 43 of the Acts of 2007, is further amended to read:

Sec. 10. SUNSET

(a) Sec. 2 of this act (interim permitting authority for regulated stormwater runoff), except for subsection 1264a(e) of Title 10, shall continue to be in effect until January 15, 2011 for projects that receive all or part of their funding through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5. For other projects, Sec. 2 of this act, except for subsection 1264a(e) of Title 10, shall be repealed on January 15, 2010.

(b) Sec. 4 of this act (local communities implementation fund) shall be repealed on September 30, 2012.

(c) Sec. 6 of this act (stormwater discharge permits during transition period) shall be repealed on January 15, ~~2010~~ 2011.

Sec. 34e. 24 V.S.A. § 4758 is amended to read:

§ 4758. LOAN PRIORITIES

(a) Periodically, and at least annually, the secretary shall prepare and certify to the bond bank a project priority list of those municipalities whose publicly owned projects, or privately owned wastewater systems, are eligible for financing or assistance under this chapter. In determining financing availability for wastewater projects under this chapter, the secretary of the agency having jurisdiction shall apply the following criteria:

(1) the probable public benefit to be gained or preserved by the project to be financed;

(2) the long-term costs and the resulting benefits to be derived from the project. In determining benefits, induced growth from a project that is not consistent with a town, city, or village plan, duly adopted under chapter 117 of this title, will not be considered;

(3) the cost of comparable credit or financing alternatives available to the municipality;

(4) the existence of immediate public health, safety and welfare factors, and compliance therewith;

(5) the existence of an emergency constituting a threat to public health, safety and welfare; and

(6) the current area and population to be served by the proposed project.

(b) In determining financing availability for stormwater projects under this chapter, the secretary of the agency having jurisdiction shall apply the following criteria:

(1) that the project is specifically or generally described in Vermont's nonpoint source management plan;

(2) that the project will remedy or prevent the impairment of waters, and the severity of that existing or prevented impairment; and

(3) that the project is consistent with the applicable basin plan for the waters affected by the project.

(c) In determining financing availability for projects funded by federal monies available to the state from the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, the secretary shall assure that municipal stormwater projects in the stormwater-impaired waters of the state shall be given priority over other projects.

Sec. 34f. SUNSET OF PRIORITY FOR STORMWATER PROJECTS UNDER STATE ENVIRONMENTAL REVOLVING FUND

24 V.S.A. § 4758(c) (state environmental revolving fund financing priority for stormwater projects in impaired waters) is repealed January 15, 2012.

Sec. 34g. ALTERNATIVE GUIDANCE FOR STORMWATER PERMITTING; WIND FACILITIES

To facilitate responsible development of renewable energy projects in high-elevation settings, the Vermont department of environmental conservation shall consult with project developers and interested stakeholders and, by January 15, 2010 or in the process currently under way to update the Vermont stormwater management manual, whichever occurs first, amend its rules or the stormwater management manual, pursuant to chapter 25 of Title 3, to include alternative guidance for operational-phase stormwater permitting of renewable energy projects located in high-elevation settings. Such alternative guidance shall include consideration of measures that minimize the extent and footprint of stormwater-treatment practices so as to preserve vegetation and trees and limit disturbances; that reflect the fragile ecosystems, shallow soils, and sensitive streams found in high-elevation settings; and that reflect the temporary nature and infrequent use of construction and access roads to such projects.

* * * Communications Facilities Permitting * * *

Sec. 34h. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR ~~MULTIPLE~~ COMMUNICATIONS FACILITIES

(a) Notwithstanding any other provision of law, if the applicant ~~in a single application~~ seeks approval for the construction or installation ~~within three years~~ of ~~three or more~~ telecommunications facilities ~~as part of an interconnected network~~ that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

(b) For the purposes of this section:

(1) "Telecommunications facility" means ~~any~~ a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for

commercial, industrial, municipal, county, or state purposes and any associated support structure ~~extending more than 50 feet above the ground~~ that is proposed for construction or installation which is primarily for communications purposes ~~and which supports facilities that transmit and receive communications signals for commercial, industrial, municipal, county, or state purposes~~, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure.

(2) ~~Telecommunications facilities are "part of an interconnected network" if those facilities would allow one or more communications services to be provided throughout a contiguous area of coverage created by means of the proposed facilities or by means of the proposed facilities in combination with other facilities already in existence~~ An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(c) Before the public service board issues a certificate of public good under this section, it shall find that~~, in the aggregate~~ each of the following is true:

(1) ~~the~~ The proposed ~~facilities~~ facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, with due consideration having been given to the relevant criteria specified in subsection 1424a(d) and subdivisions 6086(a)(1) through (8) and (9)(K) of Title 10~~; and~~.

(2) Substantial deference has been given to the legal standards and criteria of any ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. § 4414(12) by the municipality in which the facility is located.

(3) ~~unless~~ Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal and regional planning commissions regarding the municipal and regional plans, respectively.

(d) When issuing a certificate of public good under this section, the board shall give ~~due consideration~~ substantial deference to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) No less than 45 days prior to filing a petition 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 the agency of natural resources; the commissioner of the department of public service and its director for public advocacy; 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. Upon motion or otherwise, the public service board shall direct that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(f) Unless the public service board identifies that an application raises a ~~substantial~~ significant issue, the board shall issue a final determination on an application filed pursuant to this section 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. If the board rules that an application raises a ~~substantial~~ significant issue, it shall issue a final determination on an application filed pursuant to this section within 180 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 180 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(g) Nothing in this section shall be construed to prohibit an applicant from executing a letter of intent or entering into a contract before the issuance of a certificate of public good under this section, provided that the obligations under that letter of intent or contract are made subject to compliance with the requirements of this section.

(h) An applicant using the procedures provided in this section shall not be required to obtain a ~~local zoning~~ permit or a permit amendment or other approval under the provisions of subdivision 2291(19) or chapter 117 of Title 24 or chapter 151 of Title 10 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. ~~Ordinances adopted pursuant to subdivision 2291(19) of Title 24 or a municipal charter that would otherwise apply to the construction or installation of facilities subject to this section are preempted.~~ Disputes over jurisdiction under this section shall be resolved by the public service board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit or permit amendment under the provisions of Title 24 or chapter 151 of Title 10 for the construction of a telecommunications facility may not apply for approval from the board for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

(i) Effective July 1, ~~2010~~ 2011, no new applications for certificates of public good under this section may be considered by the board.

(j)(1) The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the petition does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the petition.

(2)(A) 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, and provide notice and a copy of the petition, proposed certificate of public good, and proposed findings of fact to the commissioner of the department of public service and its director for public advocacy, the secretary of the agency of natural resources, 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. The applicant shall give written notice of the proposed certificate to 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 days of the notice 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 a petition raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

(B) Any waiver or modification of notice to adjoining landowners under this subsection shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public benefit.

(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 45 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.

(D) If the board denies a request to consider an application under the procedures of this subsection, a filing made under this subsection that the board has found to be complete shall be deemed to satisfy notice requirements of subsection (e) of this section, and the periods stated under subsection (f) of this section shall run from the date of the board's denial of such request.

(k) The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate, consistently with the requirements of this section.

Sec. 34i. 24 V.S.A. § 4412(8)(C) is amended to read:

(C) The regulation ~~of antennae that are part~~ of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal ~~bylaw review~~ approval under this chapter when and to the extent jurisdiction is assumed by the public service board according to the provisions of that section.

Sec. 34j. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

* * *

(l) A district commission may reject an application under this chapter that misrepresents any material fact and may after notice and opportunity for hearing award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 34k. 24 V.S.A. § 4455 is added to read:

§ 4455. REVOCATION

On petition by the municipality and after notice and opportunity for hearing, the environmental court may revoke a municipal land use permit issued under this chapter, including a permit for a telecommunications facility, on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

Sec. 34l. 24 V.S.A. § 4470a is added to read:

§ 4470a. MISREPRESENTATION; MATERIAL FACT

An administrative officer or appropriate municipal panel may reject an application under this chapter, including an application for a telecommunications facility, that misrepresents any material fact. After notice and opportunity for hearing in compliance with section 809 of Title 3, an appropriate municipal panel may award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 34m. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The general assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the state improved communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

(1) Strengthen the state's role in telecommunications planning.

(2) Support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data.

(3) Support the availability of modern mobile wireless telecommunications services along the state's travel corridors and in the state's communities.

(4) Provide for high-quality, reliable telecommunications services for Vermont businesses and residents.

(5) Provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses.

(6) Support competitive choice for consumers among telecommunications service providers.

(7) Support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the state.

(8) Support, to the extent practical and cost-effective, deployment of broadband infrastructure that:

(A) Uses the best commercially available technology.

(B) Does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

Sec. 34n. 30 V.S.A. § 8060 is amended to read:

§ 8060. LEGISLATIVE FINDINGS AND PURPOSE

(a) The general assembly finds that:

(1) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(2) Private entities have brought mobile telecommunications and broadband services to many households, businesses and locations in the state, but significant gaps remain.

(3) A new level of creative and innovative strategies (including partnerships and collaborations among and between state entities, nonprofit organizations, municipalities, the federal government, and the private sector) is necessary to extend and complete broadband coverage in the state, and to ensure that Vermont maintains a telecommunications infrastructure that allows residents and businesses to compete fairly in the national and global economy.

(4) When such partnerships and collaborations fail to achieve the goal of providing high-quality broadband access and service to all areas and households, or when some areas of the state fall behind significantly in the variety and quality of services readily available in the state, it is necessary for an authority of the state to support and facilitate the construction of infrastructure and access to broadband service through financial and other incentives.

(5) Small broadband enterprises now offering broadband service in Vermont have limited access to financial capital necessary for expansion of broadband service to unserved areas of the state. The general assembly recognizes these locally based broadband providers for their contributions to date in providing broadband service to unserved areas despite the limitations on their financial resources.

(6) The universal availability of adequate mobile telecommunications and broadband services promotes the general good of the state.

(7) Vermonters should be served by broadband infrastructure that, to the extent practical and cost-effective, uses the best commercially available technology and does not involve widespread installation of technology that becomes outmoded within a short period after installation.

(b) Therefore, it is the goal of the general assembly to ensure:

(1) that all residences and business in all regions of the state have access to affordable broadband services not later than the end of the year 2010~~:~~, and that this goal be achieved in a manner that, to the extent practical and cost-effective, does not negatively affect the future installation of the best commercially available broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

(2) the ubiquitous availability of mobile telecommunication services including voice and high-speed data throughout the state by the end of the year 2010.

(3) the investment in telecommunications infrastructure in the state which will support the best available and economically feasible service capabilities.

(4) that telecommunications and broadband infrastructure in all areas of the state is continuously upgraded to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the state.

(5) the most efficient use of both public and private resources through state policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

Sec. 34o. 30 V.S.A. § 8077 is amended to read:

§ 8077. ESTABLISHMENT OF MINIMUM TECHNICAL SERVICE CHARACTERISTIC OBJECTIVES

(a) The department of public service~~,~~ shall, as part of the state telecommunications plan prepared pursuant to section 202d of this title, identify minimum technical service characteristics which ought to be available as part of broadband services commonly sold to residential and small business users throughout the state. For the purposes of this chapter, "broadband"

means high speed internet access. The department shall consider the performance characteristics of broadband services needed to support current and emerging applications of broadband services. The department shall review and update the minimum characteristics established under this section no less than every three years starting in 2009. In the event such review is conducted separately from an update of the state telecommunications plan pursuant to subsection 202d(f) of this title, the department shall issue revised minimum characteristics as an amendment to the plan.

(b) The authority shall give priority in its activities toward projects which expand the availability of broadband services that meet the minimum technical services characteristics established by the state telecommunications plan.

(c) Until the department of public service adopts ~~a revision to the state telecommunications plan~~ minimum service characteristics under subsection (a) of this section, the authority shall give priority to the expansion of broadband services which deploy equipment capable of a data transmission rate of not less than three megabits per second and offer a service plan with a data transmission rate of not less than 1.5 megabits per second in at least one direction to unserved areas.

Sec. 34p. 10 V.S.A. § 6001(3)(D) is amended to read:

(D) The word "development" does not include:

(i) The construction of improvements for farming, logging or forestry purposes below the elevation of 2,500 feet.

(ii) The construction of improvements for an electric generation or transmission facility that requires a certificate of public good under ~~section~~ 30 V.S.A. § 248 ~~or~~, a natural gas facility as defined in ~~subdivision~~ 30 V.S.A. § 248(a)(3), or a telecommunications facility issued a certificate of public good under 30 V.S.A. § 248a.

(iii) [Repealed.]

(iv) The construction of improvements for agricultural fairs that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(v) The construction of improvements for the exhibition or showing of equines at events that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

* * * Act 250 Exemptions; ARRA-Funded Roads and Bridges * * *

Sec. 34q. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(d) For purposes of this section, the following construction of improvements to preexisting municipal, county, or state projects shall not be considered to be substantial changes~~, regardless of the acreage involved,~~ and shall not require a permit as provided under subsection (a) of this section:

(1) essential municipal, county, or state wastewater treatment facility enhancements that do not expand the capacity of the facility by more than 10 percent, excluding the extension of a wastewater collection system or an expansion of the service-area boundaries of a wastewater treatment facility.

(2) essential municipal ~~waterworks~~, county, or state water supply enhancements that do not expand the capacity of the facility by more than 10 percent.

(3) essential public school reconstruction or expansion that does not expand the student capacity of the school by more than 10 percent.

(4) essential municipal, county, or state building renovations or reconstruction ~~or expansion~~ that does not expand the floor space of the building by more than 10 percent.

(5) construction of improvements to preexisting municipal, county, or state roads and bridges, provided such construction receives all or part of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

(e) For purposes of this section, the replacement of preexisting municipal, county, or state water and sewer lines~~, as part of a municipality's regular maintenance or replacement~~ of existing facilities~~,~~ shall not be considered to be substantial changes and shall not require a permit as provided under subsection (a) of this section, provided that the replacement does not expand the service capacity of the relevant facility by more than 10 percent.

* * *

Sec. 34r. SUNSET

10 V.S.A. § 6081(d)(5) (Act 250 exemption for ARRA-funded road and bridge improvements) shall be repealed July 1, 2011. However, the construction of improvements commenced prior to July 1, 2011 shall not

require a permit by operation of this section if such construction was exempt under 10 V.S.A. § 6081(d)(5).

* * * Permit Expediting for ARRA-Funded Projects * * *

Sec. 34s. PERMIT EXPEDITING; FEDERAL STIMULUS

Notwithstanding any other provision of law, an application for a state or local permit or other approval pertaining to a project that will receive all or part of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5 may be given priority over any other pending application.

* * * Agency of Natural Resources Report on General Permits * * *

Sec. 34t. GENERAL PERMITS; ENVIRONMENTAL TICKETING; SPECIFIC PROPOSAL REQUIRED

(a) As soon as possible, and no later than November 15, 2009, the agency of natural resources (ANR) shall submit to the committees listed in subsection (c) of this section draft legislation on enabling authority for each of the following:

(1) ANR's issuance of general permits pertaining to the following chapters of Title 10 and permits within those chapters: 23 (air pollution control) for stationary source construction and operation permits; 37 (water resources management) for aquatic nuisance control permits; 41 (regulation of stream flow) for stream alteration permits; 56 (public water supply) for construction permits; and 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications.

(2) Environmental ticketing related to violations of statutes and regulations implemented by ANR statutes and of 10 V.S.A. chapter 151.

(b) The submission required by subsection (a) of this section shall identify and include at least each of the following:

(1) Among the chapters and permits listed in subdivision (a)(1) of this section, the specific project categories and other activities that involve a high volume of permits and typically pose low risk to the environment and human health. ANR also shall detail the basis used to identify project categories and other activities that involve a high volume of permits and low risk to the environment and human health.

(2) Among the chapters and permits listed in subdivision (a)(1) of this section, the specific activities, permits, or programs that ANR proposes as appropriate for general permitting authority.

(3) The specific environmental violations that the agency proposes for enforcement in the judicial bureau, including the appropriate enforcing officer or officers for each violation.

(c) The submission required by this section shall be made to the house and senate committees on natural resources and energy and the house committee on fish, wildlife and water resources.

* * * Clean Energy Development Fund; Efficient Technologies; Governance * * *

Sec. 34u. 10 V.S.A. § 6523 is hereby amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

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

* * *

(4) "Emerging energy-efficient technologies" means technologies that are both precommercial but near commercialization and that have already entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

(5) "Renewable energy" has the meaning established under 30 V.S.A. § 8002(2), and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power resources, and emerging energy-efficient technologies using funds received through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, for the long-term benefit of Vermont electric customers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The general assembly expects and

intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources and for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

~~(1) This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources.~~

~~(2) The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.~~

~~(3) By January 15 of each year, commencing in 2007, the department of public service shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce a report detailing the revenues collected and the expenditures made under this subchapter, together with recommended principles to be followed in the allocation of funds and a proposed five-year plan for future expenditures from the fund.~~

~~(4)~~(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 renewable energy in Vermont residences and businesses;

(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; ~~and~~

(H) emerging energy-efficient technologies using funds received through ARRA; and

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

~~(5)~~(2) If during a particular year, the ~~department~~ clean energy development board determines that there is a lack of high value projects

eligible for funding, as identified in the five-year plan, or as otherwise identified, the ~~department~~ clean energy development board may consult with the public service board, and shall consider transferring funds to the energy efficiency fund established under the provisions of 30 V.S.A. § 209(d). Such a transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

~~(6)~~(3) The sum of $20,000.00 shall be transferred annually from the clean energy development fund to the general fund to support the cost of the solar energy income tax credits.

(e) Management of fund.

(1)~~(A)~~ There is created the clean energy development ~~fund advisory committee~~ board, which shall consist of ~~the commissioner of public service, or a designee, and the chairs of the house and senate committees on natural resources and energy, or their designees.~~ the following nine directors:

(A) Three at-large directors appointed by the speaker of the house;

(B) Three at-large directors appointed by the president pro tempore of the senate.

(C) Two at-large directors appointed by the governor.

(D) The state treasurer, ex officio.

~~(B) There is created the clean energy development fund investment committee, which shall consist of seven persons appointed by the clean energy development fund advisory committee.~~

(2) ~~The commissioner of public service shall:~~

~~(A) by no later than October 30, 2006:~~

~~(i) develop a five year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process;~~

~~(ii) develop an annual operating budget;~~

~~(iii) develop proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies); and~~

~~(iv) submit the plans, budget, and program designs to the clean energy development fund advisory committee for review and to the clean energy development fund investment committee for approval;~~

~~(B) adopt rules by no later than January 1, 2007 to carry out the program approved under this subdivision;~~

~~(C) explore pursuing joint investments in clean energy projects with other state funds and private investors to increase the effectiveness of the clean energy development fund;~~

~~(D) acting jointly with the members of the clean energy development fund investment committee, make decisions with respect to specific grants and investments, after the plans, budget, and program designs have been approved by the clean energy development fund investment committee. This subdivision (D) shall be repealed upon the effective date of rules adopted under subdivision (2)(B) of this subsection.~~

~~(3)~~ During fiscal years after FY 2006, up to five percent of amounts appropriated to the public service department from the fund may be used for administrative costs related to the clean energy development fund and after FY 2007~~, another five percent of amounts appropriated to the public service department from the fund not to exceed $300,000.00 in any fiscal year shall be transferred to the secretary of the agency of agriculture, food, and markets for agricultural and farm-based energy project development activities~~.

(3) A quorum of the clean energy development board shall consist of five directors. The directors of the board shall select a chair and vice chair.

(4) In making appointments of at-large directors to the clean energy development board, the appointing authorities shall give consideration to citizens of the state with knowledge of relevant technology, regulatory law, infrastructure, finance, and environmental permitting. The at-large directors of the board shall serve terms of four years beginning July 1 of the year of appointment. However, one at-large director appointed by the speaker and one at-large director appointed by the president pro tempore shall serve an initial term of two years. Any vacancy occurring among the at-large directors shall be filled by the respective appointing authority and shall be filled for the balance of the unexpired term. A director may be reappointed.

(5) Except for those directors of the clean energy development board otherwise regularly employed by the state, the compensation of the directors shall be the same as that provided by subsection 1010(a) of Title 32. All directors of the clean energy development board, including those directors otherwise regularly employed by the state, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(6) At least every three years, the clean energy development board shall commission a detailed financial audit by an independent third party of the fund and the activities of the fund manager, which shall make available to the auditor its books, records, and any other information reasonably requested by the board or the auditor for the purpose of the audit.

(7) In performing its duties, the clean energy development board may utilize the legal and technical resources of the department of public service or, alternatively, may utilize reasonable amounts from the clean energy development fund to retain qualified private legal and technical service providers. The department of pubic service shall provide the clean energy development board and its fund manager with administrative services.

(8) By January 15 of each year, commencing in 2010, the clean energy development board shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development a report detailing the revenues collected and the expenditures made under this subchapter.

(9) By January 15, 2010, after public notice and opportunity for comment, the clean energy development board shall update the fund's five-year strategic plan adopted in May 2007 with any changes to the criteria, principles, and other matters addressed in that plan, and submit the updated strategic plan to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development.

(10) At least quarterly, the clean energy development board shall hold a public meeting to review and discuss the status of the fund, fund projects, the performance of the fund manager, any reports, information, or inquiries submitted by the fund manager or the public, and any additional matters the clean energy development board deems necessary to fulfill its obligations under this section.

(f) Clean energy development fund manager. The clean energy development fund shall have a fund manager who shall be a state employee retained and supervised by the board and housed within the department of public service for administrative purposes.

Sec. 34v. TRANSITION; POSITION TRANSFER

(a) It is the intent of the general assembly that the seven members of the clean energy development fund investment committee appointed prior to the effective date of this act shall be eligible for appointment as directors of the clean energy development fund board for a full term or until the terms of their original appointments expire.

(b) Upon the effective date of this act, the fund manager currently retained for the clean energy development fund shall be deemed the fund manager retained by the clean energy development board pursuant to 10 V.S.A. § 6523(f). Upon appointment of the clean energy development board, the position occupied by that fund manager shall be transferred to the board and become subject to the board's supervision.

* * * Stimulus Reimbursement for Utility Relocations * * *

Sec. 34w. 19 V.S.A. § 1607 is added to read:

§ 1607. FEDERAL REIMBURSEMENT FOR CERTAIN UTILITY RELOCATIONS

(a) As a result of appropriations for infrastructure enhancement and development contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, and other federal transportation-aid programs, significant highway construction projects are expected to be constructed in the near future.

(b) To ensure that projects are not delayed or canceled because of the inability of utilities and municipalities to pay for utility relocation costs and to ensure that available federal funds are utilized on shovel-worthy projects, it is the intent of the general assembly to reimburse utilities with infrastructure, including municipally owned drinking water facilities and municipally owned wastewater infrastructure, up to 80 percent of the approved relocation costs, if the relocation is necessitated by a highway construction project funded by ARRA or other federal transportation-aid programs.

(c) Eligible relocation costs under subsection (b) of this section shall be reimbursed by the state agency or other entity primarily responsible for managing or directing the construction project on the condition that federal stimulus funds or other federal funds are available and eligible to pay for the relocation costs.

(d) The state and municipalities shall not be obligated to pay to utilities the state or local share of a federally funded project.

(e) The state shall not be obligated to pay the state or local share to a municipality for the relocation of municipal drinking water and municipal wastewater infrastructure.

* * * Energy Workforce Stimulus * * *

Sec. 34x. 16 V.S.A. chapter 37, subchapter 7 is added to read:

Subchapter 7. Energy Efficiency Training

§ 1594. ENERGY EFFICIENCY CURRICULUM

(a) The president of Vermont Technical College, director of the office of economic opportunity, commissioner of public service, commissioner of labor, assistant director for adult education, and Efficiency Vermont shall plan for and develop curriculum modules and deliver energy efficiency and renewable energy education and training at all levels, in order to develop a highly skilled workforce in Vermont that is prepared to participate in a growing energy-oriented industry sector.

(b) In all applicable content areas, the curriculum modules shall be designed to meet, at a minimum, the certification standards of the Building Performance Institute, other widely recognized certification standards, or a Vermont-specific certification developed in a process led by Vermont Technical College in collaboration with the aforementioned parties.

(c) The curriculum modules shall be offered through the Center for Sustainable Practices at Vermont Technical College and, on a regional basis, through the regional technical centers and the comprehensive high schools, including adult technical education programs, under agreed-upon terms where they can be appropriately incorporated into the curriculum, which will help prepare students of all ages for careers in the energy-efficiency industry.

(d) The department of labor shall not fund any single-service contract for the implementation of the modules developed in subsection (a) of this section or for the delivery of electrical and plumbing training programs offered under this section.

(e) Vermont Technical College and the regional technical centers shall request state fiscal stabilization funds available through the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, as well as other state or federal workforce training funds available through the Vermont departments of education and of labor, and through the Vermont Energy Investment Corporation. If sufficient funds are not received, then the Vermont Technical College and the regional technical centers are not required to offer the education and training programs outlined in this section.

* * * Indirect Air Source: Repeal of Permit Requirements * * *

Sec. 34y. 10 V.S.A. § 556(i) is added to read:

(i) Notwithstanding any provisions of this section, any rule of the secretary requiring permits for the construction or modification of indirect sources, including any building, structure, facility, installation, or combination thereof that has or leads to associated mobile source activity as a result of which any air contaminant is or may be emitted, is hereby repealed.

And that when so amended the bill ought to pass.

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

By striking out Sec. 14 in its entirety.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the pending question, Shall the recommendation of amendment of the Committee on Finance be amended as recommended by the Committee on Appropriations?, was agreed to.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Finance, as amended, be amended as recommended by the Committee on Natural Resources and Energy?, on motion of Senator Mazza the Senate recessed until the fall of the gavel.

Called to Order

At ten o'clock and thirty minutes the Senate was called to order by the President.

Consideration Resumed; Third Reading Ordered

S. 137.

Consideration was resumed on Senate bill entitled:

An act relating to the Vermont recovery and reinvestment act of 2009.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Finance, as amended, be amended as recommended by the Committee on Natural Resources and Energy?, Senator Lyons requested and was granted leave to withdraw the recommendation of amendment of the Committee on Natural Resources and Energy.

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

Adjournment

On motion of Senator Shumlin, the Senate adjourned until one o'clock in the afternoon.

Called to Order

At one o'clock and ten minutes in the afternoon the Senate was called to order by the President.

Rules Suspended; Bill Committed

H. 444.

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

An act relating to health care reform.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Health and Welfare, Senator Shumlin moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Health and Welfare *intact*,

Which was agreed to.

Senator Mazza Assumes the Chair

Proposal of Amendment; Point of Order; Third Reading Ordered

H. 427.

Senator Starr, for the Committee on Education, to which was referred House bill entitled:

An act relating to making miscellaneous amendments to education law.

Reported recommending 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:

* * * Hazing; Cross-References * * *

Sec. 1. 16 V.S.A. § 11(a)(30) is amended to read:

(30) "Hazing" means any act committed by a person, whether individually or in concert with others, against a student in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining

membership in any organization which is affiliated with an educational institution; and which is intended to have the effect of, or should reasonably be expected to have the effect of, humiliating, intimidating or demeaning the student or endangering the mental or physical health of a student. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in the above acts. Hazing may occur on or off the campus of an educational institution. Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:

(1) the goals are approved by the educational institution; and

(2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions. The definitions of ~~educational institution, organization, pledging, and student~~ "educational institution," "organization," "pledging," and "student" shall be the same as those in section ~~151~~ 140a of this title.

* * * Audits and Auditors * * *

Sec. 2. 16 V.S.A. § 261a(10) is amended to read:

(10) submit to the town auditors of each member school district or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount ~~of state aid for special education awarded to~~ expended by the supervisory union for special education-related services, including ~~the amount generated by, and the amount allocated to~~:

(A) A breakdown of that figure showing the amount paid by each school district within the supervisory union, including the justification for that breakdown.

(B) A summary of the services provided by the supervisory union's use of the expended funds.

Sec. 3. 16 V.S.A. § 323 is amended to read:

§ 323. AUDIT BY PUBLIC ACCOUNTANT

Annually, the supervisory union board shall employ a public accountant to audit the financial statement of the supervisory union. The audit shall be conducted in accordance with generally accepted government auditing

standards, including the issuance of a report of internal controls over financial reporting that shall be provided to recipients of the financial statements. Any annual report of the supervisory union to member districts shall include notice that an audit has been performed.

Sec. 4. 16 V.S.A. § 563(17) is amended to read:

(17) Shall employ a public accountant at least once in each period of three years to audit the financial statements of the school district. However, if the town has voted to eliminate the office of auditor under section 2651b of Title 17, the school board shall employ a public accountant annually to audit the financial statements of the school district pursuant to that section. Audits performed by public accountants shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting that shall be provided to recipients of the financial statements. The school board may authorize an audit in conjunction with another school district or a supervisory union.

Sec. 5. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a) An auditor shall not be town clerk, town treasurer, selectman, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of ~~their~~ official duties be eligible to hold office as auditor. A selectman or school director shall not be first constable, collector of taxes, town treasurer, auditor, or town agent. A selectman shall not be lister. A town manager shall not hold any elective office in the town or town school district. Election officers at local elections shall be disqualified as provided in section 2456 of this title.

(b) Notwithstanding subsection (a) of this section, if a school district prepares and reports its budget independently from the budget of the town and the school district is audited by an independent public accountant, a person shall be eligible to hold office as auditor even if that person's spouse holds office as a school director.

* * * School District Budgets * * *

Sec. 6. 16 V.S.A. § 563(11)(B)(ii) is amended to read:

(ii) ~~Form of vote.~~ The ballot shall be in the following form:

~~"School Budget Question #1:~~

~~Shall the voters of the School District approve a total budget in the amount of [$], which includes the Maximum Inflation Amount of education spending?~~

~~"School Budget Question #2:~~

~~If Question #1 is approved, shall the voters of the School District also approve additional education spending of [$]?"~~

"The total proposed budget of $ is the amount determined by the school board to be necessary to support the school district's educational program. State law requires the vote on this budget to be divided because (i) the school district's spending per pupil last year was more than the statewide average and (ii) this year's proposed budget is greater than last year's budget adjusted for inflation.

"Article #1 (School Budget):

Part A. Shall the voters authorize the school board to expend $, which is a portion of the proposed budget the school board has determined to be necessary?

Part B. If Part A is approved by the voters, shall the voters also authorize the school board to expend $, which is the remainder of the proposed budget that exceeds inflation?"

Sec. 7. 16 V.S.A. § 563(11)(C) is amended to read:

(C) At a school district's annual meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

(i) all revenues from all sources, and expenses, including as separate items any assessment for ~~a union school district or~~ a supervisory union of which it is a member, and any tuition to be paid to a technical center;

(ii) the specific amount of any deficit incurred in the most recently closed fiscal year and how the deficit was or will be remedied;

(iii) the anticipated homestead tax rate and the percentage of household income used to determine income sensitivity in the district as a result of passage of the budget~~;~~ including those portions of the tax rate attributable to ~~the union school and~~ supervisory union assessments; and

(iv) ~~in the case of a school district:~~

~~(I) other than a union school district,~~ the definition of "education spending," the number of pupils and number of equalized pupils in the school district, and the district's education spending per equalized pupil in the proposed budget and in each of the prior three years~~; or~~

~~(II) in the case of a union school district, the amount of the assessment to each of the member districts and the amount of the assessments per equalized pupil in the proposed budget and for the past three years~~.

* * * Union Districts * * *

Sec. 8. 16 V.S.A. § 706f is amended to read:

§ 706f. CONTENTS OF WARNING ON VOTE TO ESTABLISH THE UNION

The warning for each school district meeting shall contain two articles in substantially the following form:

WARNING

The voters of the town (city, union, etc.) school district of are hereby notified and warned to meet at on the day of , , to vote by Australian ballot between the hours of , at which time the polls will open, and, at which time the polls will close, upon the following articles of business:

Article I

Shall the town (city, union, etc.) school district of which the State Board of Education has found (necessary or advisable) to include in the proposed union school district, join with the school districts of and , which the State Board of Education has found necessary to include in the proposed union school district, and the school districts of and, which the State Board of Education has found advisable to include in the proposed union school district, for the purpose of forming a union school district, as provided in Title 16, Vermont Statutes Annotated, upon the following conditions and agreements:

(a) Grades. The union school district shall operate and manage a school offering instruction in grades _____ through _____.

* * *

Sec. 9. 16 V.S.A. § 721a(b) is amended to read:

(b) When a majority of the voters of a school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from a union school district the vote shall be certified by the clerk of the school district to the secretary of state who shall record the certificate in his or her office and give notice of the vote to the commissioner of education and to the other member districts of the union school district. ~~Those~~ Within 90 days after receiving notice, those member districts shall vote by Australian ballot on the same day during the same hours whether to ratify withdrawal of the member district. Withdrawal by a member district shall be effective only if approved by an affirmative vote of each of the other member school districts within the union school district.

* * * Tuition * * *

Sec. 10. 16 V.S.A. chapter 21 is amended to read:

CHAPTER 21. MAINTENANCE OF PUBLIC SCHOOLS

§ 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY SCHOOLS OR PAY TUITION

(a) Elementary school. Each school district shall provide, furnish, and maintain one or more approved schools within the district in which elementary education for its pupils is provided unless:

(1) The electorate authorizes the school board to provide for the elementary education of the pupils residing in the district by paying tuition in accordance with law to one or more public elementary schools in one or more school districts.

* * *

(b) Kindergarten program. Each school district shall provide public kindergarten education within the district. However, a school district may pay tuition for the kindergarten education of its pupils:

(1) at one or more public schools under subdivision (a)(1) of this section; or

(2) if the electorate authorizes the school board to pay tuition to one or more approved independent schools ~~approved by the state board~~ or independent schools meeting school quality standards, but only if the school district did not operate a kindergarten on September 1, 1984, and has not done so afterward.

(c) Notwithstanding subsection (a) of this section, a school board without previous authorization by the electorate may pay tuition for elementary pupils

who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there due to geographic considerations. ~~The board's decision shall be final in regard to the institution the pupil may attend.~~ A parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, whose decision shall be final.

(d) Notwithstanding subsection (a) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary ~~pupils~~ pupil at an approved independent ~~nonresidential~~ elementary ~~schools~~ school upon ~~request of a~~ notice given by the pupil's parent or legal guardian~~, if in the board's judgment the pupil's educational interests can be better served there. The board's decision shall be final in regard to the institution the pupil may attend~~ before April 15 for the next academic year; provided the board shall pay tuition for the pupil in an amount not to exceed the least of:

(1) The statewide average announced tuition of Vermont union elementary schools.

(2) The average per-pupil tuition the district pays for its other resident elementary pupils in the year or years in which the pupil is enrolled in the approved independent school.

(3) The tuition charged by the approved independent school in the year or years in which the pupil is enrolled.

§ 822. SCHOOL DISTRICTS TO MAINTAIN HIGH SCHOOLS OR PAY TUITION

(a) Each school district shall provide, furnish, and maintain one or more approved high schools in which high school education is provided for its pupils unless:

(1) The electorate authorizes the school board to close an existing high school and to provide for the high school education of its pupils by paying tuition in accordance with law. Tuition for its pupils shall be paid to ~~an approved~~ a public ~~or~~ high school, an approved independent high school, or an independent school meeting school quality standards, to be selected by the parents or guardians of the pupil, within or without the state; or

* * *

(c) The school board may both maintain a high school and furnish high school education by paying tuition to a public school as in the judgment of the board may best serve the interests of the pupils, or to an approved independent

school or an independent school meeting school quality standards if the board judges that a pupil has unique educational needs that cannot be served within the district or at a nearby public school. Its judgment shall be final in regard to the institution the pupils may attend at public cost.

§ 823. ELEMENTARY TUITION

* * *

(b) The tuition paid to an approved independent elementary school or an independent school meeting school quality standards shall not exceed the lesser of: (1) the average announced tuition of Vermont union elementary schools for the year of attendance; or (2) the tuition charged by the independent school. However, the electorate of a school district may authorize the payment of a higher amount at an annual or special meeting warned for the purpose.

§ 824. HIGH SCHOOL TUITION

(a) Tuition for high school pupils shall be paid by the school district in which the pupil is a resident.

(b) Except as otherwise provided for technical students, the district shall pay the full tuition charged its pupils attending a public high school in Vermont or an adjoining state, or a public or approved independent school in Vermont functioning as an approved area technical center, or an independent school meeting school quality standards. ; provided:

(1) If a payment made to a public high school or an independent school meeting school quality standards is three percent more or less than the calculated net cost per secondary pupil in the receiving school district or independent school for the year of attendance then the district or school shall be reimbursed, credited, or refunded pursuant to section 836 of this title.

(2) Notwithstanding the provisions of this subsection or of subsection 825(b) of this title, the boards board of the receiving and sending districts or independent schools public school district, public or approved independent school functioning as an area technical center, or independent school meeting school quality standards may enter into tuition agreements with the boards of sending districts that have terms differing from the provisions of those subsections, provided that the receiving district or school must offer identical terms to all sending districts, and further provided that the statutory provisions apply to any sending district that declines the offered terms.

(c) For students in grades 7-12, the The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for students in grades 7-12 for the year of attendance for its pupils enrolled in an

approved independent school not functioning as a Vermont area technical center, or any higher amount approved by the electorate at an annual or special meeting warned for that purpose.

* * *

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

(a) A school board, or the board of trustees of an independent school meeting school quality standards ~~which~~ that proposes to increase tuition charges shall notify the school board of the school district from which its nonresident pupils come, and the commissioner, of the proposed increase on or before ~~February 1~~ January 15 in any year; such increases shall not become effective without the notice and not until the following school year.

(b) A school board or the board of trustees of an independent school meeting school quality standards may establish a separate tuition for one or more special education programs. No such tuition shall be established unless the state board has by rule defined the program as of a type which may be funded by a separate tuition. Any such tuition shall be announced in accordance with the provisions of subsection (a) of this section. The amount of tuition shall reflect the net cost per pupil in the program. The announcement of tuition shall describe the special education services included or excluded from coverage. Tuition for part-time pupils shall be reduced proportionally.

* * *

§ 827. DESIGNATION OF A PUBLIC HIGH SCHOOL OR AN APPROVED INDEPENDENT HIGH SCHOOL AS THE SOLE PUBLIC HIGH SCHOOL OF A SCHOOL DISTRICT

(a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate an approved independent school or a public school as the public high school of the district.

(b) ~~When~~ Except as otherwise provided in this section, if the board of trustees or the school board of ~~such~~ the designated school votes to accept this designation the school shall be regarded as a public school for tuition purposes under subsection 824(b) of this title and the sending school district shall pay tuition to ~~the~~ that school only, until such time as the sending school district or the ~~board of trustees of the~~ designated school votes to rescind the designation.

(c) A parent or legal guardian who is dissatisfied with the instruction provided at the designated school or who cannot obtain for his or her child the kind of course or instruction desired there, or whose child can be better accommodated in an approved independent or public high school nearer his or

her home, ~~may~~ ~~request~~ shall notify the school board before April 15 of the decision to enroll the child in another school in the next academic year and the school board ~~to~~ shall pay tuition to ~~another~~ the approved independent or public high school selected by the parent; provided the board shall pay tuition for the pupil in an amount not to exceed the least of:

(1) The statewide average announced tuition of Vermont union high schools.

(2) The per-pupil tuition the district pays to the designated school in the year or years in which the pupil is enrolled in the nondesignated school.

(3) The tuition charged by the approved nondesignated school in the year or years in which the pupil is enrolled.

(d) ~~The school board may pay tuition to another approved high school as requested if in its judgment that will best serve the interests of the pupil. Its decision shall be final in regard to the institution the pupil may attend.~~

§ 828. TUITION TO APPROVED SCHOOLS, AGE, APPEAL

A school district shall not pay the tuition of a pupil except to a public ~~or~~ school, an approved independent school ~~or~~, an independent school meeting school quality standards, a tutorial program approved by the state board, or an independent school in another state or country approved under the laws of that state or country, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

* * *

* * * State-Placed Students * * *

Sec. 11. 16 V.S.A. § 11(a)(28) is amended to read:

(28) "State-placed student" means:

(A) a Vermont pupil who has been placed in a school district other than the district of residence of the pupil's parent, parents or guardian or in an approved residential facility by a Vermont state agency, a Vermont licensed child placement agency, a designated community mental health agency, or any other agency as defined by the commissioner; or

(B) a Vermont pupil who:

(i) is 18 years of age or older;

(ii) is living in a community residence as a result of placement by a Vermont state agency, a Vermont licensed child placement agency or a designated community mental health agency, and whose residential costs are paid for in whole or in part by one of these agencies; and

(iii) resides in a school district other than the district of the pupil's parent or parents; or

(C) a pregnant or postpartum pupil attending school at an approved education program in a residential facility or outside the school district of residence pursuant to subsection 1073(b) of this title; or

(D) A Vermont pupil who:

(i) Is in either:

(I) The legal custody of the commissioner for children and families; or

(II) The temporary legal custody of an individual pursuant to subdivision 5308(b)(3) or (4) of Title 33, until a disposition order has been entered pursuant to section 5318 of that title; and

(ii) Is determined by the commissioner of education to be in particular need of educational continuity by attending a school in a district other than the pupil's current district of residence;

(E) ~~"State-placed student"~~ But does not ~~include pupils~~ mean a pupil placed within a correctional facility or in the Woodside Juvenile Rehabilitation Center ~~or The Eldred School operated by the Vermont State Hospital~~.

Sec. 12. 16 V.S.A. § 1075(b) and (c) are amended to read:

(b) The commissioner shall determine the legal residence of all state-placed students pursuant to the provisions of this section. In all other cases, the pupil's legal residence shall be determined by the board of school directors of the district in which the pupil is seeking enrollment or, if the pupil is seeking payment of tuition, the board of directors from which the pupil is seeking tuition payment. If a pupil is denied enrollment at any stage, the pupil and his or her parent or guardian shall be notified in writing, within 24 hours, of the provisions of this section. If the pupil is not in attendance as a result of a preliminary decision by school officials and a decision from the board of school directors will not be available by the end of the second school day after the request for enrollment is made, the commissioner may issue a temporary order requiring enrollment. Any interested person or taxpayer who is dissatisfied with the decision of the board as to the pupil's legal residence may appeal to the commissioner of education, who shall determine the pupil's legal

residence, and the decision of the commissioner shall be final. Pending appeal under this subsection, the commissioner shall issue a temporary order requiring enrollment.

(c) State-placed students.

(1) A state-placed student, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the pupil is living, unless an alternative plan or facility for the education of the pupil is agreed upon by the commissioner of education. In the case of a dispute as to where a state-placed student is living, the commissioner shall conduct a hearing to determine which school district is responsible for educating the pupil. The commissioner's decision shall be final.

(2) If a pupil is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the department for children and families shall assume responsibility for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A pupil who is in temporary legal custody pursuant to subdivision 5308(b)(3) or (4) of Title 33 and is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the pupil's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the pupil's legal guardian resides, or the district in which the temporary legal custodian resides. If the pupil enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(4) If a pupil who had been a state-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the pupil's parents or legal guardians reside, then, at the request of the pupil's parent or legal guardian, the commissioner of education may order the pupil to continue his or her enrollment for the remainder of the academic year in the district in which the pupil resided prior to returning to the parent's or guardian's district and the pupil will continue to be funded as a state-placed student. Unless the receiving district chooses to provide transportation:

(A) If the pupil remains in the legal custody of the commissioner for children and families, then the department for children and families shall assume responsibility for the pupil's transportation to and from school.

(B) In all other instances under this subdivision (4), the parent or legal guardian is responsible for the pupil's transportation.

* * * Base Education Payment; Base Education Amount * * *

Sec. 13. 16 V.S.A. § 4001(13) is amended to read:

(13) "Base education ~~payment~~ amount" means a number used to calculate tax rates. The base education amount is $6,800.00 per equalized pupil, adjusted as required under section 4011 of this title.

Sec. 14. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

(a) Annually, the general assembly shall appropriate funds to pay for statewide education spending and a portion of a base education ~~payment~~ amount for each adult diploma student.

(b) For each fiscal year, the base education ~~payment~~ amount shall be $6,800.00, increased by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services from fiscal year 2005 through the fiscal year, for which the ~~payment~~ amount is being determined, plus an additional one-tenth of one percent.

* * *

(e) The commissioner shall pay an amount equal to 87 percent of the base education ~~payment~~ amount to the Vermont Academy of Science and Technology for each Vermont resident, 12th grade student enrolled.

(f) Annually, the commissioner shall pay to a department or agency which provides an adult diploma program, an amount equal to 26 percent of the base education ~~payment~~ amount for each student who completed the diagnostic portion of the program, based on an average of the previous two years.

(g) The commissioner shall pay to a school district a percentage of the base education ~~payment~~ amount for each resident student for whom the district is paying a technical tuition to a regional technical center but who is not enrolled in the district and therefore not counted in the average daily membership of the district. The percentage of the base education ~~payment~~ amount to be paid shall be the percentage of the student's full-time equivalent attendance at technical center multiplied by 87 percent.

* * *

Sec. 15. 16 V.S.A. § 1561 is amended to read:

§ 1561. TUITION REDUCTION

* * *

(b) On behalf of a sending school district within Vermont, a technical center shall receive from the education fund for each full-time equivalent student from the district 87 percent of the base education ~~payment~~ amount and an equivalent amount shall be subtracted from the amount due to the sending district under section 4011 of this title. The amount sent to the technical center and subtracted from the sending district shall be considered a revenue and an expenditure of the district and shall be reported as such in appropriate accounts and in the district's annual budget.

(c) Annually, the general assembly shall appropriate funds to pay for a supplemental assistance grant per full-time equivalent student. The amount of the grant shall be equal to 35 percent of the base education ~~payment~~ amount for that year.

(d) In any year following a year in which fall semester full-time equivalent enrollment of students at a technical center increased by 20 percent or more over the previous fall semester, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to two-thirds of the 35 percent of the base education ~~payment~~ amount for that year, multiplied by the actual full-time equivalent enrollment increase. The next year, if the increase in fall semester full-time equivalent enrollment is less than 20 percent, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to one-third of the 35 percent of the base education ~~payment~~ amount for the year multiplied by the actual full-time equivalent increase of the previous fall semester.

Sec. 16. CONSISTENT USE OF TERM

Pursuant to its statutory revision authority at 2 V.S.A. § 424, the legislative council is directed to change the phrase "base education payment" wherever it may appear in the Vermont Statutes Annotated to "base education amount."

* * * School Construction Spending; Planning for Merger; Tuition; Programs for At-Risk Students * * *

Sec. 17. 16 V.S.A. § 4001(6) is amended to read:

(6) "Education spending" means the amount of the school district budget, any assessment for a joint contract school, technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) which is paid for by the school district, but excluding any portion of the school budget paid

for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other state funds such as special education funds paid under chapter 101 of this title. For purposes of determining whether a proposed budget shall be presented by means of a divided question pursuant to subdivision 563(11)(A) of this title, "education spending" shall not include:

(A) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt; provided the district shall not be reimbursed or otherwise receive state construction aid for the approved school capital construction.

(B) For a project that received final approval for state construction aid under chapter 123 of this title:

(i) Spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt;

(ii) Payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving state aid for the project.

(C) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.

(D) For a district that provides for the education of its resident pupils in one or more grades by paying tuition and does not maintain a school that includes the grade or grades, the district's anticipated spending for tuition in the year for which the budget is proposed.

(E) Spending during the budget year attributable to the costs of providing alternative educational opportunities designed to encourage at-risk high school students to remain enrolled in and to graduate from high school, whether offered by the district or a contracting entity.

* * * Higher Education * * *

Sec. 18. 6 V.S.A. § 20 is added to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians

throughout the state. The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

(b) The fund shall consist of:

(1) Sums appropriated or transferred to it from time to time by the general assembly, the state emergency board, or the joint fiscal committee when the general assembly is not in session.

(2) Interest earned from the investment of fund balances.

(3) Sums from any other public or private source accepted for the benefit of the fund.

(c) The agency shall administer the fund and make sums available for loan repayment awards. The agency may contract with a Vermont nonprofit entity for administration of the program, which shall administer awards in compliance with the requirements of Section 108(f) of the Internal Revenue Code.

Sec. 19. LARGE ANIMAL VETERINARIANS; EDUCATIONAL LOAN REPAYMENT PROGRAM; PROPOSAL AND REPORT

(a) There is created a committee to explore the development of a loan repayment program to recruit and retain licensed veterinarians to meet the existing need for large animal veterinarians throughout the state. The committee shall also consider other incentives and outreach efforts to ensure that Vermonters are able to obtain the necessary education or training to work in this field. The committee shall review available Vermont veterinarian workforce data and consider priorities and criteria on which to base awards. It shall develop recommendations for a loan repayment program, including details concerning the proposed application process. The committee shall identify potential funding sources.

(b) The members of the committee shall be:

(1) The secretary of agriculture, food and markets or the secretary's designee, who shall serve as chair and shall call the first meeting of the committee on or before July 1, 2009.

(2) The Vermont state veterinarian or the state veterinarian's designee.

(3) The president of the Vermont veterinary medical association or the president's designee.

(4) The secretary of commerce and community development or the secretary's designee.

(5) A member of the Vermont workforce development council to be selected by the governor.

(6) A representative of the higher education community to be jointly selected by the speaker of the house and the senate committee on committees.

(7) The director of the area health education centers program of the University of Vermont or the director's designee.

(8) The president of the Vermont student assistance corporation or the president's designee.

(c) On or before December 1, 2009, the committee shall present a detailed proposal to the senate and house committees on education and on agriculture outlining recommendations designed to promote the purposes of this section.

Sec. 20. EDUCATIONAL LOAN REPAYMENT; 2009 INTERIM

(a) If private funds are deposited into the Vermont large animal veterinarian educational loan repayment fund created in Sec. 18 of this act before a loan repayment program is developed and implemented under Sec. 19 of this act, then notwithstanding any provision of law to the contrary, the secretary of agriculture, food and markets may use the money to repay a portion of the outstanding educational loans of one or more licensed veterinarians in exchange for the service commitment to work in the large animal veterinary field in Vermont for a defined number of years, which shall be defined by contract. The secretary may enter into a contract with an entity, such as the area health education centers program of the University of Vermont, to help administer the provisions of this section, and may pay the entity for its administrative costs from fund monies. Payment of awards shall be made directly to the educational loan creditor of the award recipient and shall be available only to a veterinarian who:

(1) Is licensed in Vermont;

(2) Provides large animal veterinarian services in Vermont; and

(3) Has outstanding educational debt acquired in the pursuit of an undergraduate or graduate degree from an accredited college or that exceeds the amount of the loan repayment award.

(b) For purposes of this section, "large animal veterinarian" means a doctor of veterinary medicine accredited by the United States Department of Agriculture who spends at least 60 percent of his or her working veterinary

hours in Vermont treating or otherwise servicing food animals, including beef or dairy cows, sheep, pigs, poultry, and others identified by the secretary.

(c) The secretary shall report to the senate and house committees on education and on agriculture regarding:

(1) Private monies received under subsection (a) of this section, within 14 days after receiving the money.

(2) The decision to make some or all of the private monies available for educational loan repayment under this section and the criteria on which the award decisions will be made, at least 14 days prior to announcing publicly the availability of the funds.

(3) The payment of awards, within 14 days after making payment to the creditor of the award recipient.

(d) This section shall take effect on passage and shall remain in effect until June 30, 2010.

Sec. 21. 16 V.S.A. App. § 1-2 is amended to read:

§ 1-2. BOARD OF TRUSTEES; MEMBERSHIP, TERMS OF SERVICE; PRESIDING CHAIR

The board of trustees of the University of Vermont and State Agricultural College shall be composed of ~~25~~ 26 members, whose term of office shall be six years, except as to those who are members ex officio and to those who are student members. Three members shall be appointed by the governor with the consent of the senate. During the legislative session of 1955, the governor shall appoint one member for a term of two years, one member for a term of four years, and one member for a term of six years and it shall be the duty of the governor during the session of the legislature prior to expiration of the term of office of any of the members to appoint for the term of six years a successor to the member whose term is expiring. The terms of office of the trustees shall expire on the last day of February in the respective years of expiration, and the terms of office of their successors shall thereafter begin on March 1 and expire on the last day of February.

Nine members shall be those who have been heretofore elected by the legislature as members of the board of trustees of the University of Vermont and State Agricultural College, and whose terms have not expired, and their successors, and it shall be the duty of the legislature at its session during which the terms of office of any class of the members expire to elect three successor members for terms of six years. The terms shall commence on March 1 in the year of election. The nine trustees and their successors shall also constitute,

with the secretary of agriculture, food and markets as a member ex officio, the board of trustees of the Vermont Agricultural College.

* * *

All trustees so appointed ~~and~~ or elected as hereinbefore provided, shall, together with his or her Excellency, the governor of the state, the secretary of agriculture, food and markets, and the president, ~~who shall be, ex officio, a member~~ all three of whom shall be ex officio members, constitute an entire board of trustees of the corporation known as the University of Vermont and State Agricultural College, who shall have the entire management and control of its property and affairs, and in all things relating thereto, except in the elections to fill vacancies, as aforesaid, shall act together jointly, as one entire board of trustees; provided, that all future elections or appointments to the board of trustees shall be made with special reference to preventing any religious denominational preponderance in the board. The board shall annually, at its first regular meeting after the election of new trustees, elect one of its members to serve as chair.

* * * Adequate Yearly Progress * * *

Sec. 22. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 35 of No. 154 of the Acts of the 2007 Adj. Sess. (2008) are further amended to read:

~~Sec. 35. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) are amended to read:~~

Sec. 13. Sec. 2 of No. 64 of the Acts of 2003, as amended by Sec. 4 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), is amended to read:

Sec. 2. COMPLIANCE WITH FEDERAL REQUIREMENTS; MEASURING ADEQUATE YEARLY PROGRESS TOWARD ACHIEVING STATE STANDARDS; CONSEQUENCES

16 V.S.A. § 165 authorizes the commissioner of education to determine how well schools and students are meeting state standards every two years and to impose certain consequences if schools are failing to meet standards after specific time periods. Notwithstanding the provisions of that section, in order to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, ~~during school years 2003-2004 through 2008-2009~~ as amended from time to time (the "Act"), while it is in effect, the commissioner is authorized to determine whether schools and school districts are meeting state standards annually and the state board of education is authorized to impose on schools and school districts consequences allowed in state law and required by the Act within the time frame required in the Act.

However, consistent with Title IX, Part E, Subpart 2, Sec. 9527 of the No Child Left Behind Act, neither the state nor any subdivision thereof shall be required to spend any funds or incur any costs not paid for under the Act in order to comply with the provisions of the Act. The state or any subdivision thereof may expend other funds for activities they were already conducting consistent with the Act, or for activities authorized in a state or local fiscal year 2004 budget. It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law and to avoid having federal law cause state and local governments to absorb the cost of unfunded mandates.

Sec. 14. Subsections (b), (c), and (e) of Sec. 3 of No. 64 of the Acts of 2003, as amended by Sec. 5 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), are amended to read:

(b) Notwithstanding the provisions of 16 V.S.A. §§ 1075(e), 1093, and 1128(b) which stipulate that a child of parents who become homeless shall be educated in the school district in which the child is found and that a school district may choose not to accept nonresident pupils, in order to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, as amended from time to time (the "Act"), the provisions of this section shall apply to children who are homeless during ~~school years 2003-2004 through 2008-2009~~ those school years in which the Act is in effect. It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law.

(c) If a child becomes homeless during a school year ~~2005-2006, 2006-2007, 2007-2008, or 2008-2009~~ in which the Act is in effect, the child shall either be educated: in the school of origin for the duration of the homelessness or for the remainder of the academic year if the child becomes permanently housed outside the district of origin; or in the school district in which the child is actually living. The determination as to which school the child shall attend shall be made by the school board of the school district in which the child is living according to the best interests of the child.

(e) Notwithstanding the provisions of 16 V.S.A. § 4001(1)(A) which stipulate that a pupil must be a legal resident of the district attending a school owned and operated by the district in order to be counted in the average daily membership of the district, during the ~~2003-2004 through 2008-2009~~ school years in which the Act is in effect, a child who is homeless during the census period shall be counted in the school district or districts in which the child is

enrolled. However, if at any time a homeless child enrolls, pursuant to this section, in a school district other than the district in which the child was counted, the district in which the child is enrolled shall become responsible for the education of the child, including payment of education services and, if appropriate, development and implementation of an individualized education plan.

* * * Miscellaneous * * *

Sec. 23. WAIVERS; SCHOOL QUALITY STANDARDS

(a) The general assembly:

(1) Is committed to promoting the flexibility needed to transform Vermont's educational system.

(2) Authorizes the commissioner of education to grant waivers from compliance with any standards of school quality set forth in 16 V.S.A. § 165 or elsewhere in statute or board rule that the commissioner determines:

(A) Is duplicative; or

(B) Impedes:

(i) The efficient operation of a district or supervisory union; or

(ii) The use of innovative and effective methods to promote learning through which a student may achieve or exceed the expectations of the Vermont Framework of Standards and Learning Opportunities.

(3) Encourages school district and supervisory union boards to request waivers from the commissioner pursuant to subdivision (2) of this subsection.

(b) On or before March 1, 2010, the commissioner shall report to the senate and house committees on education regarding waivers requested and granted under this section. The report shall highlight innovative approaches for which waivers were granted and describe the manner in which the commissioner has informed other districts and supervisory unions of these innovations.

Sec. 24. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care home without registration from the department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

* * *

(5) An after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the department of education, unless the after-school program asks to participate in the child care subsidy program.

* * *

~~(g) In order to facilitate school districts and supervisory unions to apply for and receive federal funds provided by the United States 21st Century Fund, on or before September 1, 2001, the agency of human services for programs that are in and operated by public schools and provide schoolage care before and after school hours shall:~~

~~(1) Accept existing permits and certificates obtained and plans developed by the school as satisfying licensing requirements without further application or review, including permits, certificates, and plans relating to water and wastewater disposal permit, asbestos abatement, insurance, and occupancy.~~

~~(2) Waive compliance with No. 165 of the Acts of 1996 or No. 37 of the Acts of 1997 relating to the abatement of lead paint hazards if the program serves no children who are less than five years old.~~

~~(3) Require screening of all program staff members against the child abuse registry, and require a criminal records check of any program staff member who is not currently a school employee or an employee of a school contractor already subject to a criminal record check as part of the hiring process.~~

* * *

Sec. 25. CODIFY EXISTING SESSION LAW RELATING TO REGIONAL SCHOOL CHOICE FOR PUBLIC SCHOOL STUDENTS IN GRADES 9 THROUGH 12

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative council is directed to codify Secs. 1 and 2 of No. 150 of the Acts of the 1999 Adj. Sess. (2000) (regional school choice for public school students in grades 9 through 12) as amended by Sec. 21 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) (repealing the date on which the original act was scheduled to be repealed). Act 150, as amended, shall be codified as 16 V.S.A. §§ 1621–1622 in a new chapter 41 entitled "Chapter 41. Public High School Choice."

* * *

Sec. 26. REPEAL

Secs. 2 and 3 of No. 31 of the Acts of 2007 (statewide school calendar; committee; effective date) are repealed.

Sec. 27. Sec. 9.0001(d) of No. 192 of the Acts of the 2007 Adj. Sess. (2008) (sunset; teen parent education) is amended to read:

(d) Sec. 5.304.1 of this act shall take effect on July 1, 2008 and shall remain in effect until July 1, ~~2009~~ 2010.

Sec. 28. UPDATING STATUTES TO REFLECT CURRENT NAMES OF PROGRAMS AND DEPARTMENTS

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative council is directed to amend Title 16:

(1) By replacing the term "adult basic education" with the term "adult education and literacy" wherever it appears.

(2) By updating references to the names of departments, divisions, programs, and other subgroups within the agency of human services wherever they appear.

Sec. 29. REPEAL

(a) Sec. 17 of No. 66 of the Acts of 2007 (using a 40-day census period for calculating average daily membership) is repealed.

(b) Sec. 18(b) of No. 66 of the Acts of 2007 (effective date for Sec. 17 of No. 66 of 2007) is repealed.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Sec. 6 of this act, 16 V.S.A. § 826, shall apply to tuition rates established for the 2010–2011 academic year and after.

(c) Sec. 17 of this act shall apply to proposed school budgets for the 2010–2011 academic year and after.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Education?, Senator White raised a *point of order* under Sec. 402 of Mason's Manual of Legislative

Procedure on the ground that Sec. 21 of the proposal of amendment offered by the Committee on Education was *not germane* to the bill and therefore could not be considered by the Senate.

The presiding officer *sustained* the point of order and ruled that Sec. 21 of the proposal of amendment was not *germane* in that it related to a subject that was beyond the scope of the bill as passed by the House.

Thereupon, the presiding officer ruled that Sec. 21 be stricken from the proposal of amendment of the Committee on Education.

Thereupon, the proposal of amendment recommended by the Committee on Education, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 435.

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

An act relating to palliative care.

Reported recommending 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:

* * * Purpose and Definition * * *

Sec. 1. LEGISLATIVE PURPOSE

It is the purpose of this act to improve the quality of palliative care and pain management available to all Vermonters, to ensure that Vermonters are aware of their rights and of the care options available to them, and to expand access to palliative care services for children and adults in this state.

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

§ 2. DEFINITIONS

The following words and phrases, as used in this title, will have the following meanings unless the context otherwise requires:

* * *

(6) "Palliative care" means interdisciplinary care given to improve the quality of life of patients and their families facing the problems associated with a serious medical condition. Palliative care through the continuum of illness involves addressing physical, cognitive, emotional, psychological, and spiritual needs and facilitating patient autonomy, access to information, and choice.

~~(6)~~(7) "Permit" means any permit or license issued pursuant to this title.

~~(7)~~(8) "Person" means any individual, company, corporation, association, partnership, the United States government or any department or agency thereof, and the state of Vermont or any department, agency, subdivision, or municipality thereof.

~~(8)~~(9) "Public health hazard" means the potential harm to the public health by virtue of any condition or any biological, chemical, or physical agent. In determining whether a health hazard is public or private, the commissioner shall consider at least the following factors:

(A) the number of persons at risk;

(B) the characteristics of the person or persons at risk;

(C) the characteristics of the condition or agent which is the source of potential harm;

(D) the availability of private remedies;

(E) the geographical area and characteristics thereof where the condition or agent which is the source of the potential harm or the receptors exist;

(F) department policy as established by rule or agency procedure.

~~(9)~~(10) "Public health risk" means the probability of experiencing a public health hazard.

~~(10)~~(11) "Selectmen," in the context of this title, includes trustees of an incorporated village, or a city council when appropriate.

~~(11)~~(12) "Significant public health risk" means a public health risk of such magnitude that the commissioner or a local health officer has reason to believe that it must be mitigated. The magnitude of the risk is a factor of the characteristics of the public health hazard and the degree and the circumstances of exposure to such public health hazard.

* * * Patients' Bills of Rights and Right to Information * * *

Sec. 3. 18 V.S.A. chapter 42A is added to read:

CHAPTER 42A. PATIENTS' BILL OF RIGHTS FOR PALLIATIVE CARE AND PAIN MANAGEMENT

§ 1871. PATIENTS' BILL OF RIGHTS FOR PALLIATIVE CARE AND PAIN MANAGEMENT

(a) A patient has the right to be informed of all evidence-based options for care and treatment, including palliative care, in order to make a fully informed patient choice.

(b) A patient with a terminal illness has the right to be informed by a clinician of all available options related to terminal care; to be able to request any, all, or none of these options; and to expect and receive supportive care for the specific option or options available.

(c) A patient suffering from pain has the right to request or reject the use of any or all treatments in order to relieve his or her pain.

(d) A patient suffering from a chronic condition has the right to competent and compassionate medical assistance in managing his or her physical and emotional symptoms.

(e) A pediatric patient suffering from a serious or life-limiting illness or condition has the right to receive palliative care while seeking and undergoing potentially curative treatment.

Sec. 4. NOTIFICATION OF ENACTMENT OF PATIENTS' BILL OF RIGHTS FOR PALLIATIVE CARE AND PAIN MANAGEMENT

The department of health shall notify all health care facilities and health care providers, as those terms are defined in section 9402 of Title 18, in writing, of the enactment of the patients' bill of rights for palliative care and pain management in chapter 42A of Title 18. The notification shall contain the actual language of the bill of rights and any relevant guidance.

Sec. 5. 12 V.S.A. § 1909 is amended to read:

§ 1909. LIMITATION OF MEDICAL MALPRACTICE ACTION BASED ON LACK OF INFORMED CONSENT

* * *

(d) A patient shall be entitled to a reasonable answer to any specific question about foreseeable risks and benefits, and a medical practitioner shall not withhold any requested information ~~except to the extent that a reasonable medical practitioner would withhold the information because the manner and extent of such disclosure could reasonably be expected to adversely and substantially affect the patient's condition, in which case the medical practitioner shall provide the information to a member of the immediate family, if reasonably available, notwithstanding the provisions of 12 V.S.A. § 1612(a)~~.

Sec. 6. 18 V.S.A. § 1852 is amended to read:

§ 1852. PATIENTS' BILL OF RIGHTS; ADOPTION

(a) The general assembly hereby adopts the "Bill of Rights for Hospital Patients" as follows:

* * *

(3) The patient has the right to obtain, from the physician coordinating his or her care, complete and current information concerning diagnosis, treatment, and any known prognosis in terms the patient can reasonably be expected to understand. If the patient consents or if the patient is incompetent or unable to understand, immediate family members, a reciprocal beneficiary or a guardian may also obtain this information. ~~When it is not medically advisable to give such information to the patient, the information shall be made available to immediate family members, a reciprocal beneficiary or a guardian.~~ The patient has the right to know by name the attending physician primarily responsible for coordinating his or her care.

* * *

* * * Medicaid Waiver for Pediatric Palliative Care * * *

Sec. 7. REQUEST FOR WAIVER

(a) No later than October 1, 2009, the secretary of human services shall submit to the house committees on appropriations and on human services and the senate committees on appropriations and on health and welfare a report on the programmatic and cost implications of a Medicaid and a State Children's Health Insurance Program (SCHIP) waiver amendment allowing Vermont to provide its Medicaid- and SCHIP-eligible children who have life-limiting illnesses with concurrent palliative services and curative care.

(b) For purposes of this section:

(1) "Life-limiting illness" means a medical condition that, in the opinion of the child's treating health care provider, has a prognosis of death that is highly probable before the child reaches adulthood.

(2) "Palliative services" means personal care, respite care, hospice-like services, and counseling.

* * * Inclusion of Palliative Care in the Blueprint for Health * * *

Sec. 8. 18 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

For the purposes of this chapter:

(1) "Blueprint for Health" means the state's plan for chronic care infrastructure, prevention of chronic conditions, and chronic care management program, and includes an integrated approach to patient self-management, community development, health care system and professional practice change, and information technology initiatives.

(2) "Chronic care" means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, ~~and~~ prevent complications related to chronic conditions, engage in advanced care planning, and promote appropriate access to palliative care. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, mental illness, spinal cord injury, ~~and~~ hyperlipidemia, and chronic pain.

(3) "Chronic care information system" means the electronic database developed under the Blueprint for Health that shall include information on all cases of a particular disease or health condition in a defined population of individuals.

(4) "Chronic care management" means a system of coordinated health care interventions and communications for individuals with chronic conditions, including significant patient self-care efforts, systemic supports for the physician and patient relationship, and a plan of care emphasizing prevention of complications utilizing evidence-based practice guidelines, patient empowerment strategies, and evaluation of clinical, humanistic, and economic outcomes on an ongoing basis with the goal of improving overall health.

* * *

* * * Adding Treatment of Pain to Scope of Practice Statutes * * *

Sec. 9. 26 V.S.A. § 521 is amended to read:

§ 521. DEFINITIONS

As used in this chapter:

* * *

(3) "The practice of chiropractic" means the diagnosis of human ailments and diseases related to subluxations, joint dysfunctions, neuromuscular and skeletal disorders for the purpose of their detection, correction or referral in order to restore and maintain health, without providing drugs or performing surgery; the use of physical and clinical examinations, conventional radiologic procedures and interpretation, as well as the use of diagnostic imaging read and interpreted by a person so licensed and clinical

laboratory procedures to determine the propriety of a regimen of chiropractic care; adjunctive therapies approved by the board, by rule, to be used in conjunction with chiropractic treatment; and treatment of pain by adjustment or manipulation of the spine or other joints and connected neuromusculoskeletal tissues and bodily articulations.

* * *

Sec. 10. 26 V.S.A. § 1311 is amended to read:

§ 1311. DEFINITIONS

For the purposes of this chapter:

(1) A person who advertises or holds himself or herself out to the public as a physician or surgeon, or who assumes the title or uses the words or letters "Dr.," "Doctor," "Professor," "M.D.," or "M.B.," in connection with his or her name, or any other title implying or designating that he or she is a practitioner of medicine or surgery in any of its branches, or shall advertise or hold himself or herself out to the public as one skilled in the art of curing or alleviating disease, pain, bodily injuries, or physical or nervous ailments, or shall prescribe, direct, recommend, or advise, give or sell for the use of any person, any drug, medicine or other agency or application for the treatment, cure, or relief of any bodily injury, pain, infirmity, or disease, or who follows the occupation of treating diseases by any system or method, shall be deemed a physician, or practitioner of medicine or surgery.

* * *

Sec. 11. 26 V.S.A. § 1572 is amended to read:

§ 1572. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont state board of nursing.

(2) "Registered nursing" means the practice of nursing which includes ~~but is not limited to~~:

(A) Assessing the health status of individuals and groups.

(B) Establishing a nursing diagnosis.

(C) Establishing goals to meet identified health care needs.

(D) Planning a strategy of medical or health care.

(E) Prescribing nursing interventions to implement the strategy of care.

(F) Implementing the strategy of care.

(G) Delegating nursing interventions that may be performed by others and that do not conflict with this subchapter.

(H) Maintaining safe and effective nursing care rendered directly or indirectly.

(I) Evaluating responses to interventions.

(J) Teaching the theory and practice of nursing.

(K) Managing and supervising the practice of nursing.

(L) Collaborating with other health professionals in the management of health care.

(M) Addressing patient pain.

(N) Performance of such additional acts requiring education and training and which are recognized jointly by the medical and nursing professions as proper to be performed by registered nurses.

Sec. 12. 26 V.S.A. § 4121 is amended to read:

§ 4121. DEFINITIONS

As used in this chapter:

* * *

(8) "Naturopathic medicine" or "the practice of naturopathic medicine" means a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient's intrinsic self-healing processes and to prevent, diagnose, and treat human health conditions ~~and~~, injuries, and pain. In connection with such system of health care, an individual licensed under this chapter may:

(A) Administer or provide for preventative and therapeutic purposes nonprescription medicines, topical medicines, botanical medicines, homeopathic medicines, counseling, hypnotherapy, nutritional and dietary therapy, naturopathic physical medicine, naturopathic childbirth, therapeutic devices, barrier devices for contraception, and prescription medicines authorized by this chapter or by the formulary established under subsection 4125(c) of this title.

(B) Use diagnostic procedures commonly used by physicians in general practice, including physical and orificial examinations, electrocardiograms, diagnostic imaging techniques, phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

* * *

* * * Adding a Definition of COLST to the Advance Directive Statutes * * *

Sec. 13. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(6) "Clinician orders for life sustaining treatment" or "COLST" means a clinician's order or orders for treatment such as intubation, mechanical ventilation, transfer to hospital, antibiotics, artificially administered nutrition, or another medical intervention. A COLST order is designed for use in outpatient settings and health care facilities and may include a DNR order that meets the requirements of section 9708 of this title.

~~(6)~~(7) "Commissioner" means the commissioner of the department of health.

~~(7)~~(8) "Do-not-resuscitate order" or "DNR order" means a written order of the principal's clinician directing health care providers not to attempt resuscitation.

~~(8)~~(9) "DNR identification" means a document, bracelet, other jewelry, wallet card, or other means of identifying the principal as an individual who has a DNR order.

~~(9)~~(10) "Emergency medical personnel" shall have the same meaning as provided in section 2651 of Title 24.

~~(10)~~(11) "Guardian" means a person appointed by the probate court who has the authority to make medical decisions pursuant to subdivision 3069(b)(5) of Title 14.

~~(11)~~(12) "Health care" means any treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition, including services provided pursuant to a clinician's order, and services to assist in activities of daily living provided by a health care provider or in a health care facility or residential care facility.

~~(12)~~(13) "Health care decision" means consent, refusal to consent, or withdrawal of consent to any health care.

~~(13)~~(14) "Health care facility" shall have the same meaning as provided in subdivision 9432(7) of this title.

~~(14)~~(15) "Health care provider" shall have the same meaning as provided in subdivision 9432(8) of this title and shall include emergency medical personnel.

~~(15)~~(16) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, codified at 42 U.S.C. § 1320d and 45 C.F.R. §§ 160–164.

~~(16)~~(17) "Informed consent" means the consent given voluntarily by an individual with capacity after being fully informed of the nature, benefits, risks, and consequences of the proposed health care, alternative health care, and no health care.

~~(17)~~(18) "Interested individual" means:

(A) the principal's spouse, adult child, parent, adult sibling, adult grandchild, reciprocal beneficiary, or clergy person; or

(B) any adult who has exhibited special care and concern for the principal and who is personally familiar with the principal's values.

~~(18)~~(19) "Life sustaining treatment" means any medical intervention, including nutrition and hydration administered by medical means and antibiotics, which is intended to extend life and without which the principal is likely to die.

~~(19)~~(20) "Nutrition and hydration administered by medical means" means the provision of food and water by means other than the natural ingestion of food or fluids by eating or drinking. Natural ingestion includes spoon feeding or similar means of assistance.

~~(20)~~(21) "Ombudsman" means an individual appointed as a long-term care ombudsman under the program contracted through the department of aging and independent living pursuant to the Older Americans Act of 1965, as amended.

~~(21)~~(22) "Patient's clinician" means the clinician who currently has responsibility for providing health care to the patient.

~~(22)~~(23) "Principal" means an adult who has executed an advance directive.

~~(23)~~(24) "Principal's clinician" means a clinician who currently has responsibility for providing health care to the principal.

~~(24)~~(25) "Probate court designee" means a responsible, knowledgeable individual independent of a health care facility designated by the probate court in the district where the principal resides or the county where the facility is located.

~~(25)~~(26) "Procurement organization" shall have the same meaning as in subdivision 5238(10) of this title.

~~(26)~~(27) "Reasonably available" means able to be contacted with a level of diligence appropriate to the seriousness and urgency of a principal's health care needs, and willing and able to act in a timely manner considering the urgency of the principal's health care needs.

~~(27)~~(28) "Registry" means a secure, web-based database created by the commissioner to which individuals may submit an advance directive or information regarding the location of an advance directive that is accessible to principals and agents and, as needed, to individuals appointed to arrange for the disposition of remains, procurement organizations, health care providers, health care facilities, residential care facilities, funeral directors, crematory operators, cemetery officials, probate court officials, and the employees thereof.

~~(28)~~(29) "Residential care facility" means a residential care home or an assisted living residence as those terms are defined in section 7102 of Title 33.

~~(29)~~(30) "Resuscitate" or "resuscitation" includes chest compressions and mask ventilation; intubation and ventilation; defibrillation or cardioversion; and emergency cardiac medications provided according to the guidelines of the American Heart Association's Cardiac Life Support program.

~~(30)~~(31) "Suspend" means to terminate the applicability of all or part of an advance directive for a specific period of time or while a specific condition exists.

* * * Clarifying Confusing Language on Calculation of Penalties * * *

Sec. 14. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than $2,000.00, or both.

(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of ~~one hundred~~ 100 times a ~~recommended individual therapeutic~~ benchmark unlawful dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than five years or fined not more than $25,000.00, or both.

(3) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of ~~one thousand~~ 1,000 times a ~~recommended individual therapeutic~~ benchmark unlawful dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than ten years or fined not more than $100,000.00, or both.

(4) A person knowingly and unlawfully possessing a depressant, stimulant or narcotic drug, other than heroin or cocaine, consisting of ~~ten thousand~~ 10,000 times a ~~recommended individual therapeutic~~ benchmark unlawful dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than 20 years or fined not more than $500,000.00, or both.

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than three years or fined not more than $75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant or narcotic drug, other than cocaine or heroin, shall be imprisoned not more than five years or fined not more than $25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of ~~one hundred~~ 100 times a ~~recommended individual therapeutic~~ benchmark unlawful dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than ten years or fined not more than $100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of ~~one thousand~~ 1,000 times a ~~recommended individual therapeutic~~ benchmark unlawful dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than 20 years or fined not more than $500,000.00, or both.

Sec. 15. RULEMAKING

The department of health shall amend, by rule, all references to the recommended individual therapeutic dosage as specified in Sec. 14 of this act.

* * * Report on Death Statistics * * *

Sec. 16. 18 V.S.A. § 5208 is added to read:

§ 5208. HEALTH DEPARTMENT; REPORT ON STATISTICS

Beginning October 1, 2011 and every two years thereafter, the Vermont department of health shall report to the house committee on human services and the senate committee on health and welfare regarding the number of persons who died during the preceding two calendar years in hospital emergency rooms, other hospital settings, in their own homes, in a nursing home, in a hospice facility, and in any other setting for which information is available, as well as whether each decedent received hospice care within the last 30 days of his or her life. Beginning with the 2013 report, the department shall include information on the number of persons who died in hospital intensive care units, assisted living facilities, or residential care homes during the preceding two calendar years.

* * * Choices for Care * * *

Sec. 17. ELIGIBILITY FOR CHOICES FOR CARE AND HOSPICE CARE

The department of disabilities, aging, and independent living shall investigate the feasibility of allowing Vermonters to receive services under the state's Choices for Care program while also receiving hospice benefits under Medicaid or Medicare. No later than January 15, 2010, the department shall report its findings and recommendations regarding simultaneous eligibility to the house committee on human services and the senate committee on health and welfare.

* * * Palliative Care and Pain Management Task Force * * *

Sec. 18. PALLIATIVE CARE AND PAIN MANAGEMENT TASK FORCE

(a) The general assembly requests that the Vermont Ethics Network, Inc. convene a task force to coordinate palliative care and pain management initiatives in Vermont, help people to gain access to services, and propose solutions for addressing gaps in services and educating consumers about their rights under the patients' bill of rights for palliative care and pain management.

(b) Contingent upon the ability of the task force to secure funding, beginning January 15, 2010 and annually thereafter, the task force is requested to report to the house committee on human services and the senate committee on health and welfare regarding its activities, progress, and recommendations for legislative and nonlegislative action.

* * * Continuing Medical Education * * *

Sec. 19. BOARDS OF MEDICAL PRACTICE AND NURSING REPORT

No later than January 15, 2010, the Vermont board of medical practice and the Vermont board of nursing shall report to the house committee on human services and the senate committee on health and welfare regarding their recommendations for improving the knowledge and practice of health care professionals in Vermont with respect to palliative care and pain management. In formulating their recommendations, the boards shall consult with the palliative care and pain management task force established pursuant to Sec. 18 of this act. Topics for consideration shall include:

(1) Continuing education requirements;

(2) Use of live, interactive training programs;

(3) Participation in training programs as a condition of hospital credentialing;

(4) Appropriate frequency and intensity of training for different types of practitioners and fields of practice;

(5) Implementing the patients' bill of rights for palliative care and pain management established in chapter 42A of Title 18 to achieve its goal of enhancing informed patient choice;

(6) Identifying barriers to effective communication and proposing solutions to overcome them;

(7) Improved integration of palliative care and hospice referrals into health care providers' practice; and

(8) Best methods for informing the public of the training that health care providers have received in palliative care and pain management.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senators Lyons and White moved to amend the proposal of amendment of the Committee on Health and Welfare in Sec. 9, 26 V.S.A. § 521(3), after the words "maintain health," by inserting the following: including pain relief, and by striking out the following: "of pain"

Which was agreed to.

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

Bill Passed in Concurrence with Proposals of Amendment

H. 15.

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

An act relating to aquatic nuisance control.

Third Readings Ordered

H. 431.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the town of Williston.

Reported that the bill ought to pass in concurrence.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence.

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

Bill Amended; Third Reading Ordered

S. 97.

Senator Brock, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to a Vermont state employees' cost-savings incentive program.

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

Sec. 1. 3 V.S.A. § 266 is added to read:

§ 266. VERMONT EMPLOYEES' COST-SAVINGS INCENTIVE PROGRAM

(a) For the purposes of this section:

(1) "Agency" means a state board, commission, department, agency, or other entity or officer of state government.

(2) "Board" means the Vermont state employees' cost-savings incentive program board.

(3) "Program" means the Vermont state employees' cost-savings incentive program.

(4) "Suggestion" means a proposal by a state employee that has been submitted to an agency in which the employee is employed that may result in financial savings for that agency.

(b) A state employee may make a suggestion to the agency in which the employee is employed that may result in financial savings for that agency.

(c) There is established the Vermont state employees' cost-savings incentive program. The program shall provide financial incentives to state employees who make suggestions that are adopted and that result in financial savings for the agency in which the employee is employed and for the state.

(d) There is established the Vermont state employees' cost-savings incentive program board which shall consist of five members serving two-year terms as follows:

(1) two members of the Vermont State Employees' Association, Inc., appointed by the executive director of that association;

(2) one member from the department of human resources, appointed by the commissioner of that department;

(3) one member from the department of finance and management, appointed by the commissioner; and

(4) one member appointed by the state treasurer.

(e) The board shall:

(1) oversee employee suggestions being considered by an agency and shall convene as it deems necessary;

(2) convene annually with the purpose of creating a statewide cost-savings form for employees, and review and update the form as necessary;

(3) convene quarterly to review the suggestions submitted to each agency while they are being evaluated for implementation;

(4) make recommendations to the agency of the feasibility of each suggestion;

(5) establish and oversee a reevaluation process that state employees making suggestions may access if their suggestions are rejected by an agency; and

(6) ensure that the identities of state employees who make suggestions under this section remain confidential.

(f) An agency shall:

(1) Provide a copy of a state employee's suggestion to the board upon receipt by the agency.

(2) Within 60 days of receiving a suggestion, either issue an approval notice to the employee who made the suggestion and to the board and begin implementing the suggestion or provide a written report to the board describing the specific reasons why the agency has declined to implement the suggestion.

(3) Consider input from the board in approving or rejecting a suggestion.

(4) Maintain records of all suggestions, made and implemented, and cost-savings resulting from these suggestions for a period of one year.

(g) If the board determines that a suggestion will provide a savings of $20,000.00 or more, the suggestion shall be referred to the commissioner of finance and management for additional review and approval. Within 60 days of receiving a suggestion, the commissioner of finance and management shall notify the board of his or her approval or provide a written report to the board describing the specific reasons why the commissioner has declined to approve the suggestion.

(h) The secretary of administration shall file a report with the governor and the general assembly for each fiscal year on January 1, summarizing the administration and implementation of the suggestion program and the resulting cost-savings for the state.

(i) Awards shall be distributed in the following manner:

(1) For a suggestion saving more than $100.00 and less than $20,000.01, the board shall award 25 percent of the first-year's savings, and the agency shall distribute the award within 90 days of implementing the suggestion.

(2) For a suggestion saving $20,000.01 or more, the board shall award $5,000.00, and the agency shall distribute the award within 90 days of implementing the suggestion; plus five percent of the first-year's savings over $20,000.00, and the agency shall distribute the award within a reasonable period of time following validation of the first year's savings by the commissioner of finance and management.

(j) An award shall not be made for:

(1) a suggestion that provides a savings of $100.00 or less;

(2) a suggestion containing an idea that is already under active study or is under continual review by the state; and

(3) a suggestion, the adoption and implementation of which is within the scope of the employee's duties.

(k) Elected officials or agency heads shall not be eligible to receive an award pursuant to this section.

(l) The commissioner of finance and management shall determine whether savings have been realized within a reasonable time following the end of the fiscal year.

Sec. 2. 3 V.S.A. § 973 is amended to read:

§ 973. PROTECTED ACTIVITY

(a) A state agency, department, appointing authority, official, or employee shall not engage in retaliatory action against a state employee because the state employee refuses to comply with an illegal order or engages in any of the following:

* * *

(3) Making a suggestion under section 266 of this title.

* * *

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: In Sec. 1, 3 V.S.A. § 266(i)(1), by striking out the following: "$100.00" and inserting in lieu thereof the following: $1,500.00

Second: In Sec. 1, 3 V.S.A. § 266(j)(1), by striking out the following: "$100.00" and inserting in lieu thereof the following: $1,500.00

Third: By adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. REPEAL

3 V.S.A. § 266 (Vermont employees' cost-savings incentive program) and 3 V.S.A. § 973(a)(3) (protected activity for participation in the program) shall be repealed on July 1, 2012.

And that when so amended the bill ought to pass.

Thereupon, the question, Shall the recommendation of amendment of Committee on Government Operations be amended as recommended by the Committee on Appropriations?, was decided in the affirmative.

Thereupon, the recommendation of amendment of the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment Amended; Bill Passed in Concurrence with Proposal of Amendment

H. 436.

House bill entitled:

An act relating to decommissioning and decommissioning funds of nuclear energy generation plants.

Was taken up.

Thereupon, pending third reading of the bill, Senator Cummings moved that the Senate proposal of amendment be amended by striking out Sec. 2 in its entirety and by renumbering Sec. 3 to be Sec. 2

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Brock moved that the Senate proposal of amendment be amended as follows:

First: In Sec. 1, 30 V.S.A. § 107(c), by striking out each occurrence of "and immediate"

Second: In Sec. 1, 30 V.S.A. § 107(c), by striking out the third sentence and inserting in lieu thereof the following:

The board also shall determine that all commitments and guarantees, whether financial, contractual, or otherwise, made by or required of any person or entity with respect to decommissioning of the facility during the course of any docket before the board commencing on or after August 1, 2001 shall survive the acquisition and that such person or entity continues and shall continue to stand behind the commitment or guarantee. For the purpose of this section, "complete decommissioning" means return of the site to a "greenfield" state in which no later than 20 years after cessation of operations all equipment, structures, and foundations are removed and the land is regraded or reseeded. Provided that the determination of adequacy is based on accomplishing complete decommissioning within that 20-year period, the determination may assume the facility is placed in storage for some time during that period.

Which was disagreed to on a roll call, Yeas 4, Nays 22.

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

Roll Call

Those Senators who voted in the affirmative were: Brock, Maynard, Scott, Snelling.

Those Senators who voted in the negative were: Ashe, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Kitchel, Kittell, Lyons, Mazza, McCormack, Miller, Nitka, Racine, Sears, Shumlin, Starr, White.

Those Senators absent and not voting were: Ayer, Illuzzi, MacDonald, Mullin.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 22, Nays 4.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Kitchel, Kittell, Lyons, McCormack, Miller, Nitka, Racine, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Maynard, Mazza, Scott.

Those Senators absent and not voting were: Ayer, Illuzzi, MacDonald, Mullin.

Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment

H. 86.

Pending entry on the Calendar for action tomorrow, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to the regulation of professions and occupations.

Was placed on all remaining stages of its passage in concurrence with proposals of amendment forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.