House Calendar

TUESDAY. MAY 5. 2009

119th DAY OF BIENNIAL SESSION

House Convenes at 9:30 A. M.

TABLE OF CONTENTS

For Action Under Rule 52

NOTICE CALENDAR

Committee Bill for Second Reading

Senate Proposals of Amendment

ACTION CALENDAR

Third Reading

S. 67

An act relating to motor vehicles.

Amendment to be offered by Reps. Howrigan of Fairfield and Brennan of Colchester to S. 67

Move to amend the House proposal of amendment as follows:

First: By inserting a Sec. 16 to read:

Sec. 16. 23 V.S.A. § 108 is amended to read:

§ 108. APPLICATION FORMS

* * *

(b) The commissioner shall include on applications for a nondriver identification card, an operator license and a commercial driver license, including applications for renewals, the statement, "I consent to the use of this application for the purpose of registering me with the Selective Service System", and a check box adjacent to that statement.

(c) The commissioner shall, in the instructions for applications for a nondriver identification card, an operator license and a commercial driver license, including applications for renewals and for replacement of lost, destroyed, or mutilated nondriver identification cards, include the following statement: "Federal law imposes upon male United States citizens and immigrants who are at least 18 years of age but less than 26 years of age and who fail to register with the Selective Service System penalties that may include monetary fines, incarceration, and ineligibility for federal student aid."

Second: By inserting a Sec. 17 to read:

Sec. 17. 23 V.S.A. § 115(l) is added to read:

(l) Section 3 of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) requires male United States citizens and immigrants who are at least 18 years of age but less than 26 years of age to register with the Selective Service System. Applicants for a nondriver identification card, renewal of a card, or replacement of a card which has been lost, destroyed, or mutilated, and who meet the above criteria may elect to register with the Selective Service System

by so indicating on their application. For applicants who elect to register via their applications rather than through other available means, the commissioner of motor vehicles shall forward the necessary personal information in an electronic format to the Selective Service.

Third: By inserting a Sec. 18 to read:

Sec. 18. 23 V.S.A. § 603(e) is added to read:

(e) Section 3 of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) requires male United States citizens and immigrants who are at least 18 years of age but less than 26 years of age to register with the Selective Service System. Applicants for an operator license or renewal of a license who meet the above criteria may elect to register with the Selective Service System by so indicating on their application. For applicants who elect to register via their applications rather than through other available means, the commissioner of motor vehicles shall forward the necessary personal information in an electronic format to the Selective Service.

Fourth: By inserting a Sec. 19 to read:

Sec. 19. 23 V.S.A. § 4110(e) is added to read:

(e) Section 3 of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) requires male United States citizens and immigrants who are at least 18 years of age but less than 26 years of age to register with the Selective Service System. Applicants for a commercial driver license or renewal of a license who meet the above criteria may elect to register with the Selective Service System by so indicating on their application. For applicants who elect to register via their applications rather than through other available means, the commissioner of motor vehicles shall forward the necessary personal information in an electronic format to the Selective Service.

Amendment to be offered by Rep. Masland of Thetford to S. 67

Moves to amend the House proposal of amendment to the senate that S.67 be amended by inserting a new Sec. 16 to read:

Sec. 16. 23 V.S.A. § 108 is amended to read:

§ 108. APPLICATION FORMS

(a) The commissioner shall prepare and furnish all forms for applications, accident reports, conviction reports, a pamphlet containing the full text of the motor vehicle laws of the state, and all other forms needed in the proper conduct of his or her office. He or she shall furnish an adequate supply of ~~such~~ registration forms, license applications, and motor vehicle laws each year to each town clerk, and to ~~such~~ other persons ~~as may so~~ who make a request.

(b) At the time of application for a motor vehicle drivers license, the commissioner of motor vehicles shall provide each applicant subject to the requirements of selective service registration with information outlining the requirements of registration, the consequences and penalties of not registering and also with information indicating that an individual may apply for conscientious objector status as provided in 50 U.S.C. App. 451 et seq. and how to apply for that status.

Favorable with Amendment

S. 48

An act relating to marketing of prescription drugs.

Rep. Copeland-Hanzas of Bradford, for the Committee on **Health Care,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4631(b) is amended to read:

(b) As used in this section:

* * *

(3) "Health care professional" shall have the same meaning as health care provider in section 9402 of this title.

* * *

Sec. 2. LEGISLATIVE FINDINGS; INTENT

(a) The general assembly finds that the legislative findings in Sec. 1 of No. 80 of the Acts of 2007 provide a sound basis for instituting a ban of certain gifts to prescribers and disclosure of marketing activities as provided for in this act. Findings (1) through (8), (13), (15), (17), (19), and (21) shall be incorporated into this act by reference.

(b) The general assembly also finds:

(1) In 2007, Vermonters spent an estimated $572 million on prescription and over-the-counter drugs and nondurable medical supplies. In 2002, spending was about $377 million. Between 2002 and 2007, the average annual increase in spending was 8.7 percent, which is slightly higher than the average increase in overall health care spending during this same period.

(2) According to the U.S. District Court for the District of Vermont in IMS v. Sorrell, Docket No. 1:07-CV-188 (Apr. 23, 2009), the state of Vermont has a substantial interest in cost containment and the protection of public health.

(3) The court in IMS v. Sorrell found that research shows that doctors are influenced by the marketing efforts of pharmaceutical companies, and that doctors who attend talks sponsored by a pharmaceutical company often prescribe that company's drug more than a competitor's drugs.

(4) The court in IMS v. Sorrell also found that drug detailing encourages doctors to prescribe newer, more expensive, and potentially more dangerous drugs instead of adhering to evidence-based treatment guidelines.

(5) According to a 2009 report from the Institute of Medicine of the National Academies, acceptance of meals and gifts and other relationships are common between physicians and pharmaceutical, medical device, and biotechnology companies. The report found that these relationships may influence physicians to prescribe a company's medicines even when evidence indicates another drug would be more beneficial to the patient.

(6) According to the April 2009 Report of Vermont Attorney General William H. Sorrell, in fiscal year 2008, pharmaceutical manufacturers reported spending $2,935,248.00 in Vermont on fees, travel expenses, and other direct payments to Vermont physicians, hospitals, universities, and others for the purpose of marketing their products. Of Vermont's 4,573 licensed health care professionals, 2,280 were recipients. Of the above amount, approximately $2.1 million in payments went to physicians. The top 100 individual recipients received nearly $1,770,000.00 in fiscal year 2008.

(7) Of the disclosures reported by pharmaceutical manufacturers, only 17 percent were available to the public due to the current trade secret exemption in state law.

(8) According to the attorney general, expenditures on food totaled $861,911.70, or 29.36 percent of all marketing expenditures. Of the 1,132 recipients of food in fiscal year 2008, 20.36 percent had $500.00 or more expended on them, including 11.31 percent who had $1,000.00 or more expended on them. 41.1 percent of the 1,132 recipients of food received food valued at $100.00 or less. The individual recipient with the greatest reported food expenditure received $15,793.78 in food for him- or herself and any colleagues who may not prescribe.

(9) The federal Office of Inspector General (OIG) has taken enforcement action against several medical device manufacturers in recent years for violations of fraud and abuse laws. Through its investigations, the OIG found medical device manufacturers providing kickbacks to physicians in the form of all-expense-paid trips, false consulting arrangements, meals, and other gifts. The OIG recommends subjecting the financial relationships between medical device manufacturers and physicians to reporting

requirements and greater transparency.

(10) There is little or no difference in the marketing of biological products and prescription drugs. It is logical and necessary to include biological products to the same extent as prescription drugs to ensure appropriate and consistent transparency and reduce real or perceived conflicts of interest.

(11) This act is necessary to increase transparency for consumers by requiring disclosure of allowable expenditures and gifts to health care providers and facilities providing health care. This act is also necessary to reduce real or perceived conflicts of interest which undermine patient confidence in health care providers and increase health care costs by influencing prescribing patterns. Limitations on gifts and increased transparency are expected to save money for consumers, businesses, and the state by reducing the promotion of expensive prescription drugs, biological products, and medical devices, and to protect public health by reducing sales-oriented information to prescribers.

Sec. 3. 18 V.S.A. § 4631a is added to read:

§ 4631a. GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a) As used in this section:

(1) "Allowable expenditures" means:

(A) Payment to the sponsor of a significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) the payment is not made directly to a health care provider;

(ii) funding is used solely for bona fide educational purposes; and

(iii) all program content is objective, free from industry control, and does not promote specific products.

(B) Honoraria and payment of the expenses of a health care professional who serves on the faculty at a bona fide significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) there is an explicit contract with specific deliverables which are restricted to medical issues, not marketing activities; and

(ii) the content of the presentation, including slides and written materials, is determined by the health care professional.

(C) For a bona fide clinical trial:

(i) gross compensation for the Vermont location or locations

involved;

(ii) direct salary support per principal investigator and other health care professionals per year; and

(iii) expenses paid on behalf of investigators or other health care professionals paid to review the clinical trial.

(D) For a research project that constitutes a systematic investigation, is designed to develop or contribute to general knowledge, and reasonably can be considered to be of significant interest or value to scientists or health care professionals working in the particular field of inquiry:

(i) gross compensation;

(ii) direct salary support per health care professional; and

(iii) expenses paid on behalf of each health care professional.

(E) Payment or reimbursement for the reasonable expenses, including travel and lodging-related expenses, necessary for technical training of individual health care professionals on the use of a medical device if the commitment to provide such expenses and the amounts or categories of reasonable expenses to be paid are described in a written agreement between the health care provider and the manufacturer.

(F) Royalties and licensing fees paid to health care providers in return for contractual rights to use or purchase a patented or otherwise legally recognized discovery for which the health care provider holds an ownership right.

(G) Other reasonable fees, payments, subsidies, or other economic benefits provided by a manufacturer of prescribed products at fair market value.

(2) "Bona fide clinical trial" means an FDA-reviewed clinical trial that constitutes "research" as that term is defined in 45 C.F.R. § 46.102 and reasonably can be considered to be of interest to scientists or health care professionals working in the particular field of inquiry.

(3) "Clinical trial" means any study assessing the safety or efficacy of prescribed products administered alone or in combination with other prescribed products or other therapies, or assessing the relative safety or efficacy of prescribed products in comparison with other prescribed products or other therapies.

(4) "Gift" means a payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a health care provider for less than fair market value.

(5)(A) "Health care professional" means:

(i) a person who is authorized to prescribe or to recommend prescribed products and who either is licensed by this state to provide or is otherwise lawfully providing health care in this state; or

(ii) a partnership or corporation made up of the persons described in subdivision (i) of this subdivision (5)(A); or

(iii) an officer, employee, agent, or contractor of a person described in subdivision (i) of this subdivision (5)(A) who is acting in the course and scope of employment, agency, or contract related to or supportive of the provision of health care to individuals.

(B) The term shall not include a person described in subdivision (A) of this subdivision (5) who is employed solely by a manufacturer.

(6) "Health care provider" means a health care professional, a hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to dispense or purchase for distribution prescribed products in this state.

(7) "Manufacturer" means a pharmaceutical, biological product, or medical device manufacturer or any other person who is engaged in the production, preparation, propagation, compounding, processing, packaging, repacking, distributing, or labeling of prescribed products. The term does not include a wholesale distributor of biological products or a pharmacist licensed under chapter 36 of Title 26.

(8) "Marketing" shall include promotion, detailing, or any activity that is intended to be used or is used to influence sales or market share or to evaluate the effectiveness of a professional sales force.

(9) "Pharmaceutical manufacturer" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a wholesale distributor of prescription drugs or a pharmacist licensed under chapter 36 of Title 26.

(10) "Prescribed product" means a drug or device as defined in section 201 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321, or a biological product as defined in section 351 of the Public Health Service Act, 42 U.S.C. § 262.

(11) "Significant educational, scientific, or policy-making conference or seminar" means an educational, scientific, or policy-making conference or seminar that:

(A) is accredited by the Accreditation Council for Continuing Medical Education or a comparable organization; and

(B) offers continuing medical education credit, features multiple presenters on scientific research, or is authorized by the sponsoring association to recommend or make policy.

(b)(1) It is unlawful for any manufacturer of a prescribed product or any wholesale distributor of medical devices, or any agent thereof, to offer or give any gift to a health care provider.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to any of the following:

(A) Samples of a prescribed product provided to a health care provider for free distribution to patients.

(B) The loan of a medical device for a short-term trial period, not to exceed 90 days, to permit evaluation of a medical device by a health care provider or patient.

(C) The provision of reasonable quantities of medical device demonstration or evaluation units to a health care provider to assess the appropriate use and function of the product and determine whether and when to use or recommend the product in the future.

(D) The provision, distribution, dissemination, or receipt of peer-reviewed academic, scientific, or clinical articles or journals and other items that serve a genuine educational function provided to a health care provider for the benefit of patients.

(E) Scholarship or other support for medical students, residents, and fellows to attend a significant educational, scientific, or policy-making conference or seminar of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association.

(F) Rebates and discounts for prescribed products provided in the normal course of business.

(G) Labels approved by the federal Food and Drug Administration for prescribed products.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees and may impose on a

manufacturer that violates this section a civil penalty of no more than $10,000.00 per violation. Each unlawful gift shall constitute a separate violation.

Sec. 4. 18 V.S.A. § 4632 is amended to read:

§ 4632. ~~PHARMACEUTICAL MARKETERS~~ DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a)(1) Annually on or before ~~December~~ October 1 of each year, every ~~pharmaceutical manufacturing company~~ manufacturer of prescribed products shall disclose to the office of the attorney general for the fiscal year ending the previous June 30th the value, nature, ~~and~~ purpose, and recipient information of ~~any gift, fee, payment, subsidy, or other economic benefit provided in connection with detailing, promotional, or other marketing activities by the company, directly or through its pharmaceutical marketers, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, or any other person in Vermont authorized to prescribe, dispense, or purchase prescription drugs in this state. Disclosure shall include the name of the recipient. Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require pharmaceutical manufacturing companies to report the value, nature, and purpose of all gift expenditures according to specific categories. The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1.~~:

(A) any allowable expenditure or gift allowed under subdivision 4631a(b)(2) of this title to any health care provider, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and

(iii) payments for clinical trials as described in section 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry.

(B) any allowable expenditure or gift to an academic institution or to a professional, educational, or patient organization representing or serving health care providers or consumers, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and

(iii) payments for clinical trials as described in section 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, annually on or before October 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general the receiving health care provider's information and the brand name, generic name, quantity, and dosage of samples of a prescribed product provided for free distribution to patients as described in subdivision 4631a(b)(2)(A) of this title.

~~(2)~~(3) Annually on ~~October~~ July 1, each ~~company subject to the provisions of this section~~ manufacturer of prescribed products also shall disclose to the office of the attorney general~~,~~ the name and address of the individual responsible for the ~~company's~~ manufacturer's compliance with the provisions of this section~~, or if this information has been previously reported, any changes to the name or address of the individual responsible for the company's compliance with the provisions of this section~~.

~~(3) The office of the attorney general shall keep confidential all trade secret information, as defined by subdivision 317(b)(9) of Title 1, except that the office may disclose the information to the department of health and the office of Vermont health access for the purpose of informing and prioritizing the activities of the evidence-based education program in subchapter 2 of chapter 91 of Title 18. The department of health and the office of Vermont health access shall keep the information confidential. The disclosure form shall permit the company to identify any information that it claims is a trade secret as defined in subdivision 317(c)(9) of Title 1. In the event that the attorney general receives a request for any information designated as a trade~~

~~secret, the attorney general shall promptly notify the company of such request. Within 30 days after such notification, the company shall respond to the requester and the attorney general by either consenting to the release of the requested information or by certifying in writing the reasons for its claim that the information is a trade secret. Any requester aggrieved by the company's response may apply to the superior court of Washington County for a declaration that the company's claim of trade secret is invalid. The attorney general shall not be made a party to the superior court proceeding. Prior to and during the pendency of the superior court proceeding, the attorney general shall keep confidential the information that has been claimed as trade secret information, except that the attorney general may provide the requested information to the court under seal.~~

~~(4) The following shall be exempt from disclosure:~~

~~(A) free samples of prescription drugs intended to be distributed to patients;~~

~~(B) the payment of reasonable compensation and reimbursement of expenses in connection with bona fide clinical trials;~~

~~(C) any gift, fee, payment, subsidy or other economic benefit the value of which is less than $25.00;~~

~~(D) scholarship or other support for medical students, residents, and fellows to attend a significant educational, scientific, or policy making conference of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association; and~~

~~(E) prescription drug rebates and discounts.~~

(4) Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require manufacturers of prescribed products to report each allowable expenditure or gift, including:

(A) except as otherwise provided in subdivision (a)(2) of this section, the value, nature, and purpose of each allowable expenditure, according to specific categories identified by the office of the attorney general;

(B) the name of the recipient;

(C) the recipient's address;

(D) the recipient's institutional affiliation;

(E) prescribed product or products being marketed, if any; and

(F) the recipient's state board number.

(5) The office of the attorney general shall make all disclosed data publicly available and searchable on its website.

(6) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1. The report shall include:

(A) Information on allowable expenditures and gifts required to be disclosed under this section, which shall be presented in both aggregate form and by selected types of health care providers or individual health care providers, as prioritized each year by the office.

(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title.

(7) The office of Vermont health access shall examine the data available from the office of the attorney general for relevant expenditures and determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed by Medicaid, VHAP, Dr. Dynasaur, VermontRx, and VPharm may reflect manufacturer influence. The office may select the data most relevant to its analysis. The office shall report its analysis annually to the general assembly and the governor on or before October 1.

(b)(1) Annually on July 1, the office of the attorney general shall collect a $500.00 fee from each manufacturer of prescribed products filing annual disclosures of expenditures greater than zero described in subsection (a) of this section.

(2) Fees collected under this section shall fund collection and analysis of information on activities related to the marketing of prescribed products under sections 4631a, 4632 and 4633 of Title 18. The fees shall be collected in a special fund assigned to the office.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and ~~attorneys~~ attorney's fees, and to impose on a ~~pharmaceutical manufacturing company~~ manufacturer of prescribed products that fails to disclose as required by subsection (a) of this section a civil penalty of no more than $10,000.00 per violation. Each unlawful failure to disclose shall constitute a separate violation.

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

~~(1) "Approved clinical trial" means a clinical trial that has been approved by the U.S. Food and Drug Administration (FDA) or has been approved by a duly constituted Institutional Review Board (IRB) after reviewing and evaluating it in accordance with the human subject protection standards set forth at 21 C.F.R. Part 50, 45 C.F.R. Part 46, or an equivalent set~~

~~of standards of another federal agency.~~

~~(2) "Bona fide clinical trial" means an approved clinical trial that constitutes "research" as that term is defined in 45 C.F.R. § 46.102 when the results of the research can be published freely by the investigator and reasonably can be considered to be of interest to scientists or medical practitioners working in the particular field of inquiry.~~

~~(3) "Clinical trial" means any study assessing the safety or efficacy of drugs administered alone or in combination with other drugs or other therapies, or assessing the relative safety or efficacy of drugs in comparison with other drugs or other therapies.~~

~~(4) "Pharmaceutical marketer" means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing, promotional activities, or other marketing of prescription drugs in this state to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to prescribe, dispense, or purchase prescription drugs. The term does not include a wholesale drug distributor or the distributor's representative who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug.~~

~~(5) "Pharmaceutical manufacturing company" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a wholesale drug distributor or pharmacist licensed under chapter 36 of Title 26.~~

~~(6) "Unrestricted grant" means any gift, payment, subsidy, or other economic benefit to an educational institution, professional association, health care facility, or governmental entity which does not impose any restrictions on the use of the grant, such as favorable treatment of a certain product or an ability of the marketer to control or influence the planning, content, or execution of the education activity.~~

(d) ~~Disclosures of unrestricted grants for continuing medical education programs shall be limited to the value, nature, and purpose of the grant and the name of the grantee. It shall not include disclosure of the individual participants in such a program~~ The terms used in this section shall have the same meanings as they do in section 4631a of this title.

Sec. 5. 1 V.S.A. § 317(c) is amended to read:

(c) The following public records are exempt from public inspection and copying:

* * *

(9) trade secrets, including~~, but not limited to,~~ any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern, and which gives its user or owner an opportunity to obtain business advantage over competitors who do not know it or use it, except that the disclosures required by section 4632 of Title 18 shall not be included in this subdivision;

Sec. 6. 18 V.S.A. § 4633(d) is amended to read:

(d) As used in this section:

(1) "Average wholesale price" or "AWP" means the wholesale price charged on a specific commodity that is assigned by the ~~drug manufacturer~~ pharmaceutical manufacturing company and listed in a nationally recognized drug pricing file.

(2) "Pharmaceutical manufacturing company" ~~is defined by subdivision 4632(c)(5) of this title~~ shall have the same meaning as "pharmaceutical manufacturer" in section 4631a of this title.

(3) "Pharmaceutical marketer" ~~is defined by subdivision 4632(c)(4) of this title~~ means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in marketing, as that term is defined in section 4631a of this title.

* * * Therapeutic Substitution of Prescription Drugs * * *

Sec. 7. THERAPEUTIC EQUIVALENT DRUG WORK GROUP

(a) It is the intent of the general assembly to explore increasing the usage of generic drugs by allowing pharmacists to substitute a therapeutically equivalent generic drug from a specified list when a physician prescribes a more expensive brand-name drug in the same class. This section creates a work group to recommend a sample list and a process for substitution for consideration by the general assembly. A "therapeutically equivalent generic drug" means a generic drug which is in the same class as a brand-name drug but is not necessarily chemically equivalent.

(b) A work group is created to generate a proposed list by class of drugs to describe which generic drug or drugs could be substituted when a physician

prescribes a more expensive brand name drug in the same class, with equivalent dosages for the substitution.

(c)(1) The work group shall consist of two physicians appointed by the Vermont Medical Society, two pharmacists appointed by the Vermont pharmacy association, and three representatives of the drug utilization review board.

(2) A representative of the drug utilization review board shall convene the first meeting of the work group. The work group shall organize itself with a chair or cochairs for the purposes of scheduling and conducting meetings.

(3) The work group shall consult with medical specialists and organizations representing patients when necessary to determine whether a substitution is advisable and safe for a particular condition or when the work group deems it necessary to have additional information of a specialized nature.

(d) The proposed list shall not include drugs used to treat severe and persistent mental illness.

(e) The work group shall transmit the list of therapeutically equivalent generic drugs to the board of medical practice established under chapter 23 of Title 26 and the board of pharmacy established under subchapter 2 of chapter 36 of Title 26 for review and comment. The board of medical practice and the board of pharmacy shall review the list of therapeutically equivalent generic drugs jointly to determine whether the list appropriately provides for substitutions. The boards shall provide comments to the work group no later than 60 days after receiving the list.

(f) No later than January 15, 2010, the work group shall provide a report to the house committees on health care and on human services and the senate committees on finance and on health and welfare on the list generated, the comments provided by the boards of medical practice and of pharmacy, patient advocacy organizations, and any other information the work group deems relevant to the consideration of draft legislation.

Sec. 8. 2 V.S.A. chapter 26 is amended to read:

CHAPTER 26. ~~NORTHEAST~~ NATIONAL LEGISLATIVE ASSOCIATION ON PRESCRIPTION ~~DRUGS PRICING~~ DRUG PRICES

§ 951. ~~NORTHEAST~~ NATIONAL LEGISLATIVE ASSOCIATION ON PRESCRIPTION ~~DRUGS PRICING~~ DRUG PRICES

(a) The general assembly finds that the ~~Northeast~~ National Legislative Association on Prescription ~~Drugs Pricing~~ Drug Prices is a nonprofit organization of legislators formed for the purpose of making prescription drugs

more affordable and accessible to citizens of the member states. The general assembly further finds that the activities of the Association provide a public benefit to the people of the state of Vermont.

(b) On or before January 15, upon the convening of each biennial session of the general assembly, three directors shall be appointed by the speaker, which may include the speaker, and three directors shall be appointed by the committee on committees, which may include a member of the committee on committees, to serve as the Vermont directors of the ~~Northeast~~ National Legislative Association on Prescription ~~Drugs Pricing~~ Drug Prices. Directors so appointed from each body shall not all be from the same party. Directors so appointed shall serve until new members are appointed.

(c) For meetings of the Association, directors who are legislators shall be entitled to per diem compensation and reimbursement of expenses in accordance with section 406 of Title 2. If the lieutenant governor is appointed as a director pursuant to subsection (b) of this section, his or her compensation and expenses shall be paid from the appropriation made to the office of the lieutenant governor.

(d) The Vermont directors of the Association shall report to the general assembly on or before January 1 of each year with a summary of the activities of the Association, and any findings and recommendations for making prescription drugs more affordable and accessible to Vermonters.

Sec. 9. 33 V.S.A. § 1998(c)(4)(A) is amended to read:

(4) The actions of the commissioners, the director, and the secretary shall include:

(A) active collaboration with the ~~Northeast~~ National Legislative Association on Prescription ~~Drugs in the Association's efforts to establish a Prescription Drug Fair Price Coalition~~ Drug Prices;

Sec. 10. APPROPRIATION

In fiscal year 2010, the sum of $40,000.00 is appropriated to the office of the attorney general from a special fund assigned to the office for the purposes of collecting and analyzing information on activities related to the marketing of prescribed products under sections 4631a, 4632, and 4633 of Title 18.

Sec. 11. EFFECTIVE DATE

This act shall take effect July 1, 2009, except:

(1) pharmaceutical manufacturers shall file by November 1, 2009 disclosures based on the law in effect on June 30, 2009 required by subdivision 4632 of Title 18 for the time period July 1, 2008 to June 30, 2009; and

(2) manufacturers of biological products and medical devices shall file by October 1, 2010 disclosures required by subdivisions 4632(a)(1) and (2) of Title 18 for the time period January 1, 2010 to June 30, 2010.

and by amending the title to read "An act relating to the marketing of prescribed products"

(Committee vote: 10-0-1)

Rep. Howard of Rutland City, for the Committee on **Ways and Means,** recommends the bill ought to pass in concurrence when amended as recommended by the Committee on **Health Care.**

(Committee vote: 9-1-1)

Rep. Manwaring of Wilmington, for the Committee on **Appropriations,** recommends the bill ought to pass in concurrence when amended as recommended by the Committee on **Health Care.**

(Committee vote: 8-0-3)

Amendment to be offered by Rep. Acinapura of Brandon to S. 48

Moves to amend the proposal of amendment of the Committee on Health Care in Sec. 3, 18 V.S.A. § 4631a, by striking subdivision (a)(4) in its entirety and inserting in lieu thereof the following:

(4) "Gift" means:

(A) Anything of value provided to a health care provider for free; or

(B) Any payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a health care provider, unless:

(i) it is an allowable expenditure as defined in subdivision (a)(1) of this section; or

(ii) the health care provider reimburses the cost at fair market value.

S. 51

An act relating to Vermont's motor vehicle franchise laws.

Rep. Lorber of Burlington, for the Committee on **Commerce and Economic Development,** recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, 9 V.S.A. § 4097, by striking the existing subdivision (17) and inserting in lieu thereof a new (17) to read:

(17) to fail or refuse to sell or offer to sell to all motor vehicle franchisees

of a line-make, all models manufactured for that line-make, or to require a motor vehicle franchisee to do any of the following as a prerequisite to receiving a model or series of vehicles: requiring the dealer to pay any extra fee; requiring a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or relocate, expand, improve, remodel, renovate, recondition, or alter the dealer's existing facilities; or requiring the dealer to provide exclusive facilities. However, a manufacturer may require reasonable improvements to the existing facility that are necessary to accommodate special or unique features of a specific model or line. The failure to deliver any such motor vehicle, however, shall not be considered a violation of this section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or other cause over which the franchisor has no control. This subdivision shall not apply to a manufacturer of a motor home;

Second: In Sec. 1, 9 V.S.A. § 4091(a)(4), after the words 500 miles or less on the odometer by adding the following: ", or in the case of a motor home if the vehicle's odometer has no more than 1,000 miles above the original factory to dealership delivery mileage,"

Third: In Sec. 1, 9 V.S.A. § 4085, by adding a subdivision (17) to read:

(17) "Motor home" means a motor vehicle that is primarily designed to provide temporary living quarters, built into as an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must contain at least four of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating or air conditioning or both, a potable water supply system, including a sink and faucet, separate 110-125 volt electrical power supply or an LP gas supply or both.

Fourth: In Sec. 1, 9 V.S.A. § 4090(a)(4), by inserting the word "days" between "180" and "prior to"

Fifth: In Sec. 1, 9 V.S.A. § 4096, by striking the existing subdivision (8) and inserting in lieu thereof a new (8) and a (9) to read:

(8) to change the location of the dealership or to make any substantial alterations to the dealership premises or facilities when to do so would be unreasonable;

(9) to change the location of the dealership or to make any substantial alterations to the dealership premises or facilities in the absence of written assurance from the manufacturer or distributor of a sufficient supply of new motor vehicles to justify the change in location or the alterations.

Sixth: In Sec. 1, 9 V.S.A. § 4097, by striking the existing subdivision (21)

and inserting in lieu thereof a new (21) to read:

(21)(A) to vary the price charged to any of its franchised new motor vehicle dealers located in this state for new motor vehicles based on:

(i) the dealer's purchase of new facilities, supplies, tools, equipment, or other merchandise from the manufacturer;

(ii) the dealer's relocation, remodeling, repair, or renovation of existing dealerships or construction of a new facility;

(iii) the dealer's participation in training programs sponsored, endorsed, or recommended by the manufacturer;

(iv) whether or not the dealer offers for sale more than one line-make of new motor vehicle in the same dealership facility;

(v) the dealer's sales penetration, sales volume, or level of sales or customer service satisfaction;

(vi) the dealer's purchase of advertising materials, signage, nondiagnostic computer hardware or software, communications devices, or furnishings; or

(vii) the dealer's participation in used motor vehicle inspection or certification programs sponsored or endorsed by the manufacturer.

(B) The price of the vehicle, for purposes of this subdivision (21), shall include the manufacturer's use of rebates, credits, or other consideration that has the effect of causing a variance in the price of new motor vehicles offered to its franchised dealers located in the state;

Seventh: In Sec. 1, 9 V.S.A. § 4100, by inserting the word "new" before the words "motor vehicle"

Eighth: In Sec. 1, 9 V.S.A. § 4100a, by inserting the word "new" before the words "motor vehicle" wherever they appear

Ninth: In Sec. 1, 9 V.S.A. § 4091, by inserting a subdivision (e) to read:

(e) This section shall not apply to a nonrenewal or termination that is implemented as a result of the sale of the assets or stock of the motor vehicle dealer, unless the franchisor and franchisee otherwise agree in writing.

(Committee vote: 10-0-1)

Rep. Zuckerman of Burlington, for the Committee on **Ways and Means,** recommends the bill ought to pass in concurrence when amended as recommended by the Committee on **Commerce and Economic Development.**

(Committee vote: 9-0-2)

Rep. Minter of Waterbury, for the Committee on **Appropriations,** recommends the bill ought to pass in concurrence when amended as recommended by the Committee on **Commerce and Economic Development.**

(Committee vote: 8-0-3)

Amendment to be offered by Rep. Lorber of Burlington to S. 51

First: In Sec. 1, § 4085(6), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Second: In Sec. 1, § 4091(c), by inserting the word "new" before the words "motor vehicle dealer"

Third: In Sec. 1, § 4096(6), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Fourth: In Sec. 1, § 4097(13), by inserting the words "new motor vehicle" before the word "dealer" and before the word "dealers"

Fifth: In Sec. 1, § 4097(18), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Sixth: In Sec. 1, § 4097(22), by substituting the words "new motor vehicle dealer" for the words "new vehicle dealer" wherever they appear

Seventh: In Sec. 1, § 4100e, by inserting the word "new" before the words "motor vehicle dealer" wherever they appear, and by substituting the words "new motor vehicle dealer" for the words "new vehicle dealer"

Eighth: In Sec. 2, § 3(2), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Ninth: In Sec. 1, § 4089(e)(3), by substituting the words "line-make" for the words "make, line, or brand" wherever they appear, and by substituting the words "line-make of new motor vehicle" for "line of new motor vehicle"

Amendment to be offered by Rep. Westman of Cambridge to House Proposal of Amendment to S. 51

First: By striking Sec. 1a in its entirety

Second: In Sec. 1, by striking § 4100c in its entirety and inserting in lieu thereof a new § 4100c to read:

§ 4100c. FINANCING; VERMONT TRANSPORTATION BOARD

(a) On July 1, 2009, and every year thereafter, there is imposed an annual fee upon each new motor vehicle dealer of $60.00 for each dealer license held by that dealer, and there is imposed upon each manufacturer an annual fee of

$600.00 for each line-make of new motor vehicle that the manufacturer sells or distributes within this state.

(b) Upon the filing of a protest under this chapter, the protesting party shall pay to the board a filing fee of $1,500.00.

(c) The transportation board shall administer the fees imposed under this section, and the fees shall be deposited into the transportation fund.

(d) The amount of the fee imposed by this section is intended to correlate to the amount of funding required by the transportation board to administer its duties under 9 V.S.A. chapter 108.

Third: In Sec. 3(d), by adding a subdivision (12) at the end thereof, to read:

(12) maintain the accounting functions for the duties imposed by 9 V.S.A. chapter 108 separately from the accounting functions relating to its other duties.

Fourth: By adding a new Sec. 4 to read:

Sec. 4. ALLOCATION TO TRANSPORTATION BOARD FOR DUTIES UNDER 9 V.S.A. CHAPTER 108

The sum of $50,000.00 is appropriated from the transportation fund to the transportation board for the purpose of implementing the provisions of 9 V.S.A. chapter 108.

Fifth: By adding a Sec. 5 to read:

Sec. 5. REPORT

By January 15, 2011, the transportation board shall report to the house and senate committees on transportation regarding the cost of administering the provisions of 9 V.S.A. chapter 108, and based on that cost shall make recommendations regarding the amount of the fees imposed under 9 V.S.A. § 4100c. After the initial report is presented by January 15, 2011, the transportation board shall ensure that the ongoing cost of administering 9 V.S.A. chapter 108 and associated fee recommendations are presented to the house and senate committees on transportation under the customary periodic motor vehicle fee review.

Sixth: By adding a new Sec. 6 to read:

Sec. 6. TRANSPORTATION BOARD; ANNUAL BUDGET FOR DUTIES UNDER 9 V.S.A. CHAPTER 108

Each year, the transportation board shall request a line item appropriation for its duties under 9 V.S.A. chapter 108 separate and apart from its budget for its other functions. This request shall be based upon its expenditures for those

duties in the prior fiscal year.

(For text see Senate Journal April 3, 2009 – P. 606; 635 & 637)

S. 136

An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

Rep. Donovan of Burlington, for the Committee on **Education,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Policy * * *

Sec. 1. ONE HUNDRED PERCENT BY 2020 INITIATIVE; POLICY

It is a priority of the general assembly and the department of education to take all necessary measures to increase the Vermont secondary school completion rate to 100 percent by the year 2020.

* * * Early Identification of Students Who Require Additional Assistance to Successfully Complete Secondary School * * *

Sec. 2. 16 V.S.A. chapter 99 is amended to read:

CHAPTER 99. GENERAL POLICY

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL EDUCATION ENVIRONMENT

(a) It is the policy of the state that each local school district develop and maintain, in consultation with parents, a comprehensive system of education that will result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations ~~which~~ that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is disrupting the class or having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide quality services to that student or to ~~the~~ other ~~pupils~~ students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. § 1401 et seq., Individuals with Disabilities Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act; and 42 U.S.C. § 12101 et seq., Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

§ 2902. EDUCATIONAL SUPPORT SYSTEM AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain an educational support system for ~~children~~ students who require additional assistance in order to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the educational support system either to the superintendent pursuant to a contract entered into under section 267 of this title~~,~~ or to the principal. The educational support system shall, at a minimum, include an educational support team and a range of support and remedial services, including instructional and behavioral interventions and accommodations.

(b) The educational support system shall:

(1) Be integrated to the extent appropriate with the general education curriculum.

(2) Be designed to increase the ability of the general education system to meet the needs of all students.

(3) Be designed to provide students the support needed regardless of eligibility for categorical programs.

(4) Provide clear procedures and methods for ~~handling a student who~~ addressing student behavior that is disruptive to the learning environment and ~~shall~~ include ~~provision of~~ educational options, support services, and consultation or training for staff where appropriate. Procedures may include ~~provision for~~ removal of ~~the~~ a student from the classroom or the school building for as long as appropriate, consistent with state and federal law and the school's policy on student discipline, ~~and~~ after reasonable effort has been made to support the student in the regular classroom environment.

(5) Ensure collaboration with families, community supports, and the system of health and human services.

(c) ~~Each educational support system shall include an~~ The educational support team ~~which~~ for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) ~~Provide a procedure for timely referral for evaluation for special~~

~~education eligibility when warranted~~ Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the commissioner, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) ~~Be composed of staff from a variety of teaching and support services positions~~ Identify the classroom accommodations, remedial services, and other supports that have been provided to the identified student.

(3) ~~Screen referrals to determine what classroom accommodations and, remedial services have been tried.~~

~~(4)~~ Assist teachers ~~in planning and providing~~ to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

(6) Report no less than annually to the commissioner, in a form the commissioner prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).

(d) No individual entitlement or private right of action is created by this section.

(e) The commissioner shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section.

(f) It is the intent of the general assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the general assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING INSTRUCTION

(a) Statement of policy. The ability to read is critical to success in learning.

Children who fail to read by the end of the first grade will likely fall further behind in school. The personal and economic costs of reading failure are enormous both while the student remains in school and long afterward. All students need to receive systematic reading instruction in the early grades from a teacher who is skilled in teaching reading through a variety of instructional strategies that take into account the different learning styles and language backgrounds of the students. Some students may require intensive supplemental instruction tailored to the unique difficulties encountered.

(b) Foundation for literacy. The state board of education, in collaboration with the agency of human services, higher education, literacy organizations, and others, shall develop a plan for establishing a comprehensive system of services for early education in the first three grades to ensure that all students learn to read by the end of the third grade. The plan shall be ~~submitted to the general assembly by January 15, 1998 and shall be~~ updated at least once every five years following its initial submission in 1998.

(c) Reading instruction. A public school ~~which~~ that offers instruction in grades one, two, or three shall provide highly effective, research-based reading instruction to all students. In addition, ~~for~~ a school shall provide:

(1) Supplemental reading instruction to any enrolled student in grade four whose reading ~~performance falls below the level expected in order to achieve third grade reading~~ proficiency falls below third grade reading expectations, as defined under subdivision 164(9) of this title~~, the school shall work to improve the student's reading skills by providing additional research-based reading instruction to the student, and by providing support~~.

(2) Supplemental reading instruction to any enrolled student in grades 5–12 whose reading proficiency creates a barrier to the student's success in school.

(3) Support and information to parents and ~~other family members~~ legal guardians.

§ 2904. REPORTS

Annually, each superintendent shall report to the commissioner in a form prescribed by the commissioner, on the status of the educational support systems in each school in the supervisory union. The report shall describe the services and supports that are a part of the education support system, how they are funded, and how building the capacity of the educational support system has been addressed in the school action plans, and shall be in addition to the report required of the educational support team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and

justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

* * * High School Completion Program * * *

Sec. 3. 16 V.S.A. § 1049a is amended to read:

§ 1049a. HIGH SCHOOL COMPLETION PROGRAM

(a) In this section:

(1) "Graduation education plan" means a written plan leading to a high school diploma for a person who is 16 to 22 years of age~~,~~ and has not received a high school diploma, ~~and is not~~ who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.

(2) "Approved provider" means an ~~agency~~ entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.

(3) "Contracting agency" means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.

(b) ~~The commissioner shall assign~~ If a ~~student~~ person who wishes to work on a graduation education plan is not enrolled in a public or approved independent school, then the commissioner shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. ~~Upon assignment, the~~ The school district in which a student is enrolled or to which an non-enrolled student is assigned shall work with ~~an agency which has entered into contract with the department of education to provide adult education services in Vermont~~ the contracting agency and the student to develop a graduation education plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The commissioner shall reimburse, and net cash payments where possible, a ~~town~~ school district~~, city school district, union school district, unified union school district, incorporated school district, or member school district of an interstate school district which~~ that has agreed to a graduation education plan in an amount:

(1) established by the commissioner for development of the graduation education plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such

as counseling, health services, participation in ~~co-curricular~~ cocurricular activities, and participation in academic or other courses, provided this amount shall not be available to a district that provides services under this section to an enrolled student; and

(2) negotiated by the commissioner and the contracting agency ~~which has entered into contract with the department of education to provide adult education services in Vermont~~, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the graduation education plan.

(d) On or before January 30 of each year~~, beginning in 2008~~, the commissioner shall report to the senate and house committees on education on the number of students participating in a graduation education plan, the number completing a plan, and the amount paid. The commissioner shall present the information organized by school district, approved independent school, and approved provider.

Sec. 4. HIGH SCHOOL COMPLETION PROGRAM; GRADUATION EDUCATION PLAN; GUIDELINES

(a) The graduation education plan for each 16- and 17-year-old student shall include services relevant to the student's goals, such as:

(1) Career exploration.

(2) Workforce training.

(3) Workplace readiness training.

(4) Preparation for postsecondary training or education and transitioning assistance.

(b) The graduation education plan for each student who is 18 years of age or older should include services relevant to the student's goals, such as those listed in subsection (a) of this section.

(c) The commissioner shall develop and publish guidelines to assist in the implementation of this section.

* * * Commissioner of Education * * *

Sec. 5. MEASURING SECONDARY SCHOOL COMPLETION RATES

(a) On or before December 31, 2009, the commissioner of education shall develop an accurate, uniform, and reliable method for defining and measuring secondary school completion rates on a school-by-school basis, including appropriate cohort identification, and shall set benchmarks for assessing individual school performance relative to the goal of increasing the secondary

school completion rate to 100 percent by the year 2020.

(b) On or before January 15 of each year through January 2020, the commissioner shall report to the senate and house committees on education regarding the state's progress in achieving the goal of a 100 percent secondary school completion rate. At the time of the report, the commissioner shall also recommend other initiatives, if any, to improve both graduation rates and secondary school success for all Vermont students.

(c) Annually through 2020, each school district operating one or more secondary schools shall report to the taxpayers at the time school budgets are presented for approval regarding the district's progress in achieving the goal of a 100 percent secondary school completion rate.

Sec. 6. FLEXIBLE PATHWAYS TO GRADUATION

On or before January 15, 2010,

(1) The commissioner of education shall evaluate the prevalence and efficacy of flexible practices and programs currently used by Vermont schools to identify and support students who require additional assistance or alternative methods to be successful in school or to complete secondary school and shall identify schools that need assistance to begin or enhance their practices.

(2) The commissioner of education shall develop and publish guidelines to assist school districts to identify and support elementary and secondary students who require additional assistance to succeed in school or who would benefit from flexible pathways to graduation. Such guidelines may include strategies such as:

(A) Targeted assistance, including individual tutoring, evidence-based literacy instruction, alternative and extended scheduling, and opportunities to earn necessary credits necessary to obtain a high school diploma.

(B) Flexible programs designed to provide each student identified under 16 V.S.A. § 2902(c) in Sec. 2 of this act with the supports and accommodations necessary to succeed in school and to complete secondary school with the education and skills critical for success after graduation. Examples of flexible program components include:

(i) The assignment of one or more adults from within the school community to provide continuity to the student.

(ii) The development of a personalized education plan or strategy by the student, the assigned adult or adults or another representative of the district, and the student's parents or legal guardian.

(iii) The opportunity to acquire knowledge and skills through applied or work-based learning opportunities.

(iv) The opportunity to participate in dual enrollment courses with tutorial support provided as needed.

(v) Assessments that allow the student to demonstrate proficiency by applying his or her knowledge and skills to tasks that are of interest to that student.

(3) The commissioner of education shall report to the senate and house committees on education regarding implementation of this section and recommend additional legislation, if any, necessary to ensure effective implementation by all school districts in Vermont.

* * * Truancy * * *

Sec. 7. TRUANCY

(a) On or before September 30, 2009, and in consultation and coordination with the executive director of the department of state's attorneys and sheriffs, interested judges of the Vermont district courts, and school district personnel, the commissioner of education shall develop and publish on the department of education's website comprehensive model truancy protocols consistent with the provisions of 16 V.S.A. chapter 25, subchapter 3, that confront truancy on a statewide, countywide, and supervisory unionwide basis and include the post-complaint involvement of both state's attorneys and the court system under 16 V.S.A. § 1127.

(b) On or before December 15, 2009, the commissioner shall propose to the house and senate committees on education any legislative amendments or additions necessary to implement the purposes of this section.

(c) The commissioner shall ensure that, on or before July 1, 2010, the supervisory unions in each county adopt truancy policies that are consistent with and carry forward the purposes of this section.

(d) On or before January 15, 2011, the commissioner shall report to the house and senate committees on education regarding implementation of this section.

Sec. 8. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

The board of each supervisory union shall:

* * *

(11) on or before June 30 of each year, adopt a budget for the ensuing

school year; and

(12) adopt supervisory unionwide truancy policies consistent with the model protocols developed by the commissioner.

* * * Teen Parent Education Programs * * *

Sec. 9. 16 V.S.A. § 11(a)(28)(C) is amended to read:

~~(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.~~

Sec. 10. 16 V.S.A. § 11(a)(33), (34), and (35) are added to read:

(33)(A) "Pregnant or parenting pupil" means a legal pupil of any age who is not a high school graduate and who:

(i) is pregnant; or

(ii) has given birth, has placed a child for adoption, or has experienced a miscarriage, if any of these has occurred within one year before the public or approved independent school or the approved education program receives a request for enrollment or attendance; or

(iii) is the parent of a child.

(B) "Pregnant or parenting pupil" does not include a person whose parental rights have been terminated, except if the pupil has placed the child for adoption or has voluntarily relinquished parental rights, within one year before the public or approved independent school or the approved education program receives a request for enrollment or attendance.

(34) "Approved education program" means a program that is evaluated and approved by the state board pursuant to written standards, that is neither an approved independent school nor a public school, and that provides educational services to one or more pupils in collaboration with the pupil's or pupils' school district of residence. An "approved education program" includes an "approved teen parent education program."

(35) "Teen parent education program" means a program designed to provide educational and other services to pregnant pupils or parenting pupils or both.

Sec. 11. 16 V.S.A. § 828 is amended to read:

§ 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, an approved education program, 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.

Sec. 12. 16 V.S.A. § 1073(b) is amended to read:

(b) Access to school.

(1) Right to a public education. No legal pupil attending school at public expense, including a married, pregnant, or ~~postpartum~~ parenting pupil, shall be deprived of or denied the opportunity to participate in or complete ~~an elementary and secondary~~ a public school education.

(2) Right to enroll in a public or independent school. Notwithstanding the provisions of sections 822 and 1075 of this title, ~~for reasons related to the pregnancy or birth,~~ a pregnant or ~~postpartum~~ parenting pupil may ~~attend~~ enroll in any approved public school in Vermont or an adjacent state, any approved independent school in Vermont, or any other educational program approved by the state board in which any other legal pupil in Vermont may enroll.

(3) Teen parent education program.

(A) Residential teen parent education programs. The commissioner shall pay the educational costs for a pregnant or ~~postpartum~~ parenting pupil attending a state board approved ~~educational~~ teen parent education program in a 24-hour residential facility for up to eight months after the birth of the child. The commissioner may approve extension of payment of educational costs based on a plan for reintegration of the student into the community or for exceptional circumstances as determined by the commissioner. The district of residence of a pupil in a 24-hour residential facility shall remain responsible for coordination of the pupil's educational program and for planning and facilitating her subsequent educational program.

(B) Nonresidential teen parent education programs.

(i) The pregnant or parenting pupil's district of residence or the approved independent or public school to which that district pays tuition for its students ("the enrolling school") shall be responsible for planning, coordinating, and assessing the enrolled pupil's education plan while attending a teen parent education program and for planning, assessing, and facilitating the pupil's subsequent education plan, including the pupil's transition back to the public or approved independent school. As determined by the district of

residence or the enrolling school, as appropriate, the pupil's educational plan while attending a teen parent education program shall include academic courses that are the substantial equivalent of the courses required by the district of residence or the enrolling school to obtain a high school diploma.

(ii) A pregnant or parenting pupil may attend a nonresidential teen parent education program for a length of time to be determined by agreement of the pupil's district of residence, the enrolling school, the teen parent education program, and the pupil.

(iii) In the event of a dispute regarding any aspect of this subdivision (B), the district of residence, the enrolling school, the teen parent education program, or the pupil or any combination of these may request a determination from the commissioner whose decision shall be final.

Sec. 13. 16 V.S.A. § 1121 is amended to read:

§ 1121. ATTENDANCE BY CHILDREN OF SCHOOL AGE REQUIRED

A person having the control of a child between the ages of six and 16 years shall cause the child to attend a public school, an approved or recognized independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

* * *

Sec. 14. CONFORMING LANGUAGE

To ensure consistency of No. 192 of the Acts of the 2007 Adj. Sess. (2008) with Secs. 9 through 13 of this act, the following amendments shall be made to Sec. 5.304.1 of that act:

(1) In subdivision (a)(2), by striking the word "coordinating" and inserting in lieu thereof the following: "planning, coordinating, and assessing".

(2) In subdivision (a)(2), after the word "planning" and before the words "and facilitating" by adding the following: ", assessing,".

(3) In subdivision (b)(3), by striking the final sentence.

Sec. 15. TRANSITIONAL PROVISION

It is the intent of the general assembly that until July 1, 2010, a teen parent education program that has been recognized by the department for children and families shall be considered "an approved education program" for the purposes of Secs. 9 through 13 of this act.

* * * Prekindergarten Education Programs * * *

Sec. 16. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION; RULES

(a) The commissioner of education and the commissioner for children and families shall jointly develop and agree to rules and present them to the state board of education for adoption under chapter 25 of Title 3 as follows:

* * *

(b) Each component of a prekindergarten education program, whether operated by a school district or by a licensed center through a school district, shall be supervised by an early education teacher licensed and endorsed pursuant to chapter 51 of this title; provided a superintendent of a school district that either has contracted with a licensed center to provide a prekindergarten education program or is in the process of entering into such a contract may request an emergency license or endorsement or both on behalf of the licensed center in accordance with rules 5360–5364 adopted by the Vermont standards board for professional educators.

Sec. 17. 16 V.S.A. § 4001(1)(C) is amended to read:

(C) The full-time equivalent enrollment for each prekindergarten child as follows: If a child is enrolled in 10 or more hours of prekindergarten education per week or receives 10 or more hours of essential early education services per week, the child shall be counted as one full-time equivalent pupil. If a child is enrolled in six or more but fewer than 10 hours of prekindergarten education per week or if a child receives fewer than 10 hours of essential early education services per week, the child shall be counted as a percentage of one full-time equivalent pupil, calculated as one multiplied by the number of hours per week divided by ten. A child enrolled in prekindergarten education for fewer than six hours per week shall not be included in the district's average daily membership. ~~Although there is no limit on the total number of children who may be enrolled in prekindergarten education or who receive essential early education services, the total number of prekindergarten children that a district may include within its average daily membership shall be limited as follows:~~

~~(i) All children receiving essential early education services may be included.~~

~~(ii) Of the children enrolled in prekindergarten education offered by or through a school district who are not receiving essential early education services, the greater of the following may be included:~~

~~(I) ten children; or~~

~~(II) the number resulting from: (aa) one plus the average annual percentage increase or decrease in the district's first grade average daily~~

~~membership as counted in the census period of the previous five years; multiplied by (bb) the most immediately previous year's first grade average daily membership; or~~

~~(III) the total number of children residing in the district who are enrolled in the prekindergarten program or programs and who are eligible to enter kindergarten in the district in the following academic year; or~~

~~(IV) one-fifth of the total number of children in grades 1-5 who were included in the district's average daily membership for the previous year.~~

and that after passage the title of the bill be amended to read "An act relating to increasing the graduation rate in Vermont secondary schools to 100 percent by the year 2020"

(Committee vote: 8-2-1)

Favorable

S. 38

An act relating to requiring the Department of Finance and Management to annually publish on its website a report on grants issued by executive branch agencies.

Rep. Devereux of Mount Holly, for the Committee on **Government Operations**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-2)

Senate Proposal of Amendment

H. 436

An act relating to decommissioning and decommissioning funds of nuclear energy generation plants.

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

Sec. 1. 30 V.S.A. § 107 is amended to read:

§ 107. ACQUISITION OF CONTROL OF ONE UTILITY COMPANY BY ANOTHER; SUPERVISION

(a) No company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the public service board, or in any company which, directly or indirectly has a controlling interest in such a company, without the approval of the public service board. Nothing in this section shall be deemed to affect the direct or indirect acquisition of a controlling interest in a company as defined in subdivision 501(3) of this title.

The direct acquisition of the voting securities of a company defined in subdivision 501(3) shall continue to be regulated pursuant to section 515 of this title.

(b) Any company seeking to acquire such a controlling interest shall file a petition with the public service board which describes the acquisition and sets forth the reasons why such an acquisition should be approved. The public service board shall give notice of the petition to the department of public service and other interested persons, and may conduct a hearing. The board may grant such approval only after due notice and opportunity for hearing and upon finding that such an acquisition will promote the public good.

(c) If the controlling interest sought to be acquired is in a company that owns or operates a nuclear power plant, the finding that the acquisition will promote the public good shall include a determination that the nuclear plant's decommissioning fund and other funds and financial guarantees available solely for the purpose of decommissioning are adequate to pay for complete and immediate decommissioning at the time of the acquisition and that the means are in place to assure on at least an annual basis that these funds and financial guarantees will be adequate for such purpose at all times during the future operation of the plant. The board shall further determine that all such funds and guarantees, whenever furnished and wherever situated, are protected pursuant to Vermont law from any claims or uses other than application to the complete and immediate decommissioning of the plant. For the purpose of this section, "complete and immediate decommissioning" means return of the site to a "greenfield" state in which all equipment, structures, and foundations are removed beginning as soon as technically possible after cessation of operations, in which the facility is not placed in storage for later removal or decontamination, and in which the land is regraded or reseeded.

(d) If any company acquires such a controlling interest without the prior approval of the public service board, the board may then, after due notice and opportunity for hearing,

(1) approve the acquisition; or

(2) modify any existing certificates or orders authorizing either or both companies to own or operate a public utility business under the provisions of this title; or

(3) revoke any such existing certificates or orders, or revoke any orders approving the articles of association of such companies; or

(4) declare the acquisition null and void, all as necessary to promote the public good.

~~(d)~~(e) The board may by rule specify terms and conditions upon which companies shall give prior notice of acquisitions regulated by this section. Any such rule may specify categories of acquisitions that may be deemed to be approved if timely notice has been filed and an investigation has not been initiated by the board.

~~(e)~~(f) For the purposes of this section:

(1) "Controlling interest" means ten percent or more of the outstanding voting securities of a company; or such other interest as the public service board determines, upon notice and opportunity for hearing following its own investigation or a petition filed by the department of public service or other interested party, to constitute the means to direct or cause the direction of the management or policies of a company. The presumption that ten percent or more of the outstanding voting securities of a company constitutes a controlling interest may be rebutted by a company under procedures established by the board by rule.

(2) "Voting security" means any stock or security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company or any security issued under or pursuant to any agreement, trust or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such a security are presently entitled to vote in the direction or management of the affairs of a company.

(3) A specified per centum of the "outstanding voting securities of a company" means such amount of outstanding voting securities of such company as entitles the holder or holders thereof to cast that specified per centum of the aggregate votes which the holders of all the outstanding voting securities of such company are entitled to cast in the direction or management of the affairs of such company.

Sec. 2. EFFECTIVE DATE

This act shall take effect from passage and shall apply to any petition for approval or for a certificate of public good filed with the public service board on or after January 1, 2008.

For Action Under Rule 52

H. R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

(For text see House Journal Monday, May 4, 2009)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 456

An act relating to seasonal fuel assistance.

(Rep. McFaun of Barre Town will speak for the Committee on **Human Services.)**

H. 313

An act relating to near-term and long-term economic development.

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

Sec. 1. FINDINGS

(1) Vermont has lost nearly 15,000 jobs since the cyclical peak in November of 2007, reaching an unemployment rate of 7.2 percent as of April 2009. Broader measures of underemployment, which include workers forced from full time to part time work and marginally attached workers, now exceed 9 percent in Vermont. Revised macro-economic projections anticipate that the Vermont rate of unemployment will reach 9 percent for the first time in more than 30 years.

(2) Initial claims for unemployment insurance have continued to rise, spiking in Vermont in recent months at record levels, with the weekly average of claims in January of 2009 reaching approximately 1,550.

(3) At the national level the unemployment rate has reached 8.5 percent and consumer spending, which accounts for more than two-thirds of all economic activity, has experienced its steepest reversal since the Great Depression, with inflation adjusted spending dropping by more than 10 percent in four of the last five months. Consumption taxes in Vermont are expected to recede accordingly, with sales and use revenues expected to be down 5 percent in fiscal year 2009 and meals and rooms receipts down 3 percent, with further declines expected in fiscal year 2010, which would comprise the first ever consecutive annual declines for these important revenue sources.

(4) Residential construction in Vermont has come to a virtual halt in Vermont, declining by nearly 70 percent. With weakness in Vermont second home markets mounting in the face of regional job losses, housing price declines are likely in the next four-to-seven quarters, with very low property price appreciation for an extended period of at least four-to-five years. This stagnation in property prices will ultimately have a significant impact on grand list growth and the tax base for the largest component of the education fund.

(5) Federal tax changes resulting from the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, while stimulating to the national economy, will result in reduced state tax revenues in approximately $ 9.1 million in fiscal year 2010.

(6) Despite the many difficulties in the national and Vermont economies at this time, there are several factors leaning against the prevailing winds that offer hope for an emergent recovery. For one, United States and global fiscal and monetary policies are as stimulative as they have ever been, with even additional capacity and willingness if further measures are required to right the economy.

(7) For the first time in 55 years the Consumer Price Index is expected to post an annual decline in 2009, while inflation and related energy prices have been subdued, lowering consumer gas and heating bills, providing additional disposable income.

(8) Business inventories have been dramatically reduced, setting the stage for rapid gains in output and hiring, once demand resumes.

(9) With the passage of ARRA, Vermont is positioned to receive nearly one billion dollars in resources, which will be allocated to state and local government, to Vermont businesses, and to individuals. In addition, federal tax cuts will result in approximately $500 million in savings to Vermont businesses and individuals.

(10) Although state government is limited in its ability in the near-term to initiate new programs and expenditures due to revenue constraints, it can provide targeted support to programs best suited to capitalize on state and federal funding to leverage growth. The state can also improve existing programs, permitting processes, funding mechanisms, and other areas that affect economic development, in order to provide a more efficient and effective role for government to aid Vermont's businesses and individuals and lead the state in its economic recovery.

(11) In the long-term, once the current economic crisis inevitably subsides, Vermont will be prepared to move forward with a focused economic development strategy based on four principal, interrelated goals generated by the commission on the future of economic development:

(A) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(B) Vermont invests in its digital, physical, and human infrastructure

as the foundation for all economic development.

(C) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(D) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

Sec. 1a. PURPOSE

(a) In the near-term, this act is intended to address the immediate economic crisis facing Vermont. The purposes of this act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide opportunities for investments needed to increase economic efficiency, entrepreneurship, and business growth in traditional and emerging sectors.

(4) To provide oversight and guidance for the expenditure of ARRA funds to ensure that the benefits of the federal stimulus extend to the broadest geographic and demographic range of Vermont businesses and individuals.

(b) In the long term, this act seeks to build a foundation for economic development through targeted investments, modifications, and improved efficiencies in economic development initiatives, environmental and energy permitting, and other state investment and regulatory programs that will provide long-term economic benefits. It is the intent of the general assembly to ultimately channel these economic development efforts through the principal goals and benchmarks identified by the commission on the future of economic development, using both new and existing resources from the state and federal levels to increase prosperity for all Vermonters.

Sec. 1b. 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.

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.

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.

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. This requirement shall not apply to training seminars lasting no more than two 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. 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).

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.

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.

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.

Sec. 13a. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

(a) With respect to federal monies available to the state of Vermont under the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. 111-5, the general assembly establishes the following priorities as outlined in this section.

(b) Burlington International Airport (BTV). The general assembly recognizes the importance of maintaining and upgrading the programs and facilities at BTV, Vermont's primary commercial airport. BTV has an estimated economic impact of over a half billion dollars annually. The general assembly finds that the development of the following list of planned airport projects is a legislative priority:

(1) A new aviation technical center facility.

(2) A new customs border protection office.

(3) The following three south-end taxiway projects:

(A) Completion of taxiway K connection from the new general aviation apron to the end of runway 33;

(B) Rehabilitation of portions of taxiways C and G and construction of a new intersection; and

(C) Completion of a parallel taxiway G from existing taxiway C to runway 1-19.

(4) The building of a green roof on the parking structure.

(c) Agriculture. Agriculture is one of the major drivers of the state's economy. For that reason the general assembly recognizes the crucial role of agriculture in the state of Vermont and expresses the following priorities for federal funding that may become available through ARRA:

(1) The agency of agriculture, food and markets, Vermont agricultural

credit corporation, and the Vermont housing and conservation board's farm viability program shall cooperate in seeking ARRA funding from the USDA Farm Service Agency, the USDA Rural Development Program, and other appropriate federal programs and shall prioritize applications for federal stimulus funding based on the goals established in this act. The agency shall further work to educate relevant entities about funding opportunities, provide technical application assistance to priority applicants, and develop a single, common application to be used by applicants for agency funding.

(2) The following are specific agriculture priorities and include the state entities to which funding for these priorities should be directed:

(A) Stabilization of spring planting with loans through the Vermont agricultural credit corporation and the Vermont economic development authority.

(B) Support for in-state slaughter and processing facilities through grants and technical assistance from the agency of agriculture, food and markets.

(C) Funding for regional food hubs and dairy transition through the Vermont housing and conservation board farm viability program and support for the Vermont farm-to-plate investment program, established by Sec. 111 of this act, through the Vermont sustainable jobs fund.

(D) Environmental protection and energy conservation including power modernization and methane digesters through grants and technical assistance from the agency of agriculture, food and markets.

(d) Municipal communications services. Since passage of an act relating to establishing the Vermont telecommunications authority and to advancing broadband and wireless communications infrastructure throughout the state of Vermont, No. 79 of the Acts of 2007, many Vermont towns and cities have affiliated themselves to promote, sponsor, develop, and provide a range of communications services to their respective inhabitants, governments, schools, and businesses. Through local volunteer initiatives, resources have been collected and directed toward the design, construction, operation, and management of publicly owned communications plants, with minimal dependency on the resources, finances, and credit of the state of Vermont. Access to various forms of public and private credit enhancement will assist towns and cities in further developing and constructing communications plant improvements through lower capital interest and financing costs. Under the ARRA, financial resources will be made available to the state that are suitable for application in assisting municipalities in their communications goals. With respect to these local efforts and the federal stimulus monies, the general

assembly establishes the following priorities:

(1) Public projects and enterprises endorsed by the general assembly to receive direct and indirect benefits of ARRA initiatives shall include municipal communications plants whose economic feasibility, need, and readiness to serve Vermont's rural regions have been demonstrated, such as the North-link project launched by Northern Enterprises, Inc. in 2007, the broadband initiative of East Central Vermont Community Fiber, and replacement of the Burke Mountain power line owned and operated by Vermont Public Television.

(2) To the extent possible, allocation of ARRA initiatives available to Vermont shall include direct and indirect credit enhancement assistance to municipalities seeking capital to fund communications plant improvements.

(3) The development, promotion, construction, and operation of public communications plants is declared to be in the best interest of Vermont and an infrastructure priority among capital improvements eligible to receive benefits under the ARRA.

(e) Sterling College. Sterling College is the only independent, liberal arts college in Vermont's Northeast Kingdom. Its four major areas of study include conservation ecology; circumpolar studies; outdoor education and leadership; and sustainable agriculture. The college now has the opportunity to build a new and environmentally innovative residency and program center. Of the $500,000.00–$600,000.00 total cost of this project, $215,000.00 has already been secured or committed. The project's construction start date is mid-August and is projected to employ between 10 and 14 people, in various capacities, for six months. Therefore, the general assembly finds that up to $350,000.00 in ARRA monies for this Sterling College project is a priority.

(f) Vermont Youth Conservation Corps (VYCC). By hiring young people to work on high-priority conservation projects, the VYCC seeks to instill in individuals the values of personal responsibility, hard work, education, and respect for the environment. The VYCC seeks to establish a new program, the Civilian Conservation Corps 2.0, which will enroll 100 young men and women between the ages of 18 and 24 to rehabilitate the Vermont state parks infrastructure and complete high-priority recreation, forest, wildlife, and other natural resource work. The general assembly finds that spending on such a project is a legislative priority.

Sec. 14. [DELETED]

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.

Sec. 16. VIRTUALIZED INFORMATION TECHNOLOGY INFRASTRUCTURE; STUDY

(a) The legislative director of information technology and the commissioner of the department of information and innovation shall issue a request for proposals no later than July 1, 2009 to evaluate the viability of cloud computing and other virtualized infrastructure options for the state's information technology infrastructure as it pertains to the use of e-mail, spreadsheets, word processing, and calendars in the legislative, executive, and judicial branches of government. Evaluations shall consider the following:

(1) Current service level and scalability to future service needs;

(2) Physical and virtual data security and recovery;

(3) Potential for savings in software licensing and hardware investment in both the near and long term;

(4) Opportunities for improved systems performance and capacity;

(5) Specific vendors and relevant vendor policies; and

(6) Potential for legal and regulatory obstacles.

(b) The legislative director of information technology and the commissioner of the department of information and innovation shall submit the proposals to the legislative information technology committee established under chapter 22 of Title on or before January 15, 2010. The director and the commissioner are respectively authorized to implement virtualized information

technology.

(c) This section supersedes any similar cloud-computing proposal in H.441 (2009).

Sec. 16a. INITIATIVE TO BUILD A MEDIA AND FILM INDUSTRY IN VERMONT

(a)(1) Given its unique blend of creative, cultural, and educational resources, Vermont currently has an opportunity to become a destination for a new media and film industry.

(2) Vermont is home to authors, filmmakers, producers, and young people concentrating their educational and professional development in the emerging fields of communications, multi-media and film production, graphic and digital design, and performing arts.

(3) Vermont's natural and seasonal beauty and the charm and character of its towns and regions equals or surpasses other potential destinations for the media and film industry, and these strengths position Vermont as an ideal location for filming and producing movies, television, commercials, and other media.

(4) Vermont is home to at least five institutions of higher education that provide one or more degrees or certificate programs in media or film sectors, including Burlington College's cinema studies and film production program; Champlain College's communications and creative media division; the University of Vermont's film and television studies program; Marlboro College's undergraduate programs in media, visual and performing arts; and Castleton State College's concentrations in communication, mass media and digital media.

(b) Considering these substantial resources, it is the intent of the general assembly to encourage and promote the development of a strong and dynamic media and film sector within Vermont's creative economy.

(c) The Vermont film commission, in collaboration with the Vermont film and media coalition and, to the extent possible, the faculty and students of Burlington College, Champlain College, the University of Vermont, Marlboro College, and Castleton State College, shall propose a program to develop a media and film sector within Vermont's economy. The commission should consider the most beneficial role the state can play in supporting the media and film sector, and should consider grants, public-private partnerships, and other appropriate financing mechanisms in order to promote this sector of the creative economy and to retain young Vermonters currently supported by the communications, film, and media programs at Vermont colleges and

universities.

(d) On or before January 30, 2010, the commission is invited to deliver a presentation of its program proposal to the Senate committee on economic development, housing and general affairs and the House committee on commerce and economic development.

Sec. 17. [Deleted]

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.

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.

Sec. 19a. 24 V.S.A. § 1891(7) is amended to read:

(7) "Financing" means the following types of debt and incurred or used by a municipality to pay for improvements in a tax increment financing district:

* * *

(F) Conventional bank loans.

(G) Certificates of participation, approved by the state treasurer.

(H) Lease-purchase, approved by the state treasurer.

(I) Revenue-anticipation notes, approved by the state treasurer.

Sec. 19b. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND LIFE OF DISTRICT

(a) Incurring indebtedness.

(1) A municipality may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to 20 years following the creation of the district, if approved as required under subsection 5404a(h) of Title 32. The creation of the district shall occur at 12:01 a.m. on April 1 ~~of~~ following the year so voted by the legislative body of the municipality. Any indebtedness incurred during this 20-year period may be retired over any period authorized by the legislative body of the municipality under section 1898 of this title.

(2) If no indebtedness is incurred within the first ~~five~~ ten years after creation of the district, no indebtedness may be incurred unless the municipality obtains reapproval from the Vermont economic progress council under subsection 5404a(h) of Title 32.

(3) The district shall continue until the date and hour the indebtedness is retired.

(b) Use of the education property tax increment. For any debt incurred ~~within the first five years~~ after the creation of the district, or ~~within the first five years~~ after reapproval by the Vermont economic progress council, but for no other debt, the education tax increment may be retained for up to 20 years beginning with the initial date of the creation of the district or on the date of

the first debt incurred ~~within the first five years~~, at the discretion of the municipality. The assessed valuation of all taxable real property within the district, as defined in 24 V.S.A. § 1895, shall be re-certified if the municipality chooses to begin retaining the education tax increment more than five years beyond the initial creation of the district.

* * *

Sec. 19c. 24 V.S.A. § 1897(a) is amended to read:

(a) The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test; provided, that if any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(f), no more than 75 percent of the state property tax increment and no less than an equal percent of the municipal tax increment may be used to service this debt. Bonds shall only be issued if the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, give authority to the legislative body to pledge the credit of the municipality for these purposes. Notwithstanding any provision of any municipal charter, the legal voters of a municipality~~, by a single vote,~~ shall authorize the legislative body to pledge the credit of the municipality up to a specified maximum dollar amount for all debt obligations to be financed with state property tax increment pursuant to approval by the Vermont economic progress council and subject to the provisions of this section and 32 V.S.A. § 5404a.

Sec. 19d. EFFECTIVE DATE

Secs. 19a, 19b, and 19c shall be retroactive to July 1, 2008.

Sec. 19e. 24 V.S.A. § 1902 is added to read:

§ 1902. OVERLAY OF PREEXISTING DISTRICT

(a) Purpose. Tax increment financing (TIF) is an indispensible tool to help finance public infrastructure. Private development that has followed has created hundreds of jobs for Vermonters; generated significant sales, rooms and meals, and income tax revenue for the state; and has helped stimulate the local, regional, and state economies.

(b) Pursuant to the provisions of this chapter, a municipality may create a new district that includes some or all properties contained within a preexisting district which is no longer eligible to incur debt.

(c) In such event the tax increment for the preexisting district for properties within both the preexisting and the new district shall be calculated as follows: the difference between the property taxes paid based upon the original taxable value (subject to the adjustment upon reappraisal provisions of 24 V.S.A. § 1896(b), where applicable) of real property within the preexisting district and the property taxes paid based upon the original taxable value (subject to the adjustment upon reappraisal provisions of 24 V.S.A. § 1896(b), where applicable) for that same real property as determined for the new district.

(d) Tax increment for the preexisting district, as calculated under this section, may be appropriated for the financing of debt incurred prior to the creation of the new district consistent with the provisions of this chapter. As provided in 24 V.S.A. § 1894(c)(3), the preexisting district shall expire when the indebtedness is retired.

Sec. 19f. REPEAL

Sec. 2i of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 67 of No. 190 of the 2007 Adj. Sess. (2008), is repealed.

Sec. 19g. 24 V.S.A. § 1903 is added to read:

§ 1903. TAX INCREMENT FINANCING DISTRICTS; CAP

Notwithstanding any other provision of law, the Vermont economic progress council may not approve the use of education tax increment financing for more than ten tax increment financing districts and no more than one newly created tax increment financing district in any municipality within the period of ten state fiscal years beginning July 1, 2008. Additionally, no more than one such newly created tax increment financing district shall be approved to use the overlay provisions of section 1902 of this subchapter. Thereafter no tax increment financing districts may be approved without further authorization by the general assembly.

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 authority, two shall be appointed by the fund manager, and one shall be appointed jointly by the authority and the fund manager. 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. In fiscal year 2010, of the $4,000,000.00 appropriated in this subsection, $250,000.00 shall be transferred to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to be used solely for start-up capital in the sustainable jobs fund's flexible capital fund 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.

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 $900,000.00, a total of $1,800,000.00 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.

Sec. 25a. VERMONT JOBS FUND; INTEREST-RATE SUBSIDIES

In fiscal year 2010 and again in fiscal year 2011, in two installments of $900,000.00, a total of $1,800,000.00 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 to provide interest-rate subsidies for the Vermont Jobs Fund.

Sec. 25b. 32 V.S.A. § 5930ee is amended as follows:

§ 5930ee. LIMITATIONS

Beginning in fiscal year ~~2008~~ 2010 and thereafter, the state board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) The total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$1,600,000.00~~ $1,700,000.00.

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.

Sec. 27. [Deleted]

Sec. 28. STUDY ON THE APPLICATION OF VERMONT'S LICENSED-LENDER REQUIREMENTS TO CERTAIN COMMERCIAL LENDING PRACTICES

(a) The commissioner of banking, insurance, securities, and health care administration shall convene a work group to recommend amendments to Vermont's licensed-lender laws, chapter 73 of Title 8, for the purpose of facilitating limited instances of high-risk, secured commercial lending by specialized persons such as venture capital firms, individuals, and partnerships.

The work group shall consider proposals such as a limited exemption or an expedited registration process that permits capital investments in and secure commercial loans to technology firms, in a responsible manner.

(b) Members of the work group shall include representatives from the Vermont Bankers Association, the Vermont Bar Association, the department of economic development, the Vermont economic development authority, and the entrepreneurial industry sector of Vermont.

(c) The commissioner shall report the work group's recommendations to the senate committees on economic development, housing and general affairs and on finance and the house committee on commerce and economic development no later than January 1, 2010.

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.

Sec. 29a. AGENCY OF ADMINISTRATION; EMERGENCY RULES; WORKERS' COMPENSATION; STATE CONTRACTS; COMPLIANCE WITH DAVIS-BACON

(a) The agency of administration shall adopt emergency rules to minimize the incidents of miscoding of employees in NCCI job codes and misclassification of the status of works as independent contractors rather than employees by state contractors on projects with a total project cost of more than $250,000.00 by requiring those contractors to provide all the following:

(1) Detailed information including information relating to past violations, convictions, suspensions, and any other information required by the department. This information shall be included with the project bid.

(2) A list of subcontractors on the job along with lists of the subcontractor's subcontractors.

(3) A payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the department of banking, insurance, securities, and health care administration, upon request.

(4) Any rules adopted to minimize instances of misclassification through enhanced reporting and greater transparency shall not be unduly burdensome on small businesses and may be flexibly designed to account for the size of the contractor and subcontractor.

(b) The agency shall require that any contractor that violates classification requirements shall be prohibited from bidding on future state contracts for a period of time that corresponds to the seriousness of the classification violation.

(c) The agency shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 monies shall comply with the payment of prevailing wages as required by the Davis-Bacon Act. In the event Davis-Bacon wages in any county have not been updated in the previous three years, the applicable Davis-Bacon wage for a state contract shall be that of the Vermont county that has most recently updated its Davis-Bacon wages, where not in contravention with federal requirements.

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.

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.

(e) In fiscal year 2010, the amount of $100,000.00 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 the farm-to-plate investment program established under this section.

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.

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. 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.

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 be repealed on January 15, ~~2010~~ 2012.

(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~~ 2012.

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.

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~~:

(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) ~~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 legislative bodies and 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 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.

(vi) The construction of improvements for any one of the following:

(I) A remedial or removal action for which the secretary of natural resources has authorized disbursement under section 1283 of this title.

(II) Abating a release or threatened release, as directed by the secretary of natural resources under section 6615 of this title.

(III) A remedial or removal action directed by the secretary of natural resources under section 6615 of this title.

(IV) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under section 6615b of this title.

(V) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under subchapter 3 of chapter 159 of this title.

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

(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~~ 25 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~~ 25 percent.

(3) ~~essential~~ public school reconstruction or expansion that does not expand the student capacity of the school by more than ~~10~~ 25 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~~ 25 percent.

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

Sec. 34r. SUNSET

Effective July 1, 2011, each occurrence of "25" in 10 V.S.A. § 6081(d) and (e) is amended to "10". Also effective July 1, 2011, 10 V.S.A. § 6086(d)(5) (exemption for ARRA-funded road and bridge improvements) shall cease to be effective. 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 Sec. 34q of this act.

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.

Sec. 34t. [Deleted]

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 office of the treasurer.

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.

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.

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.

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.

Sec. 35. 10 V.S.A. chapter 165 is added to read:

CHAPTER 165. GENERAL PERMIT AUTHORITY

§ 7500. PURPOSE AND DEFINITIONS

(a) This chapter is intended to provide for the protection of human health and the environment while allowing the secretary to utilize general permits as appropriate to streamline permitting processes and gain administrative efficiencies.

(b) When used in this chapter:

(1) "Agency" means the agency of natural resources.

(2) "Commissioner" means the commissioner of the department or the commissioner's duly authorized representative.

(3) "Department" means the department of environmental conservation.

(4) "General permit" means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire state or a region of the state. For a class or category to be eligible to be placed under a general permit under this chapter, the class or category must meet each of the following:

(A) The discharges, emissions, disposal, facilities, or activities must share the same or substantially similar qualities.

(B) Those qualities must be such that the requirements of statute and rule applicable to the discharges, emissions, disposal, facilities, or activities can be met and human health and the environment protected by imposition of the same or substantially similar permit conditions on the class or category.

(5) "Individual permit" means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(6) "Secretary" means the secretary of the agency or the secretary's duly authorized representative.

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the

purpose of this chapter, the secretary may issue a general permit under the following chapters, as specified, of this title: chapter 23 (air pollution control) for stationary source construction and operation permits; chapter 37 (water resources management) for aquatic nuisance control permits; chapter 41 (regulation of stream flow) for stream alteration permits; chapter 56 (public water supply) for construction permits; and chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

§ 7502. ISSUANCE OF GENERAL PERMITS; PUBLIC PARTICIPATION

(a) When, under section 7501 of this title, the secretary determines to issue a general permit, the secretary shall prepare a proposed general permit and shall provide for public notice of the permit in a manner designed to inform interested and potentially interested persons of the proposed general permit.

(1) Notice of the proposed general permit shall be circulated within each geographic area to which the permit would apply and shall include at least all of the following:

(A) Written notice to the clerk of each municipality within the geographic area.

(B) Written notice to each affected Vermont state agency and such other government agencies as the secretary deems appropriate.

(C) Publication of notice of the proposed permit in a newspaper or newspapers that circulate generally within each geographic area to which the permit would apply.

(D) Posting of notice and a copy of the proposed general permit prominently on the web page of the department.

(E) Mailing of notice and a copy of the proposed general permit to

any individual, group, or organization upon request.

(F) The inclusion in any notice issued under this subsection of a summary of the proposed general permit, including a summary of the activities to which it would apply and its terms and conditions; the deadlines by which comments are to be submitted and a public information meeting requested; the procedure for submitting comments and requesting a public information meeting; the contact information for the agency or department concerning the proposed permit; and a statement of how a copy of the proposed general permit may be obtained.

(2) The secretary shall provide a period of not less than 30 days following the date of publication in a newspaper or newspapers of general circulation during which any person may submit written comments on the proposed general permit.

(b) The secretary shall provide an opportunity for any person, state, province, or country potentially affected by the proposed general permit to request a public informational meeting with respect to the proposed permit.

(1) The deadline for any request under this subsection shall be no earlier than the deadline for submitting written comments set under subdivision (a)(2) of this section. The secretary shall hold an informational meeting if there is a significant public interest in holding a meeting.

(2) The secretary shall provide public notice of any informational meeting in at least the same manner as public notice of the proposed general permit was given under subsection (a) of this section, except that the secretary need not set a new comment deadline or provide, with the notice of the meeting, a copy of the proposed general permit to any person or entity to which the secretary has already provided a copy.

(3) Any person shall be permitted to submit oral or written statements and data concerning the proposed general permit at the informational meeting.

(4) All statements, comments, and data presented at the meeting shall be retained by the secretary and considered in the formulation of the secretary's determinations regarding the final general permit.

(c) Whether or not requested, the secretary may hold a public informational meeting on a proposed general permit at any time prior to final decision on and issuance of the general permit. The provisions of subdivisions (b)(2) through (4) of this section shall apply to such a meeting.

(d) The secretary may finally adopt a general permit following consideration of any written comments submitted on the general permit and any statements, comments, and data presented at a public information meeting

on the permit. Where the secretary decides, in finally adopting a proposed general permit, to overrule substantial arguments and considerations raised for or against the original proposal, the secretary's final adoption of the general permit shall include a responsiveness summary stating the reasons for the secretary's decision.

(e) On final adoption of a general permit, the secretary shall provide notice of the permit's final adoption and an accompanying responsiveness summary in at least the same manner as notice of the proposed general permit was issued under subdivision (a)(1) of this section, except that the secretary need not set or include further deadlines for comment or requesting an informational meeting.

§ 7503. AUTHORIZATION UNDER A GENERAL PERMIT

(a) Any person wishing to discharge, emit, dispose, or operate a facility or engage in activity subject to a general permit under this chapter shall file an application for authorization under the general permit on a form provided by the secretary. Each application shall be accompanied by a fee as specified by section 2822 of Title 3.

(b) For each application under this section, the applicant shall provide notice, on a form provided by the secretary, to the clerk of the municipality in which the discharge, emission, disposal, facility, or activity is located. The applicant shall provide a copy of this notice to the secretary, with such confirmation as the secretary deems adequate to demonstrate that the clerk has received the notice. Following receipt of that confirmation, the secretary shall provide an opportunity of at least ten working days for written comment regarding whether the application complies with the terms and conditions of the general permit under which coverage is sought.

(c) The secretary may grant an application for authorization to discharge, emit, dispose, operate a facility, or engage in activity to which a general permit under this chapter applies only after determining that each of the following applies:

(1) The filings required in subsections (a) and (b) of this section are complete.

(2) The discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit.

(d) The secretary may:

(1) Allow a transfer from one person or entity to another of an authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

(2) Require notification to the secretary for changes to a discharge, emission, disposal, facility, or activity for which authorization has been issued under a general permit under this chapter.

(3) Under the procedures specified in subsection 814(c) of Title 3, revoke or suspend authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

§ 7504. REQUIRING AN INDIVIDUAL PERMIT

The secretary may require any applicant for or permittee authorized under a general permit issued under this chapter to apply for an individual permit. Any interested person may petition the secretary to take action under this section. The secretary may require an individual permit if any one of the following applies:

(1) The discharge, emission, disposal, facility, or activity is a significant contributor of pollution as determined by consideration of each of the following factors:

(A) The location of the discharge with respect to waters of the state of Vermont.

(B) The size and scope of the applicant's or permittee's activities or operation.

(C) The quantity and nature of the pollutants.

(D) Other relevant factors.

(2) The permittee is not in compliance with the terms and conditions of a general permit issued under this chapter.

(3) The application does not qualify for a general permit issued under this chapter.

(4) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of wastes or pollutants applicable to the discharge, emission, disposal, facility, or activity.

(5) Federal requirements have been adopted that conflict with one or more provisions of a general permit issued under this chapter.

§ 7505. REQUIRING AUTHORIZATION UNDER A GENERAL PERMIT

The secretary may require that a discharge, emission, disposal, facility, or activity for which issuance or reissuance of an individual permit is sought be subject to a general permit issued under this chapter if the secretary finds that the discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit and that

authorization of the discharge, emission, disposal, facility, or activity under a general permit will protect human health and the environment.

Sec. 36. REPORT AND SUNSET

(a) On April 1, 2011, and again on April 1, 2014, the secretary of natural resources shall submit a report to the senate committees on natural resources and on economic development, housing and general affairs, the house committees on natural resources and on commerce and economic development, and the governor regarding the implementation, compliance, and enforcement of general permits under chapter 165 of Title 10.

(b) Chapter 165 of Title 10 shall sunset on July 1, 2014; however, the sunset shall not affect any permit granted prior to July 1, 2014 under chapter 165 of Title 10.

Sec. 37. 10 V.S.A. § 8019 is added to read:

§ 8019. ENVIRONMENTAL TICKETING

(a) The secretary and the board each shall have the authority to adopt rules for the issuance of civil complaints for violations of their respective enabling statutes or rules adopted under those statutes that are enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4. Any proposed rule under this section shall include both the full and waiver penalty amounts for each violation. The maximum civil penalty for any violation brought under this section shall not exceed $3,000.00 exclusive of court fees.

(b) A civil complaint issued under this section shall preclude the issuing entity from seeking an additional monetary penalty for the violation specified in the complaint when any one of the following occurs: the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. Notwithstanding this preclusion, the agency and the board may issue additional complaints or initiate an action under chapter 201 of this title, including a monetary penalty when a violation is continuing or is repeated, and may also bring an enforcement action to obtain injunctive relief or remediation and, in such additional action, may recover the costs of bringing the additional action and the amount of any economic benefit the respondent obtained as a result of the underlying violation in accordance with 10 V.S.A. § 8010(b)(7) and (c)(1).

(c) The secretary or board chair and his or her duly authorized representative shall have the authority to amend or dismiss a complaint by so marking the complaint and returning it to the judicial bureau or by notifying the judge at the hearing.

(d) Subsequent to the issuance of a civil complaint under this section and the conclusion of any hearing and appeal regarding that complaint, the

following shall be considered part of the respondent's record of compliance when calculating a penalty under section 8010 of this title:

(1) The respondent's payment of the full or waiver penalty stated in the complaint.

(2) The respondent's commission of a violation after the hearing before the judicial bureau on the complaint.

(3) The respondent's failure to appear or answer the complaint resulting in the entry of a default judgment.

(4) A finding, after appeal, that the respondent committed a violation.

Sec. 38. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(17) Violations of the statutes listed in 10 V.S.A. § 8003, any rules or permits issued under those statutes, and any assurances of discontinuance or orders issued under chapter 201 of Title 10, provided that a rule has been adopted and a civil complaint issued concerning such a violation under 10 V.S.A. § 8019.

* * *

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except ~~that~~:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to section 1979 of Title 24. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall indicate the appropriate full and waiver penalties on the complaint.

Sec. 39. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

* * *

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the state or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the department of motor vehicles, the agency of natural resources, or the natural resources board and presented by the issuing officer or other person shall be admissible without testimony by a representative of the department of motor vehicles, the agency of natural resources, or the natural resources board.

* * *

(e) A state's attorney may dismiss or amend a complaint, except that dismissal or amendment of a complaint subject to subdivision 1102(b)(17) of this title shall be governed by 10 V.S.A. § 8019(c).

(f) The supreme court shall establish rules for the conduct of hearings under this chapter.

Sec. 40. 4 V.S.A. § 1107 is amended to read:

§ 1107. APPEALS

(a) A decision of the hearing officer may be appealed to the district court, except for a decision in a proceeding under subdivision 1102(b)(17) of this title. The proceeding before the district court shall be on the record, or at the option of the defendant, de novo. The defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty and the imposition of points.

(b) ~~If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state and the state's attorney, grand juror or municipal attorney shall represent the municipality~~ A decision of the hearing officer in a proceeding under subdivision 1102(b)(17) of this title may be appealed to the environmental court created under chapter 27 of this title. The proceedings before the environmental court shall be on the record. The defendant shall not have a right to a jury trial. An appeal shall stay the payment of a penalty.

(c) If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state, and the state's attorney, grand juror, or municipal attorney shall represent the municipality. In an appeal to the environmental court from a decision under subdivision 1102(b)(17) of this title, an attorney from the agency of natural resources or the natural resources

board shall represent the state.

(d) No appeal as of right exists to the supreme court. On motion made to the supreme court by a party, the supreme court may allow an appeal to be taken to it from the district court or environmental court.

Sec. 41. 20 V.S.A. § 2063 is amended to read:

§ 2063. CRIMINAL HISTORY RECORD FEES; CRIMINAL HISTORY RECORD CHECK FUND

* * *

(b) Requests made by criminal justice agencies for criminal justice purposes or other purposes authorized by state or federal law shall be exempt from all record check fees. The following types of requests shall be exempt from the Vermont criminal record check fee:

* * *

(5) Requests made by environmental enforcement officers employed by the agency of natural resources.

* * *

Sec. 42. PERMIT EXPEDITING; FEDERAL STIMULUS

(a) Notwithstanding any other provision of law, the following shall apply to an application for a permit, certificate, or other approval to the agency of natural resources, the agency of transportation, an appropriate municipal panel under 24 V.S.A. chapter 117, or a district environmental commission under 10 V.S.A. chapter 151 with respect to a project for municipal, county, or state purposes that will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5:

(1) The application shall be given priority over any other pending application.

(2) An appropriate municipal panel shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 45 days after the adjournment of the hearing, and failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

(3) A district commission shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 90 days after the adjournment of the hearing, and failure of the commission to issue a decision within this period shall be deemed approval and shall be effective on the 91st day.

(b) This section shall be repealed on July 1, 2012.

Sec. 43. EXPIRED PERMITS; FEDERAL STIMULUS

A permit, certificate, or approval that, by operation of law or other means, has lapsed or expired because the project subject to the permit, certificate, or approval has not been constructed shall be deemed effective if all of the following apply:

(1) The project subject to the permit, certificate, or other approval will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

(2) The permit, certificate, or other approval was issued within the five-year period preceding the date this section is enacted by the agency of natural resources, the agency of transportation, a municipality or appropriate municipal panel under 24 V.S.A. chapter 117, a district commission under 10 V.S.A. chapter 151, or an appellate court or other tribunal on appeal from such an agency, municipality, panel, or commission.

(3) No change is proposed to the project as approved by the permit, certificate, or other approval.

Sec. 44. 32 V.S.A. § 5930a(a) is amended as follows:

(a) There is created ~~an economic incentive review board~~ a Vermont economic progress council which shall be attached to the department of economic development for administrative support, including an executive director who shall be appointed by the governor with the advice and consent of the senate, who shall be knowledgeable in subject areas of the ~~board's~~ council's jurisdiction, and hold the status of an exempt state employee, and administrative staff employed in the state classified service. The ~~board~~ council shall consist of 11 members, nine of whom shall be residents of the state appointed by the governor with the advice and consent of the senate. The governor shall appoint residents to the ~~board~~ council who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, state fiscal affairs, property taxation, or entrepreneurial ventures, and shall make appointments to the ~~board~~ council insofar as possible as to provide representation to the various geographical areas of the state and municipalities of various sizes. Members of the ~~board~~ council appointed by the governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms. All ~~board~~ council members' terms shall be four-year terms upon the expiration of their initial terms and ~~board~~ council members may be reappointed to serve successive terms. All terms shall commence on April 1 of each odd-numbered year. The governor shall select a chair from among the ~~board's~~

council 's members. In addition the ~~board~~ council shall include one member selected by the speaker of the house, who shall be a member of the house; and one member selected by the committee on committees of the senate, who shall be a member of the senate. Legislative members shall be voting members. There shall also be two regional members from each region of the state; one shall be designated by the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the ~~board~~ council of applications from their respective regions. For attendance at meetings and for other official duties, appointed members shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that members who are members of the legislature shall be entitled to compensation for services and reimbursement for expenses as provided in section 406 of Title 2. A regional member who does not otherwise receive compensation and reimbursement for expenses from his or her regional development or planning organization shall also be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

Sec. 45. REPEAL AND TRANSITION

(a) Sec. 44 of this act shall take effect upon passage, at which time the economic incentive review board shall be re-named the Vermont economic progress council. The council shall have the responsibilities and authority of the economic incentive review board with respect to administering and monitoring the Vermont employment growth incentives (VEGI) program and the tax increment financing program and property tax allocations under sections 2a through 2h of Act No. 184 of 2005 (Adj. Sess.). The Legislative Council is directed to make necessary revisions to the Vermont Statutes Annotated to reflect the changes made in Secs. 44 and 45 of this act.

Sec. 46. 32 V.S.A. chapter 151 subchapter 11L is added to read:

Subchapter 11L. Research and Development Tax Credit

§ 5930ii. ENHANCEMENT TO THE FEDERAL RESEARCH AND DEVELOPMENT TAX CREDIT

(a) A credit against the income tax liability imposed under this chapter for the taxable year shall be an amount equal to 30 percent of the amount of the federal tax credit received for the same taxable year for eligible research and development expenses under 26 U.S.C. § 41(a).

(b) Any excess credit under this subchapter not used for the taxable year in which the credit is earned may be carried forward for up to ten years.

(c) For purposes of this section, "eligible research and development expenses" means expenditures:

(1) made within the state of Vermont;

(2) that meet the definition contained in 26 U.S.C. § 41(b); and

(3) that have been claimed as eligible expenditures for the same taxable year for a federal tax credit under 26 U.S.C. § 41(a), provided that the taxable year begins on or after January 1, 2010.

Sec. 47. EFFECTIVE DATE

This act shall be effective upon passage.

(For text see House Journal April 16, P. 732; April 17, P. 769)

H. 427

An act relating to miscellaneous amendments to education law.

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

* * * 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. [Deleted]

* * * 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.

(For text see House Journal March 19, P. 425; March 20, P. 432)

H. 431

An act relating to miscellaneous adjustments to the public retirement systems.

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

First: By adding a Sec. 4a to read:

Sec. 4a. 3 V.S.A. § 473(c)(4) is amended to read:

(4)~~(A)~~ Until the unfunded accrued liability~~, excluding the portion described in subdivision (B) of this subdivision (4),~~ is liquidated, the basic accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a period of 30 years from July 1, ~~1988~~ 2008, provided that the amount of each annual basic accrued liability contribution after June 30, ~~1988~~ 2009 shall be five percent greater than the preceding annual basic accrued liability contribution. Any variation in the contribution of normal, basic, unfunded accrued liability or additional unfunded accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the 30-year period.

~~(B) Until the additional unfunded accrued liability created as of July 1, 2008, by the implementation of a group F cost-of-living adjustment equal to the full increase or decrease, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year as provided in subsection 470(b) of this title, is liquidated, the additional accrued liability contribution, shall be the annual payment required to liquidate the additional unfunded accrued liability over a period of 30 years from July 1, 2008, provided that the amount of each annual additional accrued liability contribution made after June 30, 2009 shall be five percent greater than the preceding annual additional~~

~~accrued liability contribution.~~

Second: By adding a Sec. 4b to read:

Sec. 4b. 3 V.S.A. § 479a is amended to read:

§ 479A. STATE EMPLOYEES' POSTEMPLOYMENT BENEFITS ~~PENSION~~ TRUST FUND

(a) ~~An irrevocable~~ A "state employees' postemployment benefits ~~pension~~ trust fund" is hereby created for the purpose of accumulating and providing reserves to support retiree postemployment benefits for members, and to make distributions from the fund for current and future postemployment benefits for retirees, of the Vermont state employees' retirement system, excluding pensions and benefits otherwise appropriated by statute and for the payment of reasonable and proper expenses of administering the fund and related benefit plans. The fund shall not be part of the retirement system, but is intended to comply with and be a tax exempt governmental trust under section 115 of the Internal Revenue Code of 1986, as amended.

(b) Into the state employees' postemployment benefits ~~pension~~ trust fund shall be deposited:

(1) All assets remitted to the state as a subsidy on behalf of the members of the Vermont state employees' retirement system for employer-sponsored qualified prescription drug plans pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003.

(2) Any appropriations by the general assembly ~~to pay toward~~ for the purposes of paying current and future retiree postemployment benefits for members of the Vermont state employees' retirement system.

(3) Amounts contributed or otherwise made available by members of the system or their beneficiaries for the purpose of paying current or future postemployment benefits costs.

(c) The state employees' postemployment benefits ~~pension~~ trust fund shall be administered by the state treasurer. The treasurer may invest monies in the state employees' postemployment benefits ~~pension~~ trust fund in accordance with the provisions of section 434 of Title 32. All balances in the state employees' postemployment benefits ~~pension~~ trust fund at the end of the fiscal year shall be carried forward. Interest earned shall remain in the state employees' postemployment benefits ~~pension~~ trust fund. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the state employees' postemployment benefits ~~pension~~ trust fund.

(d) All funds of the state employees' postemployment benefits trust fund

shall be held in one or more trusts, custodial accounts treated as trusts, or a combination thereof. Contributions to the fund shall be irrevocable and it shall be impossible at any time prior to the satisfaction of all liabilities, with respect to employees and their beneficiaries, for any part of the corpus or income of the fund to be used for, or diverted to, purposes other than the payment of retiree postemployment benefits to members and their beneficiaries and reasonable expenses of administering the fund and related benefit plans.

Third: By adding a Sec. 6a to read:

Sec. 6a. 16 V.S.A. § 1944(c)(4) is amended to read:

(4) Until the unfunded accrued liability is liquidated, the accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a period of 30 years from July 1, ~~2006~~ 2008, provided that the amount of each annual accrued liability contribution after June 30, ~~2006~~ 2009 shall be five percent greater than the preceding annual accrued liability contribution. Any variation in the contribution of normal or unfunded accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the 30-year period.

Fourth: By adding a Sec. 12a to read:

Sec. 12a. 24 V.S.A. § 5064(c)(4) is amended to read:

(4) For each actuarial valuation completed on or after July 1, 2009, the accrued liability contribution rate shall be computed for each membership group based on the actuarial assumptions and methodology adopted by the retirement board as the rate percent of the earnable compensation of the employees in such membership group which, if applied to expected future earnings of current and future employees of such membership group, would be expected to liquidate the membership group's unfunded accrued liability on or before June 30, ~~2018~~ 2038. The product of a membership group's accrued liability rate and its total earnable compensation shall be referred to as that membership group's "accrued liability contribution."

(No House Amendments)

H. 435

An act relating to palliative care.

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

* * * 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 including pain relief, 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 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.

(For text see House Journal March 27, P. 492)