No. 53. An act relating to boards and commissions.

(H.125)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Government Accountability Committee * * *

Sec. 1. REPEAL OF GOVERNMENT ACCOUNTABILITY COMMITTEE

2 V.S.A. chapter 28 (Government Accountability Committee) is repealed.

Sec. 2. GOVERNMENT ACCOUNTABILITY; LEGISLATIVE INTENT

It is the intent of the General Assembly that the House Committee on Government Operations and Military Affairs and Senate Committee on Government Operations should reexamine the principle of government accountability with a focus on how evidence is used to inform policy, how information is publicly conveyed, and the Committees should propose statutory amendments as needed to accomplish these goals.

Sec. 2a. GOVERNMENT ACCOUNTABILITY; SUMMER GOVERNMENT ACCOUNTABILITY COMMITTEE; REPORT

(a) Creation. There is created the Summer Government Accountability Committee to reexamine the principle of government accountability in the Legislative Branch.

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

(1) four current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House; and

(2) four current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Summer Government Accountability Committee shall consider the issue of accountability in the Legislative Branch, including the following:

(1) ways to ensure that the Legislative Branch is accountable to the people of Vermont by creating new processes and metrics by which to measure accountability;

(2) ways to ensure equity in pay across commissions, boards, and joint legislative committees based on the nature of the service and required skill level;

(3) ways to ensure equitable participation on boards and commissions and in any public engagement process mandated by the State or General Assembly by providing appropriate compensation and material support; and

(4) codifying mechanisms for controlling and restraining the increasing number of commissions, boards, and joint legislative committees.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Summer Government Accountability Committee shall have the assistance of the Office of Legislative Operations and the Office of Legislative Counsel.

(e) Report. On or before January 15, 2024, the Summer Government Accountability Committee shall report to the House Committee on

Government Operations and Military Affairs and the Senate Committee on Government Operations with any recommendations for legislative action.

(f) Meetings.

(1) A member of the House of Representatives designated by the Speaker of the House shall call the first meeting of the Summer Government Accountability Committee to occur on or before July 1, 2023.

(2) The Summer Government Accountability Committee shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Summer Government Accountability Committee shall constitute a quorum.

(4) The Summer Government Accountability Committee shall cease to exist on November 1, 2024.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, the members of the Summer Government Accountability Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

* * * State Boards and Commissions Registry * * *

Sec. 3. 3 V.S.A. § 116a is amended to read:

§ 116a. STATE BOARDS AND COMMISSIONS REGISTRY

* * *

(c) As used in this section, "State board or commission" means a professional or occupational licensing board or commission, advisory board or commission, appeals board, promotional board, interstate board, supervisory board or council, or any other similar entity that:

(1) is created by State law~~, by federal law and contains State appointees, or by executive order~~;

(2) is established as or is attached to an Executive Branch entity;

(3) has statewide jurisdiction or carries out a State function; and

(4) is not composed of members appointed exclusively by regional, county, or municipal entities.

* * * Vermont Pension Investment Commission * * *

Sec. 4. 3 V.S.A. § 522 is amended to read:

§ 522. VERMONT PENSION INVESTMENT COMMISSION

* * *

(h) Compensation and reimbursements. Members and alternates of the Commission who are not public employees shall be entitled to per diem compensation as ~~set forth~~ permitted in 32 V.S.A. § 1010 and reimbursement for all necessary expenses that they may incur through service on the Commission from the funds of the retirement systems. The Chair of the Commission may be compensated from the funds at a level ~~not to exceed one-third of the salary of the State Treasurer,~~ as ~~determined~~ recommended by the

other members of the Commission and approved through the State budget process.

(i) Assistance and expenses.

(1) ~~The Commission shall have the administrative and technical support of the Office of the State Treasurer.~~

~~(2)~~ The Commission may collect proportionally from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title, any expenses incurred that are associated with carrying out its duties, and any expenses incurred by the Treasurer's office in support of the Commission.

~~(3)~~(2) The Attorney General shall serve as legal advisor to the Commission.

* * * Commission on Women Quorum * * *

Sec. 4a. 3 V.S.A. § 5025 is amended to read:

§ 5025. THE COMMISSION ON WOMEN

* * *

(e) ~~Nine members~~ A majority of the currently appointed members of the Commission shall constitute a quorum ~~of the Commission~~. Once a quorum has been established, the vote of a majority of the members present at the time of the vote shall be an act of the Commission.

* * *

* * * Repeal of Agricultural Finance Program Advisory Panel * * *

Sec. 5. 10 V.S.A. § 213 is amended to read:

§ 213. AUTHORITY; ORGANIZATION

(a) The Vermont Economic Development Authority is hereby created and established as a body corporate and politic and a public instrumentality of the State. The exercise by the Authority of the powers conferred upon it in this chapter constitutes the performance of essential governmental functions.

* * *

(d) ~~The Authority shall establish the Agricultural Finance Program Advisory Panel of five members, consisting of two present members of the Authority and three members, who shall be residents of the State of Vermont, selected by the Chair of the Authority. A quorum shall consist of three members. The Panel may act by majority vote of the members present and voting. The Panel shall review the preliminary disposition of applications for loans submitted under the agricultural finance programs of chapter 16 of this title, when so requested by the applicant or by the manager of the Authority. If the Panel determines that an application should be submitted to the members, or if the Panel is in disagreement about the appropriate disposition of an application, the application and the panel's recommendation shall be submitted to the Authority at its next regularly scheduled meeting. The Advisory Panel shall also provide advice to the Authority regarding the policies, practices and procedures for the operation of the agricultural programs.~~ [Repealed.]

(e) Appointed members of the Authority ~~and the Advisory Panel~~ shall be compensated at the rate of $50.00 a day for time spent in the performance of their duties and they shall be reimbursed for necessary expenses incurred in the performance of their duties.

* * *

* * * Repeals of Coalition for Healthy Activity, Motivation, and Prevention Programs (CHAMPPS) and Fit and Healthy Advisory Council * * *

Sec. 6. REPEAL OF COALITION FOR HEALTHY ACTIVITY, MOTIVATION, AND PREVENTION PROGRAMS (CHAMPPS)/FIT AND HEALTHY ADVISORY COUNCIL

18 V.S.A. § 11 (Coalition for Healthy Activity, Motivation, and Prevention Programs (CHAMPPS)/Fit and Healthy Advisory Council) is repealed.

* * * Repeal of Birth Information Network Advisory Committee * * *

Sec. 7. 18 V.S.A. chapter 20 is amended to read:

CHAPTER 20. BIRTH INFORMATION NETWORK

§ 991. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

* * *

(h) The Department of Health shall develop a form that contains a description of the Birth Information Network and the purpose of the Network. The form shall include a statement that the parent or guardian of a child may contact the Department of Health and have ~~his or her~~ the child's personally

identifying information removed from the Network~~, using a process developed by the Advisory Committee~~.

* * *

§ 993. ~~ADVISORY COMMITTEE~~

~~The Commissioner of Health shall appoint an advisory committee to comment on the effectiveness of the Birth Information Network and to gather information about funding opportunities. The Advisory Committee shall be composed of representatives from the primary organizations involved in Network data collection and use.~~ [Repealed.]

* * * Repeal of Board of Health; Conforming Revisions * * *

Sec. 8. 3 V.S.A. § 3003(b) is amended to read:

(b) ~~Notwithstanding subsection (a) of this section, the Board of Health shall retain and exercise all powers and functions given to the Board by law of quasi-judicial nature, including the power to conduct hearings, to adjudicate controversies, and to issue and enforce orders, in the manner and to the extent provided by law. Boards of registration attached to this Agency shall retain and exercise all existing authority with respect to licensing and maintenance of the standards of the persons registered.~~ [Repealed.]

Sec. 9. 6 V.S.A. § 499(a) is amended to read:

(a) This chapter shall not be construed to limit in any way the powers of the ~~State Board~~ Department of Health with regard to the regulation of food and

drink and the standards, adulteration, misbranding, and misrepresentation thereof.

Sec. 10. 6 V.S.A. § 1083(a) is amended to read:

(a) The Secretary of Agriculture, Food and Markets shall personally or through ~~his or her~~ the Secretary's duly authorized agents:

* * *

(4) Make the results of ~~his or her~~ the Secretary's surveys, investigations, and studies available to the ~~State Board~~ Department of Health, selectboard members, or mayors of towns or cities, as the case may be, in which work was done; also upon request, to any organizations, public or private, or individuals interested in mosquito or other biting arthropod control work.

Sec. 11. 8 V.S.A. § 3301(e) is amended to read:

(e) The provisions of this title relating to the regulation of the business of insurance shall not apply to activities engaged in by ambulance services and first responder services for which they are licensed by the ~~Board~~ Department of Health pursuant to 24 V.S.A. chapter 71.

Sec. 12. 9 V.S.A. § 2823 is amended to read:

§ 2823. ENFORCEMENT BY ~~STATE BOARD~~ COMMISSIONER OF HEALTH; REGISTRATION OF BRANDS AND LABELS

The ~~State Board~~ Commissioner of Health shall enforce the provisions of this chapter, and may approve and register such brands and labels intended for use under the provisions of this chapter as may be submitted to ~~it~~ the

Commissioner for that purpose and as may in ~~its~~ the Commissioner's judgment conform to the requirements of this chapter. However, in any prosecution under this chapter, the fact that any brand or label involved in such prosecution has not been submitted to ~~such State Board~~ the Commissioner of Health for approval, or if submitted, has not been approved by ~~it~~ the Commissioner, shall be immaterial.

Sec. 13. 10 V.S.A. § 905b is amended to read:

§ 905b. DUTIES; POWERS

The Department shall protect and manage the water resources of the State in accordance with the provisions of this subchapter and shall:

* * *

(16) Assist municipalities in the development of water supplies and in the construction of facilities for storage, distribution, and treatment of potable water supplies and approve all plans for the construction of such facilities~~, provided that plans shall also be approved by the State Board of Health prior to construction~~. The Department may provide planning and engineering assistance as requested in matters relating to preliminary surveys, studies and plans, if such assistance is not otherwise available~~, except that the Department's authority shall not infringe on the duties of the State Board of Health or local health officials with respect to quality of domestic water supplies~~.

* * *

(20) ~~Cooperate with the State Board of Health in matters of stream pollution where public health is involved.~~ [Repealed.]

* * *

Sec. 14. 10 V.S.A. § 1672 is amended to read:

§ 1672. AUTHORITY OF THE AGENCY OF NATURAL RESOURCES

* * *

(c) Nothing in this chapter is intended to limit the authority of the Agency of Human Services~~,~~ or the Commissioner of Health~~, or the Board of Health~~ to manage the public health of the State of Vermont. In adopting rules pursuant to this section, the Secretary shall submit the proposed rules to the Secretary of Human Services at least 30 days before filing them with the Secretary of State under 3 V.S.A. chapter 25.

* * *

(e) Nothing in this chapter is intended to limit or supersede the authority of ~~the Board of Health,~~ the Commissioner of Health, or local health officers under Title 18.

* * *

Sec. 15. 10 V.S.A. § 1976(c) is amended to read:

(c) ~~Notwithstanding 24 V.S.A. § 3633(d), municipal ordinances relating to sewage systems, which ordinances were approved before July 1984 under 18 V.S.A. § 613 by the Board of Health, and those approved before July 1984 by~~

~~the Commissioner of Health, shall remain in effect unless superseded.~~

[Repealed.]

Sec. 16. 10 V.S.A. § 6081(b) is amended to read:

(b) ~~Subsection (a) of this section shall not apply to a subdivision exempt under the regulations of the Department of Health in effect on January 21, 1970 or any subdivision which has a permit issued prior to June 1, 1970 under the Board of Health regulations, or has pending a bona fide application for a permit under the regulations of the Board of Health on June 1, 1970, with respect to plats on file as of June 1, 1970 provided such permit is granted prior to August 1, 1970. Subsection (a) of this section shall not apply to development which is not also a subdivision, which has been commenced prior to June 1, 1970, if the construction will be completed by March 1, 1971. Subsection (a) of this section shall not apply to a State highway on which a hearing pursuant to 19 V.S.A. § 222 has been held prior to June 1, 1970. Subsection (a) of this section shall not apply to any telecommunications facility in existence prior to July 1, 1997, unless that facility is a "development" as defined in subdivision 6001(3) of this title. Subsection (a) of this section shall apply to any substantial change in such excepted subdivision or development.~~ [Repealed.]

Sec. 17. 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:

* * *

(1) "Department" means the Department of Health.

(2) ~~"Board" means the State Board of Health.~~ [Repealed.]

* * *

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

§ 4. AGENCIES AND EMPLOYEES

The Commissioner~~, with the approval of the Board,~~ may set up such departmental agencies, to be known as divisions, as may be needed to effect the full purpose of the consolidation herein made, and to make the service rendered by the Department of the highest possible efficiency, and may employ such division directors, such institution superintendents and personnel, and such clerical assistants, not otherwise authorized by law, as may be needed to maintain proper operation of the several departments and functions herein consolidated, and may, subject to the approval of ~~the Board and~~ the Commissioner of Human Resources, fix the compensation and expense allowance of such employees.

Sec. 19. 18 V.S.A. § 6 is amended to read:

§ 6. INTERFERING WITH ~~STATE BOARD OF HEALTH OR~~ HEALTH OFFICERS; PENALTY

A person who in any way interferes with ~~a member of the Board,~~ a local health officer~~,~~ or the director, chemist, or inspectors of the State laboratory~~,~~ in the performance of their duties under this title~~,~~ shall be fined not more than $50.00 for the first offense and, for each subsequent offense, shall be fined $100.00.

Sec. 20. 18 V.S.A. § 8 is amended to read:

§ 8. PROSECUTIONS; PENALTIES

The State's Attorney to whom the ~~Board~~ Commissioner of Health reports a violation of this title shall cause proceedings to be commenced and prosecution in the proper court without delay~~,~~ for the enforcement of penalties as in such case provided.

Sec. 21. 18 V.S.A. chapter 3 is redesignated to read:

CHAPTER 3. ~~STATE BOARD~~ DEPARTMENT OF HEALTH; COMMISSIONER OF HEALTH

Sec. 22. REPEAL OF STATE BOARD OF HEALTH, APPOINTMENT AND QUALIFICATION

18 V.S.A. § 101 (State Board of Health, Appointment and Qualification) is repealed.

Sec. 23. 18 V.S.A. § 102 is amended to read:

§ 102. DUTIES OF ~~BOARD~~ COMMISSIONER OF HEALTH

The ~~Board~~ Commissioner shall supervise and direct the execution of all laws vested in the Department of Health by virtue of this title, and shall formulate and carry out all policies relating thereto, and shall adopt such rules as are necessary to administer this title and shall make a biennial report with recommendations to the Governor and to the General Assembly. ~~The Board may delegate such powers and assign such duties to the Commissioner as it may deem appropriate and necessary for the proper execution of provisions of this title. The authority of the Board to adopt the rules shall extend to all matters relating to the preservation of the public health and consistent with the duties and responsibilities of the Board.~~ The ~~Board's~~ Commissioner's jurisdiction over sewage disposal includes emergent conditions ~~which~~ that create a risk to the public health as a result of sewage treatment and disposal, or its effects on water supply, but does not include rulemaking on design standards for on-site sewage disposal systems.

Sec. 24. REPEAL OF MEETINGS OF BOARD; PER DIEM; EXPENSES

18 V.S.A. § 103 (meetings of Board; per diem; expenses) is repealed.

Sec. 25. REPEAL OF DELEGATION OF DUTIES BY BOARD THROUGH COMMISSIONER

18 V.S.A. § 106 (delegation of duties by Board through Commissioner) is repealed.

Sec. 26. 18 V.S.A. § 108 is amended to read:

§ 108. WATER SUPPLY; SANITATION

When requested, or when, in ~~it's~~ the Commissioner's opinion, it is necessary, the ~~Board~~ Commissioner shall advise with municipal officers in regard to drainage, water supply, and sewerage of towns and villages and in regard to the erection, construction, heating, ventilation, and sanitary arrangements of public buildings.

Sec. 27. 18 V.S.A. § 109 is amended to read:

§ 109. ~~BOARD~~ THE COMMISSIONER EXERCISING POWERS OF LOCAL BOARD OF HEALTH OR HEALTH OFFICER

~~In its discretion the Board~~ The Commissioner, in the Commissioner's discretion, may exercise all the powers and authority, in each town and village, ~~which~~ that is given to a local health officer or board of health. ~~The Commissioner may likewise exercise all the power and authority of a local health officer throughout the State.~~

Sec. 28. REPEAL OF REPORTS BY COMMISSIONER

18 V.S.A. § 110 (report by Commissioner) is repealed.

Sec. 29. 18 V.S.A. § 111 is amended to read:

§ 111. FORMS FOR REPORTS OF INFECTIOUS AND CONTAGIOUS DISEASES

The ~~Board~~ Commissioner shall devise and furnish health officers suitable forms upon which to make reports of infectious and contagious diseases. ~~It~~

The Commissioner shall also devise and furnish forms for physicians to report to health officers.

Sec. 30. 18 V.S.A. § 112 is amended to read:

§ 112. CIRCULARS OF INFORMATION

The ~~Board~~ Department shall prepare and distribute to local boards of health, physicians, and other persons such printed circulars as it deems necessary and such rules as the ~~Board~~ Department may adopt and~~, upon request of the Board,~~ the Commissioner thereof shall give information relative to the cause and prevention of disease and directions as to modes of management, quarantine, and means of prevention of contagious and infectious diseases.

Sec. 31. 18 V.S.A. § 113 is amended to read:

§ 113. SERVICES AND EXPENDITURES; COOPERATION WITH OTHER AGENCIES; ATTENDANCE UPON MEETINGS

The ~~Board~~ Commissioner may perform such services and incur such expenditures as ~~it~~ the Commissioner deems necessary for the protection of the public health~~,~~ and may cooperate with health agencies of other states and countries~~; and a committee of the Board may attend meetings of health authorities outside the State~~.

Sec. 32. 18 V.S.A. § 116 is amended to read:

§ 116. MOTHER AND CHILD HEALTH SERVICE; TRAINING OF NURSES AND WORKERS

(a) The ~~Board~~ Commissioner shall continue the existing health service for mothers and children established in a manner harmonious with Parts One and Two of Title V of the Act of Congress approved August 14, 1935 and entitled Social Security Act and shall continue its existing health service for children with physical disabilities.

(b) The ~~Board~~ Commissioner may pay for the graduate training of public health nurses and other professional health department workers whom ~~it~~ the Department employs.

Sec. 33. 18 V.S.A. § 120 is amended to read:

§ 120. CONTRACT FOR PAYMENT OF CERTAIN HEALTH BENEFITS

The ~~Board of Health~~ Commissioner may contract with a private organization to process the payment of in-patient hospital care, and physician, radiological, and other medical costs related thereto under the maternal, child health, and children with physical disabilities' plans of the Department of Health. Such a contract shall provide for cancellation upon reasonable notification by the ~~Board~~ Commissioner. In furtherance of the purposes of the contract, the ~~Board~~ Commissioner may requisition funds, with the approval of the Governor, and the Commissioner of Finance and Management shall issue ~~his or her~~ a warrant in favor of the contracting party to permit the contracting party to make payments to vendors under the contract. The ~~Board~~ Commissioner shall quarterly, and at such other times as the Commissioner of Finance and Management requires, render an account in such form as the

Commissioner of Finance and Management prescribes of the expenditures of monies so advanced.

Sec. 34. 18 V.S.A. § 128 is amended to read:

§ 128. APPEAL

(a) Any person aggrieved by an act, decision, or order of the Commissioner, local board of health, or selectboard pursuant to this title may appeal within 30 days to the ~~Board within 30 days~~ Superior Court of the county in which such person resides or maintains a place of business. ~~Hearings by the Board under this section shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested cases (the Administrative Procedure Act).~~ The ~~Board~~ court shall consider the matter de novo, and all persons and parties in interest, as determined by ~~Board~~ court rule, may appear and be heard. ~~The Board shall issue an order within 30 days following the conclusion of the hearing.~~

(b) An appeal from the decision of the ~~Board~~ Superior Court shall be to the Vermont Supreme Court.

Sec. 35. 18 V.S.A. § 129 is amended to read:

§ 129. STAY

An appeal filed pursuant to section 128 of this title shall not stay the effectiveness of the order appealed from unless ~~the Board or~~ the Court~~, as appropriate,~~ otherwise orders.

Sec. 36. 18 V.S.A. § 201 is amended to read:

§ 201. CANCER CONTROL; TUMOR CLINICS

The ~~Board~~ Commissioner shall establish, organize, and conduct a statewide cancer control program and may organize and conduct tumor clinics or cooperate with and subsidize hospital or locally organized tumor clinics in such parts of the State as ~~such Board~~ the Commissioner may deem most advantageous for the public health. In so far as is practicable, the ~~Board~~ Commissioner shall conduct a professional and lay educational program in regard to the early diagnosis, care, and cure of cancer.

Sec. 37. 18 V.S.A. § 202 is amended to read:

§ 202. CLINICAL CARE OF CANCER PATIENTS; STATE AID

The ~~Board~~ Commissioner may furnish clinical care or diagnostic procedures for persons with cancer or suspicion of cancer. The ~~Board~~ Commissioner may grant State aid for the care of persons who have cancer or suspicion of cancer and are without means of providing for themselves adequate care as required by their condition, provided that the aid so granted shall not, in any individual case, exceed one-half the total bill. Notwithstanding any provisions of law to the contrary, the names of persons receiving aid under this section shall not be printed in any public report, and the ~~State Board of Health~~ Commissioner shall fix the maximum amount to be paid in any given case not to exceed $500.00 in any patient year.

Sec. 38. 18 V.S.A. § 203 is amended to read:

§ 203. CONTRIBUTIONS

The ~~Board~~ Commissioner is authorized to receive voluntary contributions for the purposes of this chapter and of section 116 of this title from any source other than the State Treasury and any sums allotted to and received by the State or the ~~Board~~ Commissioner from the federal government for such purposes and to administer and expend the same for the purposes specified.

Sec. 39. 18 V.S.A. § 301 is amended to read:

§ 301. PROGRAM OF DENTAL HEALTH ESTABLISHED

The ~~State Board of Health~~ Commissioner shall maintain a statewide program of dental health.

Sec. 40. 18 V.S.A. § 302 is amended to read:

§ 302. DENTAL EDUCATIONAL PROGRAM

The ~~Board, through its Dental Health Division,~~ Commissioner shall cooperate with the dental profession in any educational programs for the purpose of improving the dental health of the people of the State.

Sec. 41. 18 V.S.A. § 303 is amended to read:

§ 303. COMMUNITY DENTAL PROGRAMS

The ~~Board~~ Commissioner may advise with communities in the establishment of community dental programs. This shall be done in cooperation with the representatives of the dental profession in any given area.

Sec. 42. 18 V.S.A. § 304 is amended to read:

§ 304. RULES AND PROCEDURES; PERSONNEL

The ~~Board~~ Commissioner may adopt such rules and procedures and employ such personnel as are necessary to carry out the purposes of this subchapter.

Sec. 43. 18 V.S.A. § 305 is amended to read:

§ 305. FEDERAL FUNDS AND OTHER CONTRIBUTIONS

The ~~Board~~ Commissioner is authorized to receive for the purpose of this subchapter voluntary contributions from any source whatever and any sums from the federal government and to administer the same.

Sec. 44. 18 V.S.A. § 501 is amended to read:

§ 501. STATE HEALTH LABORATORY; OTHER LABORATORIES; TESTS

The ~~Board~~ Commissioner shall have supervision and management of the Vermont State health laboratory. The ~~Board~~ Commissioner may provide for approval and registration of laboratories performing examinations or tests of a public health nature. Any laboratory that examines material for any living agent or evidence of living agent of a reportable disease to any person shall send the results of such tests, if positive, forthwith to the State health laboratory. The laboratory shall make chemical and bacteriological examination of water supplies, milk, and food products and examinations for the detection and control of communicable diseases~~;~~ and shall carry on such

work in relation to the health of the residents of the State as the ~~Board~~ Commissioner shall direct.

Sec. 45. 18 V.S.A. § 501b(c) is amended to read:

(c) A ~~person~~ certificate holder may appeal the suspension or revocation of the certificate to the ~~Board under section 128 of this title~~ Superior Court of the county in which the certificate holder is located.

Sec. 46. 18 V.S.A. § 502 is amended to read:

§ 502. SCHOOL OF INSTRUCTION; PERIODICALS

The ~~Board~~ Commissioner may conduct a school of instruction for health officers at such times and places as ~~it~~ the Commissioner directs. ~~It~~ The Commissioner may issue a periodical giving the results of the work done at the laboratory and the approved methods for the protection of the public health, and such publications shall be furnished free to health officers and residents of the State.

Sec. 47. 18 V.S.A. § 507 is amended to read:

§ 507. CONTRACT FOR SERVICES OF THE CHIEF MEDICAL EXAMINER

The ~~State Board~~ Commissioner of Health may contract with any person, institution, or State department for the performance of any or all of the duties of the Chief Medical Examiner. Such services shall be paid for from the biennial budget of the Department of Health.

Sec. 48. 18 V.S.A. § 608 is amended to read:

§ 608. INSPECTION OF SCHOOLHOUSES AND PUBLIC BUILDINGS

The health officer, under the direction of the ~~Board~~ Commissioner, shall make a sanitary survey of each schoolhouse, all school lunch facilities, and any building used for public purposes~~,~~ and annually in the month of February report to the ~~Board,~~ Commissioner and to the city council or the annual town meeting, as the case may be.

Sec. 49. 18 V.S.A. § 1042 is amended to read:

§ 1042. RECORD OF CASES; INSTRUCTIONS

The Commissioner shall keep an accurate record of cases reported as provided in sections 1007 and 1041 of this title~~, and the same shall not be published, but shall be kept by the Board for such purposes as are necessary in the discharge of its duties~~. Upon being notified of a case mentioned in sections 1007 and 1041 of this title, the ~~Board~~ Commissioner shall take such action as ~~it~~ the Commissioner deems necessary for the protection of the public and the individual's health.

Sec. 50. 18 V.S.A. § 1043 is amended to read:

§ 1043. INVESTIGATION; EDUCATIONAL CAMPAIGN, REPORT

The ~~Board~~ Commissioner shall investigate the prevalence and extent of tuberculosis and other chronic respiratory diseases in the State~~,~~ and shall adopt and make use of means for educating the people of the State in respect to the causes and nature of these diseases, means for their prevention and treatment,

and in respect to the best method of preventing and limiting the prevalence of these diseases. Such educational campaign shall be carried on in such manner as the ~~Board~~ Commissioner deems proper to disseminate the facts in regard to these diseases.

Sec. 51. 18 V.S.A. § 1051 is amended to read:

§ 1051. TUBERCULOSIS TREATMENT FACILITIES

The Commissioner shall approve facilities in the State where indigent persons may be treated for tuberculosis under this subchapter. The Commissioner ~~and the Board of Health~~ shall determine to ~~their~~ the Commissioner's satisfaction that all such facilities furnish adequate and proper tuberculosis treatment. Treatment for other chronic respiratory diseases under this subchapter may be given at any accredited hospital.

Sec. 52. 18 V.S.A. § 1091 is amended to read:

§ 1091. VENEREAL DISEASES; DEFINITIONS

~~In~~ As used in this subchapter, unless the context requires otherwise:

(1) "Authoritative source" means a physician licensed in the State, superintendent of a State institution or private hospital, medical officers of the armed forces of the State or United States, State and territorial health officers, and personnel of the Department of Health designated by the ~~Board~~ Commissioner of Health.

* * *

Sec. 53. 18 V.S.A. § 1093 is amended to read:

§ 1093. EXAMINATION AND REPORT

Whenever the ~~Board~~ Commissioner shall receive information from an authoritative source to the effect that a person is suspected of being infected with an infectious venereal disease and is likely to infect or to be the source of infection of another person, ~~such Board~~ the Commissioner shall cause a medical examination to be made of such person, for the purpose of ascertaining whether or not such person is in fact infected with such disease in a communicable stage, and such person shall submit to such examination and permit specimens of blood or bodily discharges to be taken for laboratory examinations as may be necessary to establish the presence or absence of such disease or infection, and such person may be detained until the results of such examinations are known. The required examination shall be made by a physician licensed to practice in this State, or a licensed physician designated by the person to be examined. Such licensed physician making such examination shall report thereon to the ~~Board~~ Commissioner and to the person examined.

Sec. 54. 18 V.S.A. § 1097 is amended to read:

§ 1097. EDUCATIONAL CAMPAIGN

The ~~Board~~ Commissioner shall conduct an educational campaign of methods for the prevention and treatment and care of persons who have venereal diseases.

Sec. 55. 18 V.S.A. § 1098 is amended to read:

§ 1098. EXAMINATION AND TREATMENT BY BOARD

The ~~Board~~ Commissioner shall provide at the expense of the State facilities for the free laboratory examination of material from suspected cases of venereal disease, and shall furnish hospitalization and other accredited specific treatment at cost or free to such clinical patients as the ~~Board~~ Commissioner shall deem entitled to such aid. Payment for diagnosis and treatment shall not be furnished until the report required by section 1093 of this title has been made. The ~~Board~~ Commissioner shall include, in bulletins or circulars distributed by ~~it~~ the Department, information concerning such diseases.

Sec. 56. 18 V.S.A. § 1099 is amended to read:

§ 1099. REPORTS AND RECORDS CONFIDENTIAL

All information and reports in connection with persons who have venereal diseases shall be regarded as absolutely confidential and for the sole use of the ~~Board~~ Department in the performance of ~~its~~ the Commissioner's duties ~~hereunder~~ under this chapter, and such records shall not be accessible to the public nor shall such records be deemed public records~~;~~, and the ~~Board~~ Commissioner shall not disclose the names or addresses of persons so reported or treated except to a prosecuting officer or in court in connection with a prosecution under section 1105 or 1106 of this title. The foregoing shall not constitute a restriction on the ~~Board~~ Commissioner in the performance of ~~its~~ the Commissioner's duties in controlling these communicable diseases.

Sec. 57. 18 V.S.A. § 1100 is amended to read:

§ 1100. RULES

The ~~Board~~ Commissioner shall make and enforce such rules for the quarantining and treatment of cases of venereal disease reported to ~~it~~ the Commissioner as may be deemed necessary for the protection of the public.

Sec. 58. 18 V.S.A. § 1101 is amended to read:

§ 1101. REPORTS BY PUBLIC INSTITUTIONS

The superintendent or other officer in charge of public institutions such as hospitals, dispensaries, clinics, homes, psychiatric hospitals, and charitable and correctional institutions shall report promptly to the ~~Board~~ Commissioner the name, sex, age, nationality, race, marital state, and address of every patient under observation who has venereal diseases in any form, stating the name, character, stage, and duration of the infection, and, if obtainable, the date and source of contracting the same.

Sec. 59. 18 V.S.A. § 1102 is amended to read:

§ 1102. TAKING BLOOD SAMPLES

A practitioner of medicine and surgery or osteopathy attending a pregnant ~~woman~~ individual shall take samples of blood of such ~~woman~~ individual, if possible prior to the third month of gestation, and submit the same to a laboratory approved by the ~~Board~~ Commissioner for a standard serological test for syphilis. Every other person permitted by law to take blood tests shall similarly cause a sample of blood of a pregnant ~~woman~~ individual attended by

~~him or her~~ the person to be taken by a duly licensed practitioner of medicine and surgery or osteopathy and submit it to a laboratory approved by the ~~Board~~ Commissioner for a standard serological test for syphilis.

Sec. 60. 18 V.S.A. § 1104 is amended to read:

§ 1104. SEROLOGICAL TEST, DEFINITION

A standard serological test shall be a test for syphilis approved by the ~~Board~~ Commissioner and shall be performed on request by the State laboratory or at a laboratory approved for this purpose by the ~~Board~~ Commissioner.

Sec. 61. 18 V.S.A. § 1221 is amended to read:

§ 1221. MUNICIPAL WATER TREATMENT PLANTS

If, after public hearing ~~it~~ the Commissioner of Health finds that any public water supply is or is likely to be contaminated, or if waters designated as Class A by 10 V.S.A. § 1253 are reclassified by order of the Secretary of Natural Resources, the ~~Board of Health~~ Commissioner shall order the municipality or person using or supplying such public water supply to construct and install filtration and disinfection facilities to protect the public health or convert to a new source of public water supply. Any such order shall specify a reasonable time schedule for such construction or conversion and shall specify any interim measures necessary for the protection of the public health.

Sec. 62. 18 V.S.A. § 1415 is amended to read:

§ 1415. DIVISION OF OCCUPATIONAL HEALTH

To implement the policy of the State expressed in 21 V.S.A. § 201, and to continue the functions of the Division of Industrial Hygiene, there is created within the Department of Health the Division of Occupational Health, which shall be administered by the Director of Occupational Health under direction and control of the Commissioner of Health ~~and the State Board of Health~~. The Division is the successor to and a continuation of the Division of Industrial Hygiene.

Sec. 63. 18 V.S.A. § 1417 is amended to read:

§ 1417. FUNCTIONS AND DUTIES OF DIVISION

The Division of Occupational Health shall:

* * *

(2) study occupational health hazards and occupational diseases and procedures necessary for their control or prevention, and recommend necessary rules for such control or prevention to the ~~Board~~ Commissioner of Health and the Secretary of Human Services;

* * *

(4) investigate health hazards in places of employment that cause ill health or occupational disease, or may be suspected of doing so, and recommend rules to the ~~Board~~ Commissioner of Health and the Secretary of Human Services for the control or elimination of the health hazards;

* * *

Sec. 64. 18 V.S.A. § 1621 is amended to read:

§ 1621. ~~BOARD~~ COMMISSIONER OF HEALTH; DUTIES

The ~~State Board~~ Commissioner of Health shall formulate and keep current a radiation incident plan for this State~~,~~ in accordance with the duty assumed pursuant to article III(a) of the compact.

Sec. 65. 18 V.S.A. § 1801 is amended to read:

§ 1801. DEFINITIONS

As used in this chapter:

(1) ~~"Board" means the State Board of Health.~~ [Repealed.]

* * *

Sec. 66. 18 V.S.A. § 1802 is amended to read:

§ 1802. POWERS OF ~~STATE BOARD~~ COMMISSIONER OF HEALTH

The ~~Board~~ Department shall constitute the sole agency of the State for the purpose of:

(1) making an inventory of existing hospitals and medical facilities, surveying the need for construction of hospitals and medical facilities, and developing a program of construction as provided in sections 1805–1807 of this title; and

* * *

Sec. 67. 18 V.S.A. § 1803 is amended to read:

§ 1803. GENERAL POWERS AND DUTIES OF ~~STATE BOARD~~ COMMISSIONER OF HEALTH

In carrying out the purposes of this chapter, the ~~Board~~ Commissioner is authorized and directed:

* * *

Sec. 68. 18 V.S.A. § 1805 is amended to read:

§ 1805. SURVEY AND PLANNING ACTIVITIES

The ~~Board~~ Commissioner is authorized and directed to make an inventory of existing hospitals and medical facilities, including public, nonprofit, and proprietary hospitals and medical facilities~~,~~; to survey the need for construction of hospitals and medical facilities~~,~~; and, on the basis of such inventory and survey, to develop a program for the construction of such public and other nonprofit hospitals and medical facilities as will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital and medical facility services to all the people of the State.

Sec. 69. 18 V.S.A. § 1807 is amended to read:

§ 1807. APPLICATION FOR FEDERAL FUNDS FOR SURVEY AND PLANNING; EXPENDITURE

The ~~Board~~ Commissioner is authorized to make application to the Secretary of Health and Human Services for federal funds to assist in carrying out the survey and planning activities ~~herein~~ provided in this chapter. Such funds shall

be deposited in the State Treasury and shall be available to the ~~Board~~ Commissioner for expenditure for carrying out the purposes of sections 1805–1807 of this title. Any such funds received and not expended for such purposes shall be repaid to the Treasury of the United States.

Sec. 70. 18 V.S.A. § 1808 is amended to read:

§ 1808. STATE PLAN

The ~~Board~~ Commissioner shall prepare and submit to the Secretary of Health and Human Services a State plan ~~which~~ that shall include the hospital and medical facilities construction program developed under sections 1805–1807 of this title~~,~~ and ~~which~~ that shall provide for the establishment, administration, and operation of hospital and medical facilities construction activities in accordance with the requirements of the federal act and regulations thereunder. The ~~Board~~ Commissioner shall, prior to the submission of such plan to the Secretary of Health and Human Services, give adequate publicity to a general description of all the provisions proposed to be included therein~~,~~ and hold a public hearing at which all persons or organizations with a legitimate interest in such plan may be given an opportunity to express their views. After approval of the plan by the Secretary of Health and Human Services, the ~~Board~~ Commissioner shall publish a general description of the provisions thereof in newspapers having general circulation in the State~~,~~ and shall make the plan or a copy thereof available upon request to all interested persons or organizations. The ~~Board~~ Commissioner shall, from time to time, review the construction

program and submit to the Secretary of Health and Human Services any modifications ~~thereof which it~~ to the program as the Commissioner may find necessary and may submit to the Secretary of Health and Human Services such modifications of the State plan, not inconsistent with the requirements of the federal act, as ~~it~~ the Commissioner may deem advisable.

Sec. 71. 18 V.S.A. § 1809 is amended to read:

§ 1809. MINIMUM STANDARDS FOR HOSPITAL AND MEDICAL FACILITIES MAINTENANCE AND OPERATION

The ~~Board~~ Department shall, by ~~regulation~~ rule, prescribe minimum standards for the maintenance and operation of hospitals and medical facilities ~~which~~ that receive federal aid for construction under the State plan.

Sec. 72. 18 V.S.A. § 1811 is amended to read:

§ 1811. CONSTRUCTION PROJECTS; APPLICATIONS

Applications for hospital and medical facilities construction projects for which federal funds are requested shall be submitted to the ~~Board~~ Commissioner and may be submitted by the State or any political subdivision thereof or by any public or other nonprofit agency authorized to construct and operate a hospital or a medical facility, provided that no application for a diagnostic or treatment center shall be approved unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital. Each application for a construction project shall conform to federal and State requirements.

Sec. 73. 18 V.S.A. § 1812 is amended to read:

§ 1812. CONSIDERATION AND FORWARDING OF APPLICATIONS

The ~~Board~~ Commissioner shall afford to every applicant for a construction project an opportunity for a fair hearing. If the ~~Board~~ Commissioner, after affording a reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of section 1811 of this title and is otherwise in conformity with the State plan, ~~it~~ the Commissioner shall approve such application and shall recommend and forward it to the Secretary of Health and Human Services.

Sec. 74. 18 V.S.A. § 1813 is amended to read:

§ 1813. INSPECTION OF PROJECTS

From time to time, the ~~Board~~ Department shall inspect each construction project approved by the Secretary of Health and Human Services, and, if the inspection so warrants, the ~~Board~~ Commissioner shall certify to the Secretary of Health and Human Services that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant.

Sec. 75. 18 V.S.A. § 1814 is amended to read:

§ 1814. HOSPITAL AND MEDICAL FACILITIES CONSTRUCTION FUND

The ~~Board~~ Department is hereby authorized to receive federal funds in behalf of, and transmit them to, such applicants. There is hereby established, separate and apart from all public monies and funds of this State, the Hospital and Medical Facilities Construction Fund. Money received from the federal government for a construction project approved by the Secretary of Health and Human Services shall be deposited to the credit of this Fund and shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects. Warrants for all payments for the Hospital and Medical Facilities Construction Fund shall bear the signature of the ~~Chair of the Board~~ Commissioner or the duly authorized agent of the ~~Board~~ Department for such purpose.

Sec. 76. 18 V.S.A. § 1902 is amended to read:

§ 1902. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless otherwise provided:

* * *

(4) "Licensing agency" means the ~~State Board~~ Department of Health.

Sec. 77. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for a license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

* * *

(16) All new construction involving hospitals and related buildings on hospital premises shall comply with standards of the State Fire Marshal and ~~State Board~~ the Department of Health, whether or not federal aid under Title VI of the Public Health Service Act is received for such construction.

(17) The ~~Board~~ Department of Health may, when circumstances warrant, issue a temporary license for such period or periods and subject to such conditions as the ~~Board~~ Department shall deem proper, subject to the limitation that such a temporary license shall not be issued for a total period of more than 36 months. Such circumstances shall include issues concerning indicators in the hospital's community report which may result in the ~~Board's~~ Department's issuing a license conditioned upon corrective measures or a temporary license with conditions.

* * *

Sec. 78. 18 V.S.A. § 1917(f) is amended to read:

(f) Notwithstanding subsections (a) and (b) of this section:

* * *

(2) The Department staff responsible for verifying compliance with the patient safety surveillance and improvement system may disclose information to others in the Department~~, and the Department may disclose information to the Board of Health~~ and others responsible for carrying out the Department's enforcement responsibilities with respect to this chapter if the Department

reasonably believes that a hospital deliberately or repeatedly has not complied with the requirements of this chapter and any rules adopted hereunder. The Commissioner~~, the Board of Health,~~ and others responsible for carrying out the Department's enforcement responsibilities with respect to this chapter are authorized to disclose such information during the course of any legal or regulatory action taken against a hospital for deliberate or repeated noncompliance with the requirements of this chapter and any rules adopted hereunder. Information disclosed under this subdivision shall otherwise maintain all applicable protections under this section and otherwise provided by law.

Sec. 79. 18 V.S.A. § 4026 is amended to read:

§ 4026. SALE OF DRUGS; RECORD

When a sale is made by any person of any of such drugs, salts, solutions, extracts, or tinctures, such sale shall be entered and recorded in a book kept for that purpose, giving the name of the article sold, date of sale, to whom sold, residence of purchaser, for whom purchased, the use to be made of the article or drug purchased, and the name of the salesperson or clerk making such sale. Such book shall be in such form as the ~~Board~~ Commissioner shall prescribe and shall be open to the inspection of health officers, ~~members of the Board~~ Commissioner, and prosecuting officers who may wish to examine the same. The provisions of this section shall not apply to compounds or preparations labeled according to other provisions of this chapter.

Sec. 80. 18 V.S.A. § 4029 is amended to read:

§ 4029. PERMIT TO USE PRESERVATIVES

Nothing in this title shall be so construed as to prevent the ~~Board~~ Commissioner from issuing to a producer or manufacturer of food or drinks a permit to use such preservatives or coloring matters as the ~~Board~~ Commissioner may determine are not detrimental to health.

Sec. 81. 18 V.S.A. § 4030 is amended to read:

§ 4030. EMBARGO, PENALTY

When it is found or there is probable cause to believe that an article of food or a drug is in violation of the provisions of this title, the ~~Board~~ Commissioner or ~~it's the~~ Commissioner's authorized representative may embargo the distribution, sale, use, or transportation of such article until directions for its disposal shall be given by the ~~Board~~ Commissioner or by action of court. A person, partnership, or corporation ~~who~~ that moves, sells, or otherwise disposes of any article so embargoed shall be punished as provided in section 6 of this title.

Sec. 82. 18 V.S.A. § 4031 is amended to read:

§ 4031. NOTICE OF VIOLATIONS OF UNITED STATES STATUTES

The ~~board~~ Commissioner or ~~an agent thereof~~ the Commissioner's designated agent shall notify the proper prosecuting officer of a violation of a federal law for preventing the adulteration or misbranding of food or drugs.

Sec. 83. 18 V.S.A. § 4051 is amended to read:

§ 4051. DEFINITIONS

As used in this chapter:

* * *

(2) ~~The term "Board" means the State Board of Health.~~ [Repealed.]

* * *

(13) The term "flammable" shall apply to any substance ~~which~~ that has a flashpoint of 80 degrees Fahrenheit, or below, as determined by the Tagliabue open cup tester, except that the flammability of the contents of self-pressurized containers shall be determined by methods generally applicable to the containers and established by ~~regulations issued~~ rules adopted by the ~~Board~~ Commissioner.

* * *

(17) The term "misbranded package" means any retailed package of a hazardous substance, intended for household use, ~~which~~ that fails to bear a label:

* * *

(B) On which any statement required under subdivision (A) of this subdivision (17) is located prominently and is in English in legible type in contrast by typography, layout, or color with other printed matter on the label~~:~~., provided that the ~~Board~~ Commissioner shall, by ~~regulations~~ rule, provide for minimum information ~~which~~ that shall appear on the labels for small packages,

which labels need not include all of the information required by this subsection; provided further, that the ~~Board~~ Commissioner may provide for less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" shall not apply to packages of economic poisons subject to the federal Insecticide, Fungicide and Rodenticide Act, to packages of substances subject to the federal Food, Drug and Cosmetic Act or to packages of substances intended for use in agriculture, horticulture, industrial, or related uses. Nothing in this chapter shall be construed to be in conflict or interfere with the administration of 6 V.S.A. chapter 81.

* * *

Sec. 84. 18 V.S.A. § 4053 is amended to read:

§ 4053. RULES AND HEARINGS

(a) The authority to enforce this chapter is vested in the ~~Board~~ Department. The ~~Board~~ Department shall from time to time for the efficient enforcement of this chapter adopt rules after public hearing following due notice at least ~~ten~~ 10 days in advance of the hearings to interested persons.

(b) In addition to the other remedies provided in this chapter, the ~~Board~~ Commissioner is hereby authorized through the Attorney General or State's Attorneys to apply to the Civil or Criminal Division of any Superior Court, and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any

provision of this chapter, irrespective of whether or not there exists an adequate remedy at law.

* * *

(d) Before any violation of this chapter is reported for institution of a criminal proceeding, the person against whom such proceeding is contemplated may be given appropriate notice and an opportunity to present ~~his or her~~ the person's views to the ~~Board~~ Commissioner, either orally or in writing, with regard to the contemplated proceeding. Nothing in this chapter shall be construed as requiring the ~~Board~~ Commissioner to report for prosecution or for the institution of libel proceedings minor violations of the chapter whenever ~~it~~ the Commissioner believes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 85. 18 V.S.A. § 4054(c) is amended to read:

(c) No publisher, radio broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by ~~him or her~~ the person of such false advertisement, unless ~~he or she~~ the person has refused, on the request of the ~~Board~~ Commissioner, to furnish the ~~Board~~ Commissioner the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the State of Vermont, who causes ~~him or her~~ the person to disseminate such advertisement.

Sec. 86. 18 V.S.A. § 4055 is amended to read:

§ 4055. MARKING; NOTICE

(a) Whenever a duly authorized agent of the ~~Board~~ Commissioner finds or has probable cause to believe that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, ~~he or she~~ the agent shall affix to such article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article by sale or otherwise without that permission.

* * *

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, the article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or ~~his or her~~ the claimant's agent~~;~~, provided that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled or processed, has been executed,

may by order direct that the article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the ~~Board~~ Commissioner. The expense of the supervision shall be paid by the claimant. The bond shall be returned to the claimant of the article on representation to the court by the ~~Board~~ Commissioner that the article is no longer in violation of this chapter and that the expenses of supervision have been paid.

(d) Whenever the ~~Board~~ Commissioner or ~~any of it's~~ the Commissioner's authorized ~~agents find~~ agent finds in any room, building, vehicle of transportation, or other structure any meat, seafood, poultry, vegetable, fruit, or other perishable articles ~~which~~ that are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, those articles and substances being hereby declared to be a nuisance, the ~~Board~~ Commissioner, or ~~its~~ the Commissioner's authorized agent, shall forthwith condemn ~~or~~, destroy ~~them~~, or, in any other manner, render ~~them~~ those articles and substances unsalable as human food.

Sec. 87. 18 V.S.A. § 4056 is amended to read:

§ 4056. PROCEEDINGS

(a) Each State's Attorney to whom the ~~Board~~ Commissioner reports any violation of this chapter shall cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

(b) Before any violation of this chapter is reported to any such attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present ~~his or her~~ the person's views before the ~~Board~~ Commissioner or ~~it's~~ the Commissioner's designated agent, either orally or in writing, in person, or by attorney, with regard to the contemplated proceedings.

Sec. 88. 18 V.S.A. § 4057 is amended to read:

§ 4057. CONSTRUCTION

Nothing in this chapter shall require the ~~Board~~ Commissioner to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever the ~~Board~~ Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice of warning.

Sec. 89. 18 V.S.A. § 4058 is amended to read:

§ 4058. RULES; STANDARDS

Whenever in the judgment of the ~~Board~~ Commissioner such action will promote honesty and fair dealing in the interest of consumers, the ~~Board~~ Department shall adopt rules fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the ~~Board~~ Department shall, for the purpose of promoting honesty and fair dealing

in the interest of consumers, designate the optional ingredients ~~which~~ that shall be named on the label. The definitions and standard so adopted shall conform so far as practicable to the definitions and standards promulgated under authority of the federal act.

Sec. 90. 18 V.S.A. § 4060 is amended to read:

§ 4060. MISBRANDED FOOD

A food shall be deemed to be misbranded:

* * *

(5) If in package form, unless it bears a label containing:

* * *

(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count~~;~~, provided that under this subdivision reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules prescribed by the ~~Board~~ Department.

* * *

(9) If it is not subject to the provisions of subdivision (7) of this section, unless it bears labeling clearly giving:

* * *

(B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided that, to the extent

that compliance with the requirements of this subdivision is impractical or results in deception or unfair competition, exemptions shall be established by rules adopted by the ~~Board~~ Department. And provided, further, that the requirements of this subdivision shall not apply to food products that are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with rules adopted by the ~~Board~~ Department.

(10) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the ~~Board~~ Department determines to be, and by rules adopted, as necessary in order to inform purchasers fully as to its value for such uses.

(11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact~~;~~, provided that to the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by rules adopted by the ~~Board~~ Department.

* * *

Sec. 91. 18 V.S.A. § 4061 is amended to read:

§ 4061. REGULATIONS OF PERMITS; INVESTIGATION

(a) Whenever the ~~Board~~ Department finds after investigation that the distribution in Vermont of any class of food may, by reason of contamination

with ~~micro-organisms~~ microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered commerce, it then, and in that case only, shall adopt rules providing for the issuance to manufacturers, processors, or packers of that class of food in that locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of that class of food and for such temporary period of time, as may be necessary to protect the public health~~;~~, and after the effective date of the rules and during the temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless the manufacturer, processor, or packer holds a permit issued by the ~~Board~~ Department as provided by the rules.

(b) The ~~Board~~ Department is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of the permit and the ~~Board~~ Department shall, immediately after prompt hearing and inspection of the establishment, reinstate the permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(c) Any officer or employee duly designated by the ~~Board~~ Department shall have access to any factory or establishment, the operator of which holds a permit from the ~~Board~~ Department, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for the inspection shall be grounds for suspension of the permit until the access is freely given by the operator.

Sec. 92. 18 V.S.A. § 4062 is amended to read:

§ 4062. SUBSTANCES ADDED TO FOOD; RULES

Any poisonous or deleterious substance added to any food except where the substance is required in the production thereof or cannot be avoided by good manufacturing practice shall be deemed to be unsafe for purposes of the application of subdivision 4059(1)(B) of this title~~;~~, but when the substance is so required or cannot be so avoided, the ~~Board~~ Department shall adopt rules limiting the quantity therein or thereon to such extent as the ~~Board~~ Department finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of subdivision 4059(1)(B) of this title. While such a rule is in effect limiting the quantity of any such substance in the case of any food, the food shall not, by reason of bearing or containing any added amount of the substance, be considered to be adulterated within the meaning of subdivision 4059(1)(A) of this title. In determining the quantity of the added substance to be tolerated in or on different articles of food, the ~~Board~~ Department shall take

into account the extent to which the use of the substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

Sec. 93. 18 V.S.A. § 4064 is amended to read:

§ 4064. MISBRANDED DRUGS OR DEVICE

A drug or device is misbranded:

* * *

(2) If in package form unless it bears a label containing:

* * *

(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count~~;~~, provided that under this subdivision (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules adopted by the ~~Board~~ Department.

* * *

(4) If it is for use by humans and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, morphine, opium, paraldehyde, peyote, sulphonmethane, or other recognized narcotic or hypnotic substances or any chemical derivative of those substances, which derivative has been by the ~~Board~~ Department, after investigation, found to be, and by rules under this chapter, designated as, habit forming, unless its label bears the

name and quantity or proportion of the substance or derivative and in juxtaposition therewith the statement "warning—may be habit forming."

(5) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears:

* * *

(B) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including whether active or not the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or other synthetic compounds, or any derivative or preparation of any of those substances, contained therein~~;~~, provided that to the extent that compliance with the requirements of this subdivision (B) is impracticable, exemptions shall be established by rules adopted by the ~~Board~~ Department.

(6) Unless its labeling bears:

* * *

(B) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users~~;~~, provided that where any requirement of this subsection, as applied to any drug or device, is

not necessary for the protection of the public health, the ~~Board~~ Department shall adopt rules exempting the drug or device from the requirements.

(7) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein~~;~~, provided that the method of packing may be modified with consent of the ~~Board~~ Commissioner. Whenever a drug is recognized in both the ~~United States~~ U.S. Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the ~~United States~~ U.S. Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States~~,~~ and not to those of the ~~United States~~ U.S. Pharmacopoeia.

(8) If it has been found by the ~~Board~~ Department to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the ~~Board~~ Department shall by rule require as necessary for the protection of public health. No such rule shall be established for any drug recognized in an official compendium until the Board informs the appropriate body charged with the revision of the compendium of the need for the packaging or labeling requirements and that body fails within a reasonable time to prescribe the requirements.

* * *

(11) If it is a drug sold at retail and contains any quantity of aminopyrine, barbituric acid, cinchophen, pituitary, thyroid, or their derivatives; or it is a drug or device sold at retail and its label ~~(~~, as originally packed~~)~~, directs that it is to be dispensed or sold only on prescription, unless it is dispensed or sold on a written prescription signed by a practitioner who is licensed by law to administer the drug or device and its label ~~(~~, as dispensed~~)~~, bears the name and place of business of the dispenser or seller, the serial number and date of the prescription, and the name of the licensed practitioner. Those prescriptions shall not be refilled except on the specific authorization of the prescribing practitioner, provided that where any requirement of this subsection, as applied to any drug or device, is not necessary for the protection of the public health, the ~~Board~~ Department shall adopt rules exempting the drug or device from the requirement.

* * *

Sec. 94. 18 V.S.A. § 4064a(a) is amended to read:

(a) Except as provided in subsections (b), (c), and (d) of this section, a drug or device ~~which~~ that is sold or offered for sale by prescription, including those transported or mailed into this State for use in this State although purchased elsewhere, is misbranded:

* * *

(2) unless it is labeled with the following:

* * *

(B) the expiration date of the drug where the date is required by law or has been determined by the manufacturer, ~~Board~~ Department, or any agency of the State or U.S. government, if this date is less than one year from date of dispensing;

* * *

Sec. 95. 18 V.S.A. § 4065 is amended to read:

§ 4065. NEW DRUGS; SALE REGULATIONS

(a) No person shall sell, deliver, offer for sale, hold for sale, or give away any new drug unless:

* * *

(2) when not subject to the federal act, unless the drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof and before selling or offering the drug for sale, there has been filed with the ~~Board~~ Department an application setting forth:

* * *

(v) such samples of the drug and of the articles used as components thereof as the ~~Board~~ Department may require; and

* * *

(b) An application provided for in subdivision (a)(2) of this section shall become effective on the 60th day after the filing thereof, except that if the ~~Board~~ Commissioner finds, after ~~due notice to the applicant and giving him or~~

~~her~~ giving the applicant due notice and an opportunity for a hearing, that the drug is not safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, ~~he or she~~ the Commissioner shall, before the effective date of the application, issue an order refusing to permit the application to become effective.

* * *

(d) An order refusing to permit an application under this section to become effective may be revoked by the ~~Board~~ Commissioner.

Sec. 96. 18 V.S.A. § 4067 is amended to read:

§ 4067. MISBRANDED COSMETIC

A cosmetic shall be deemed to be misbranded:

* * *

(2) if in package form unless it bears a label containing:

* * *

(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count~~:~~, provided that under this subdivision (B) reasonable variations shall be permitted and exemptions as to small packages shall be established by ~~regulations prescribed~~ rules adopted by the ~~Board~~ Department;

* * *

Sec. 97. 18 V.S.A. § 4068 is amended to read:

§ 4068. ADVERTISING ~~REGULATIONS~~ RULES

* * *

(b) For the purpose of this chapter, the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, or venereal disease shall also be deemed to be false, except that no advertisement, not in violation of subsection (a) of this section, shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of the drugs or devices~~;~~, provided that whenever the ~~Board~~ Department determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named in this subsection, the ~~Board~~ Department shall by ~~regulation~~ rule authorize the advertisement of drugs having curative or therapeutic effect for the disease, subject to such conditions and restrictions as

the ~~Board~~ Department may deem necessary in the interests of public health~~;~~, provided that this subsection shall not be construed as indicating that self-medication for diseases other than those named ~~herein~~ in this section is safe or efficacious.

Sec. 98. 18 V.S.A. § 4069 is amended to read:

§ 4069. RULES; AUTHORITY

(a) The authority to adopt rules for the efficient enforcement of this chapter is hereby vested in the ~~Board~~ Department. The ~~Board~~ Department may make the rules adopted under this chapter conform, insofar as practicable, with those promulgated under the federal act.

(b) ~~Hearings authorized or required by this chapter shall be conducted by the Board or such officer, agent, or employee as the Board may designate for the purpose.~~ [Repealed.]

(c) Before adopting any rules contemplated by section 4058; subdivision 4060(10); section 4061; subdivisions 4064(4), (6), (7), (8), and (11); or subsection 4068(b) of this title, the ~~Board~~ Department shall give appropriate notice of the proposal and of the time and place for a hearing. The rule so adopted shall take effect on a date fixed by the ~~Board~~ Department, which date shall not be earlier than 60 days after its adoption. The rule may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a rule amending or repealing any such rule, the ~~Board~~ Department,

to such extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date.

Sec. 99. 18 V.S.A. § 4070 is amended to read:

§ 4070. INSPECTION; EXAMINATION OF SAMPLES

(a) The ~~Board~~ Department or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in commerce, for the purpose:

* * *

(b) It shall be the duty of the ~~Board~~ Department to make or cause to be made examinations of samples secured under the provisions of this section to determine whether any provision of this chapter is being violated.

Sec. 100. 18 V.S.A. § 4071 is amended to read:

§ 4071. REPORTS

(a) The ~~Board~~ Commissioner may cause to be published, from time to time, reports summarizing all judgments, decrees, and court orders ~~which~~ that have been rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) The ~~Board~~ Commissioner may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the ~~Board~~

Commissioner deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the ~~Board~~ Department from collecting, reporting, and illustrating the results of the investigations of the ~~Board~~ Department.

Sec. 101. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

(1) "Professional board" means:

* * *

(G) in the case of a hospital, laboratory, or nursing home, the ~~State Board~~ Commissioner of Health so designated under chapter 3 of this title.

(2) ~~"Board of Health" means the State Board of Health so designated under chapter 3 of this title.~~ [Repealed.]

* * *

(6) "Depressant or stimulant drug" means:

(A) any drug that contains any quantity of barbituric acid or any of the salts of barbituric acid, or any derivative of barbituric acid, that is designated as habit-forming because of its effect on the central nervous system in the rules adopted by the ~~Board~~ Department of Health under section 4202 of this title;

(B) any drug, other than methamphetamine, that contains any quantity of amphetamine or any of its optical isomers, any salt or amphetamine

or any salt of an optical isomer of amphetamine, that the ~~Board~~ Department of Health so designates by such rule as habit-forming because of its effect on the central nervous system;

* * *

(G) any drug, other than methamphetamine, that contains any quantity of a substance that the ~~Board~~ Department of Health so designates by such rule as having a serious potential for abuse arising out of its effect on the central nervous system.

* * *

(10) "Hallucinogenic drugs" means stramonium, mescaline or peyote, lysergic acid diethylamide, and psilocybin, and all synthetic equivalents of chemicals contained in resinous extractives of Cannabis sativa, or any salts or derivatives or compounds of any preparations or mixtures thereof, and any other substance that is designated as habit-forming or as having a serious potential for abuse arising out of its effect on the central nervous system or its hallucinogenic effect in the rules adopted by the ~~Board~~ Department of Health under section 4202 of this title.

* * *

(13) "License" means a license to practice their profession issued to one of those persons listed in subdivisions (1)(A) through (F) of this section by ~~his or her~~ the person's respective professional board under the applicable laws of this State, or a license issued by the ~~Board~~ Department of Health under section

4206 of this title to a person not subject to the jurisdiction of any such professional board.

* * *

(16) "Narcotic," "narcotics," or "narcotic drugs" means opium, coca leaves, pethidine (isonipecaine, meperidine), and opiates or their compound, manufacture, salt, alkaloid, or derivative, and every substance neither chemically nor physically distinguishable from them, and preparations containing such drugs or their derivatives, by whatever trade name identified and whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, as the same are so designated in the rules adopted by the ~~Board~~ Department of Health under section 4202 of this title.

* * *

(19) "Official written order" means an order written on a form prescribed for that purpose by the U.S. Commissioner of Narcotics and issued by the U.S. Commissioner of Internal Revenue, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the ~~Board~~ Commissioner of Health.

* * *

(28) "Registry number" means the number assigned under rules adopted by the ~~Board~~ Department of Health to each person authorized under this chapter to use, prescribe, dispense, possess, or administer a regulated drug in connection with his or her professional practice.

* * *

(36) "Heroin" includes every substance not chemically or physically distinguishable from it and preparations containing heroin or its derivatives, by whatever name identified and whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, as designated by the ~~Board~~ Department of Health by rule.

* * *

(45) "Benchmark unlawful dosage" means the maximum recommended therapeutic dose, or maximum daily dose, as determined by the Department by rule.

Sec. 102. 18 V.S.A. § 4202 is amended to read:

§ 4202. POWERS AND DUTIES OF THE ~~BOARD~~ DEPARTMENT OF HEALTH

(a) The ~~Board~~ Department of Health is authorized and empowered to adopt such rules that in its judgment may be necessary or proper to supplement the provisions of this chapter to effectuate the purposes and intent thereof or to

clarify its provisions so as to provide the procedure or details to secure effective and proper enforcement of its provisions.

* * *

(c) The ~~Board~~ Commissioner of Health and any representative specifically authorized by ~~it~~ the Commissioner shall have the power to administer oaths, compel the attendance of witnesses and the production of books, papers, and records, and to take proof and testimony concerning all matters with which this chapter is concerned.

(d) The rules adopted by the ~~Board~~ Department of Health under section 4201 of this title for the purpose of determining those drugs defined under that section may be adopted only after prior written notice to the Board of Pharmacy and the Board of Medical Practice and after the Board of Pharmacy and the Board of Medical Practice have had an opportunity to advise the ~~Board~~ Commissioner of Health with respect to the form and substance of those rules or amendments and to recommend revisions thereof~~, except with respect to emergency rules adopted pursuant to 3 V.S.A. § 844, which may be adopted without notice by the Commissioner of Health~~.

Sec. 103. 18 V.S.A. § 4204(a) is amended to read:

(a) The ~~Board~~ Department of Health may provide, by rule, for the exception from all provisions of this chapter ~~(~~, except as provided in section 4223 of this title~~)~~, of the administration, dispensation, or sale at retail of a

medicinal preparation containing such amounts of one or more regulated drugs that the ~~Board~~ Department considers not subject to abuse.

Sec. 104. 18 V.S.A. § 4206(a) is amended to read:

(a) No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce, prepare, prescribe, dispense, or compound any regulated drug, and no person as a wholesaler, manufacturer, pharmacist, or pharmacy shall possess or supply the same, without having first obtained a license from the respective professional board having jurisdiction over that person as so designated in subdivision 4201(1) of this title, or, in the event no professional board has such jurisdiction over a person, from the ~~Board~~ Department of Health under terms adopted by ~~that Board~~ the Commissioner corresponding to those respecting professional licenses.

Sec. 105. 18 V.S.A. § 4207 is amended to read:

§ 4207. CERTIFICATES OF APPROVAL

(a) No hospital, laboratory, or nursing home, or any other person not provided for under section 4206 of this title, shall possess, administer, compound, use, or supply any regulated drug, without having first obtained a certificate of approval from the ~~Board~~ Department of Health.

(b) The certificate of approval issued by the ~~Board~~ Department of Health in accordance with this section shall be effective only for the person and address and the type of regulated drug designated therein and shall be conspicuously displayed at the indicated place of business.

* * *

(d) Persons to whom certificates of approval have been issued shall thereafter apply annually to renew that certificate with the ~~Board~~ Department of Health. Application for renewal shall be made July 1 of each year. Failure to apply for renewal within 30 days after such date will subject the applicant to a penalty of $25.00 in addition to the renewal fee, to be collected by ~~that Board~~ the Department upon any subsequent application for renewal.

* * *

Sec. 106. 18 V.S.A. § 4208 is amended to read:

§ 4208. QUALIFICATIONS FOR ISSUANCE OF LICENSES AND CERTIFICATES

Notwithstanding or in addition to any other provision of law, no license or certificate of approval shall be issued unless and until the applicant therefor has furnished proof satisfactory to the respective board or to the Department of Health~~,~~ in the exercise of its discretion:

* * *

Sec. 107. 18 V.S.A. § 4209 is amended to read:

§ 4209. SUPERVISION, REVOCATION, AND REINSTATEMENT OF LICENSES AND CERTIFICATES

(a) A board or the Department of Health may, after notice and opportunity for hearing, revoke or suspend for a period of time or amend the terms of any license or certificate issued by that board or the Department of Health under

section 4207 of this title or under any provision of the laws of this State in the event that any one of the qualifications for issuance of a license or certificate listed in section 4208 of this title were at the time of such issuance or are subsequently thereto not met by the holder thereof or in the event that it is shown to that board's or the Department of Health's satisfaction that the holder or ~~his or her~~ the holder's employee or agent has violated any of the provisions of this chapter.

(b) Notwithstanding the foregoing, a board or the Department of Health may, upon application of such person, at any time, after notice and opportunity for hearing, and upon good cause shown satisfactory to that board or the Department of Health in the exercise of its discretion, reinstate the license or certificate of a person previously suspended or revoked by that board or the Department of Health under subsection (a) of this section.

Sec. 108. 18 V.S.A. § 4210(d) is amended to read:

(d) The form and content of the records to be maintained under this section shall be prescribed by ~~regulation~~ rule adopted by the ~~Board~~ Department of Health, after prior written notice to the Board of Pharmacy and after the Board of Pharmacy has had an opportunity to advise the ~~Board~~ Department of Health with respect to the form and substance of that ~~regulation~~ rule and to recommend revisions thereof. The record of regulated drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received, the kind and

quantity of such drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacturer, and such other facts as the ~~Board~~ Department of Health may require. The record of all such drugs sold, administered, dispensed, or otherwise disposed of shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs and shall be signed by the person giving such order or ~~his or her~~ the person's duly authorized agent. Every such record shall be kept for a period of three years from the date of the transaction recorded, and shall be subject to inspection by a federal officer or an officer of this State or an agent thereof specifically authorized engaged in the enforcement of the federal drug laws or of this chapter. The keeping of a record required by or under the federal drug laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of such drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

Sec. 109. 18 V.S.A. § 4211 is amended to read:

§ 4211. RECORDS CONFIDENTIAL

Prescriptions, orders, and records required by this chapter, and stocks of regulated drugs, shall be open for inspection only to federal or State officers or

their specifically authorized agent whose duty it is to enforce the federal drug laws or this chapter; authorized agents of professional licensing board, as that term is defined under 3 V.S.A. chapter 5, or the Department of Health; or authorized agents of the Board of Medical Practice. No person having knowledge by virtue of ~~his or her~~ the person's office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution, or proceeding before the ~~Board~~ Department of Health, Board of Pharmacy, Board of Medical Practice, or another licensing or registration board, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

Sec. 110. 18 V.S.A. § 4213(b) is amended to read:

(b) A duly licensed manufacturer or wholesaler may sell regulated drugs to any of the following persons:

(1) On an official written order, accompanied by a certificate of exemption, as and if required by the federal drug laws, and in compliance with ~~regulations~~ rules adopted by the ~~Board~~ Department of Health to a person in the employ of the government of the United States or of any state, territory, district, county, municipality, or insular government, purchasing, receiving, possessing, or dispensing regulated drugs by reason of ~~his or her~~ the person's official duties.

* * *

(3) To a person in a foreign country if the provisions of the federal drug laws and the ~~regulations~~ rules adopted by the ~~Board~~ Department of Health are complied with.

Sec. 111. 18 V.S.A. § 4214(c) is amended to read:

(c) Any person who has obtained from a physician, dentist, or veterinarian any regulated drug for administration to a patient during the absence of such physician, dentist, or veterinarian under this section shall return to such physician, dentist, or veterinarian any unused portion of such drug, or shall take such action as may be specified by ~~regulation~~ rules adopted by the ~~Board~~ Department of Health, when such drug is no longer required by the patient.

Sec. 112. 18 V.S.A. § 4217 is amended to read:

§ 4217. REPORTS BY PHYSICIANS AND HOSPITALS

It shall be the duty of every physician and every hospital to report to the ~~Board~~ Commissioner of Health, promptly, all cases wherein a person has been or is being treated for the use of, or for problems arising from the use of, regulated drugs. The reports shall include the type of problem being treated, the class of regulated drug that was used, and such further information as is required by rules of the ~~Board~~ Department of Health as adopted under section 4202 of this title, except that the rules shall not require the listing or other identification of the names of the persons being so treated.

Sec. 113. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

(a) It is hereby made the duty of the Department of Public Safety, its officers, agents, inspectors, and representatives, and pursuant to its specific authorization any other peace officer within the State, and of all State's Attorneys, to enforce all provisions of this chapter and of the rules of the ~~Board~~ Department of Health adopted under this chapter, except those otherwise specifically delegated, and to cooperate with all agencies charged with the enforcement of the federal drug laws, this chapter, and the laws of other states relating to regulated drugs.

* * *

(c) A person who gives information to law enforcement officers, the Drug Rehabilitation Commission, Department of Health, or professional boards as defined in section 4201 of this title and their specifically authorized agents, concerning the use of regulated drugs or the misuse by other persons of regulated drugs, shall not be subject to any civil, criminal, or administrative liability or penalty for giving such information.

* * *

Sec. 114. 18 V.S.A. § 4220(c) is amended to read:

(c) On the conviction of any person of the violation of any provision of this chapter, a copy of the judgment and sentence and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court or by

the magistrate to the commission or officer, if any, by whom the convicted defendant has been licensed or registered to practice ~~his or her~~ the person's profession or to carry on ~~his or her~~ the person's business, and to the ~~Board~~ Commissioner of Health, who shall immediately transmit a copy thereof to the professional board, if any, having such person within its jurisdiction.

Sec. 115. 18 V.S.A. § 4223(g) is amended to read:

(g) The provisions of this section shall apply to all transactions relating to amounts or types of drugs excepted from the provisions of this chapter by ~~regulation~~ rule of the ~~Board~~ Department of Health under section 4204 of this title, in the same way as they apply to transactions relating to any other regulated drug.

Sec. 116. 18 V.S.A. § 4229 is amended to read:

§ 4229. MAINTENANCE OF RECORDS

Notwithstanding the provisions of sections 4202, 4210, 4213, and 4215 relating to the maintenance of records, all rules adopted by the ~~Board~~ Department of Health and the Board of Pharmacy governing the records for the manufacturing, distribution, and dispensation of regulated drugs shall be in accordance with the similar requirements set by the federal government under the Controlled Substances Act so that compliance with ~~Board~~ Department of Health and Board of Pharmacy rules will result in compliance with federal laws and regulations.

Sec. 117. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

* * *

(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100 times a 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 1,000 times a benchmark unlawful dosage or its equivalent ~~as determined by the Board of Health by rule~~ shall be imprisoned not more than 10 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 10,000 times a 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.

* * *

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent ~~as determined by the Board of Health by rule~~ shall be imprisoned not more than 10 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 fentanyl, heroin, or cocaine, consisting of 1,000 times a 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. 118. 18 V.S.A. § 4235(a) is amended to read:

(a) "Dose" of a hallucinogenic drug means that minimum amount of a hallucinogenic drug, not commonly used for therapeutic purposes, ~~which~~ that causes a substantial hallucinogenic effect. The ~~Board~~ Department of Health shall adopt rules which establish doses for hallucinogenic drugs. The ~~Board~~ Department may incorporate, where applicable, dosage calculations or schedules, whether described as "dosage equivalencies" or otherwise, established by the federal government.

Sec. 119. 18 V.S.A. § 4351(e) is amended to read:

(e) Any licensee or applicant aggrieved by a decision or order of the Commissioner may appeal to the ~~Board of Health~~ Superior Court of the county

in which such person resides or maintains a place of business within 30 days of that decision. ~~Hearings by the Board under this section shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested cases. The Board shall consider the matter de novo and all persons, parties, and interests may appear and be heard. The Board shall issue an order within 30 days following the conclusion of the hearing.~~

Sec. 120. 18 V.S.A. § 4392(a) is amended to read:

(a) The provisions of section 4391 of this title shall not be construed to prevent or prohibit a person, firm, or corporation from purchasing milk in bulk for uses other than for serving patrons for drinking purposes, nor to prevent the sale or serving of cream, skimmed milk, or buttermilk from bulk, if the same is pure and wholesome and is sold and served as cream, skimmed milk, or buttermilk, nor shall it prevent or prohibit the sale of milk in mixed drinks at soda fountains, or from original bulk containers equipped with a dispensing device, provided the owner of such device has notified the ~~Board~~ Department of Health and the Agency of Agriculture, Food and Markets of each device installed and its location~~,~~ and has complied in all other respects with the rules and regulations of the Secretary of Agriculture, Food and Markets as provided in this subchapter.

Sec. 121. 18 V.S.A. § 4393 is amended to read:

§ 4393. RULEMAKING

The Secretary of Agriculture, Food and Markets shall, subject to approval by the ~~State Board~~ Department of Health, make and adopt such rules as the Secretary deems necessary relating to the construction, operation, and use of such dispensing devices.

Sec. 122. 18 V.S.A. § 5222(a) is amended to read:

(a) The following fetal deaths shall be reported by the hospital, physician, or funeral director directly to the Commissioner within seven days after delivery on forms prescribed by the ~~board~~ Department:

* * *

Sec. 123. 18 V.S.A. § 5573(b) is amended to read:

(b) Before commencing the building, construction, or erection of any such structure, full detailed plans and specifications shall be presented to the ~~State Board~~ Department of Health. The approval of plans and specifications shall be evidenced by a certificate in writing, signed by the legislative body of the municipality and the local board of health.

Sec. 124. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless the context clearly requires otherwise:

* * *

(19) "Hospital" means an institution ~~which~~ that has been licensed, certified, or approved by the ~~State Board~~ Department of Health as a hospital~~,~~ or an institution ~~which~~ that is operated by the State of Vermont or any of its instrumentalities as a hospital.

* * *

Sec. 125. 26 V.S.A. § 1256(b) is amended to read:

(b) Upon request of the ~~Board~~ Department of Health or a person authorized to issue burial or removal permits, a licensee shall show proof of current licensure.

Sec. 126. 26 V.S.A. § 1276 is amended to read:

§ 1276. EMBALMING FLUIDS AND COMPOUNDS; SALE OR USE; PROHIBITION

The sale or use for embalming purposes of any fluid containing arsenic, zinc, mercury, copper, lead, silver, antimony, chloral, or cyanogen, or of any compound containing any of these, or any poisonous alkaloid, shall be prohibited, and all brands of embalming compounds used within the State shall be tested and approved under direction of the ~~State Board~~ Department of Health.

Sec. 127. 26 V.S.A. § 1443(c) is amended to read:

(c) Notwithstanding the provisions of section 1318 of this title, relating to accessibility and confidentiality of disciplinary matters, the proceedings, reports, records, reporting information, and evidence of a peer review

committee provided by the committee to the Board in accordance with the provisions of section 1317 of this title or to the Department of Health in accordance with 18 V.S.A. chapter 43a and subsection (b) of this section may be used by the Board or by the Commissioner of Health ~~or Board of Health~~ for disciplinary and enforcement purposes but shall not be subject to public disclosure.

Sec. 128. 32 V.S.A. § 1010(a) is amended to read:

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the members of the following boards shall be entitled to receive $50.00 in per diem compensation:

* * *

(5) ~~State Board of Health~~ [Repealed.]

* * *

Sec. 129. 32 V.S.A. § 3481 is amended to read:

§ 3481. DEFINITIONS

The following definitions shall apply in this Part and chapter 101 of this title, pertaining to the listing of property for taxation:

(1)(A) "Appraisal value" shall mean, with respect to property enrolled in a use value appraisal program, the use value appraisal as defined in subdivision 3752(12) of this title, multiplied by the common level of appraisal, and with respect to all other property, except for owner-occupied housing identified in subdivision (C) of this subdivision (1), the estimated fair market value. The

estimated fair market value of a property is the price that the property will bring in the market when offered for sale and purchased by another, taking into consideration all the elements of the availability of the property, its use both potential and prospective, any functional deficiencies, and all other elements such as age and condition that combine to give property a market value. Those elements shall include the effect of any State or local law or regulation affecting the use of land, including 10 V.S.A. chapter 151 or any land capability plan established in furtherance or implementation thereof, rules adopted by the ~~State Board~~ Department of Health, and any local or regional zoning ordinances or development plans. In determining estimated fair market value, the sale price of the property in question is one element to consider, but is not solely determinative.

* * *

Sec. 130. 33 V.S.A. § 7302 is amended to read:

§ 7302. ADOPTION OF GRIEVANCE PROCEDURE

(a) ~~The State Board of Health shall require every nursing home to submit a plan for a resident grievance mechanism with respect to the obligations of the nursing home to residents using its facilities. Every nursing home shall also submit a proposed notice to residents in accordance with section 7303 of this title. The plan and notice must be consistent with the provisions of section 7301 of this title and approved by the State Board of Health prior to certification of compliance or issuance or renewal of a license.~~ [Repealed.]

* * *

Sec. 131. TRANSFER OF RULEMAKING AUTHORITY; TRANSFER OF RULES

(a) The statutory authority to adopt rules by the State Board of Health under 18 V.S.A. §§ 102, 304, 1100, 4053, 4058, 4060, 4061, 4062, 4064, 4069, 4202, 4229, 4235, and 4393 and 3 V.S.A. chapter 25 is transferred to the Department of Health.

(b) All rules adopted by the Board of Health under 3 V.S.A. chapter 25 prior to the effective date of this act shall be deemed the rules of the Department of Health and the Commissioner of Health and shall remain in effect until amended or repealed by the Department of Health or the Commissioner of Health in accordance with 3 V.S.A. chapter 25.

(c) The Department of Health and the Commissioner of Health shall provide notice of the transfer of the rulemaking authority to the Secretary of State and the Legislative Committee on Administrative Rules in accordance with 3 V.S.A. § 848(d)(2).

* * * Prospective Repeal of Nuclear Decommissioning Citizens Advisory Panel * * *

Sec. 132. PROSPECTIVE REPEAL OF NUCLEAR DECOMMISSIONING CITIZENS ADVISORY PANEL

18 V.S.A. chapter 34 (nuclear decommissioning citizens advisory panel) is repealed on January 1, 2030.

* * * Regional Emergency Management Committees Quorum * * *

Sec. 132a. 20 V.S.A. § 6 is amended to read:

§ 6. LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT

* * *

(d) Regional emergency management committees shall be established by the Division of Emergency Management.

* * *

(3) A regional emergency management committee shall consist of voting and nonvoting members.

* * *

(C) Meeting quorum requirement. A regional emergency management committee may vote annually, at the committee's final meeting of the calendar year, to modify its quorum requirement for meetings in the subsequent year; provided, however, that the quorum shall be not fewer than 20 percent of voting members.

* * *

Sec. 132b. INTERIM QUORUM

Notwithstanding 20 V.S.A. § 6(d)(3)(C), until December 31, 2023:

(1) not fewer than five voting members of a regional emergency management committee shall constitute a quorum for the conduct of a meeting; and

(2) a regional emergency management committee may vote at any time to modify its quorum requirement for meetings in 2024; provided, however, that the quorum shall be not fewer than 20 percent of voting members.

* * * Repeal of Vermont Prescription Drug Advisory Council * * *

Sec. 133. REPEAL OF VERMONT PRESCRIPTION DRUG ADVISORY COUNCIL

18 V.S.A. § 4255 (Vermont Prescription Drug Advisory Council) is repealed.

* * * Vermont Employment Security Board * * *

Sec. 134. 21 V.S.A. § 1302 is amended to read:

§ 1302. VERMONT EMPLOYMENT SECURITY BOARD, COMPOSITION, DUTIES

(a) There is hereby created a board of three members to be known as the Vermont Employment Security Board. One member, who will serve as the chair of the Board, shall be the Commissioner of Labor, ex officio. The two other members of the Board shall be appointed by the Governor, with the advice and consent of the Senate. The term of each appointed member shall be six years. Biennially, in the month of February, with the advice and consent of the Senate, the Governor shall appoint a person as a member of ~~such~~ the Board for the term of six years, whose term of office shall commence March 1 of the year in which such appointment is made. Any appointment to a vacancy shall be for the unexpired term. In case of a vacancy by resignation, the member resigning shall continue in office until ~~his or her~~ that member's successor is

appointed. ~~No~~ Not more than two members of the Board shall be members of the same political party. ~~Biennially, in the month of February, the Governor shall designate a member of such board to be its chair.~~ The Governor may at any time remove ~~a~~ an appointed member of such Board for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

* * *

* * * Repeal of Natural Gas and Oil Resources Board and Statutory Framework * * *

Sec. 135. 29 V.S.A. chapter 14 is amended to read:

CHAPTER 14. NATURAL GAS AND OIL CONSERVATION

~~Subchapter 1. General Provisions~~

~~§ 501. TITLE OF CHAPTER~~

~~This chapter shall be known as the Vermont Natural Gas and Oil Conservation Act.~~

~~§ 502. PURPOSES~~

~~(a) The prevention of waste of oil and gas, the promotion of conservation, and the protection of correlative rights of owners are declared to be in the public interest.~~

~~(b) The purposes of this chapter are to:~~

~~(1) encourage oil and gas exploration and production;~~

~~(2) protect property rights and interests of all citizens;~~

~~(3) prevent long-term harm to the environment and other resources that might occur through oil and gas activities;~~

~~(4) protect correlative rights;~~

~~(5) prevent undue waste of oil and gas;~~

~~(6) promote greatest ultimate recovery of oil and gas, consistent with technology and economic conditions.~~

~~(c) This purpose requires the creation of a Vermont Natural Gas and Oil Resources Board to administer and enforce the provisions of this chapter.~~

~~(d) Whenever the Board exercises discretion and authority under this act, it shall do so only under the standards and purposes described in subsection (b) of this section.~~

~~§ 503. DEFINITIONS~~

~~As used in this chapter:~~

~~(1) "Board" means the Vermont Natural Gas and Oil Resources Board.~~

~~(2) "Certificate of clearance" means a permit prescribed by the Board for the transportation or the delivery of oil or gas or product.~~

~~(3) "Correlative rights" means the reciprocal rights and duties of each owner in a reservoir to produce oil and gas in a manner that will not cause waste and in an amount representing his or her just and equitable share.~~

~~(4) "Development drilling unit" means the area attributed by the Board to a well drilled or to be drilled in a known reservoir, for the purpose of allocating production so as to prevent waste and protect correlative rights.~~

~~(5) "Drilling site" means all the land disturbed in preparing a site for the drilling of an oil and gas well, and related activities, including roadways and utility access.~~

~~(6) "Exploratory drilling unit" means the area attributed by the Board to the first well drilled or to be drilled to test for a reservoir, for the purpose of allocating production so as to prevent waste and protect correlative rights.~~

~~(7) "Field" means the general area underlaid by one or more reservoirs.~~

~~(8) "Gas" means all natural gas, whether hydrocarbon or nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casinghead gas, and all other fluid hydrocarbons not defined as oil.~~

~~(9) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well within the State in violation of this chapter or any rule, regulation, or order of the Board.~~

~~(10) "Illegal product" means any product derived in whole or in part from illegal oil or illegal gas.~~

~~(11) "Just and equitable share of the production" means, as to each owner, that part of the authorized production from a reservoir that is reasonable in the proportion that the amount of recoverable oil or gas in the developed area of his or her tract or tracts in the reservoir bears to the recoverable oil or gas in the total of the developed areas in the reservoir.~~

~~(12) "Lands" means all lands within the State, publicly or privately owned, over which the State, under its police power, has jurisdiction.~~

~~(13) "Local agency" means any county, city, town, village, or other political subdivision and any local agency, board, commission, district, or other administrative body.~~

~~(14) "Most efficient rate" means the rate at which a well can produce without inefficient, excessive, or improper use or dissipation of reservoir energy to achieve the maximum economically feasible recovery of oil or gas.~~

~~(15) "Oil" means crude petroleum, oil, and all hydrocarbons, regardless of specific gravity, that are in the liquid phase in the reservoir and are produced at the wellhead in liquid form.~~

~~(16) "Oil and gas" means both oil and gas, or either oil or gas, as the context may require to give effect to the purposes of this chapter.~~

~~(17) "Operator" means the person who has been designated by the owners or the Board to operate the well or field-wide unit, and who is responsible for compliance with this chapter.~~

~~(18) "Owner" means the person who has the right to drill into and produce from a reservoir and to appropriate the oil or gas that is produced, either for that person or for that person and others; and in the event that there is no oil and gas lease with respect to any land, the owner of the oil and gas rights shall be considered "owner" to the extent of seven-eighths of the oil and gas underlying the lands in question, and as "royalty interest holder" to the extent of one-eighth of the oil and gas.~~

~~(19) "Plug and abandon" means the plugging, replugging if necessary, and abandonment of a well including the placing of all bridges, plugs, and fluids therein, and the restoration and reclamation of the drilling site to a condition reasonably consistent with the adjacent terrain and landscape.~~

~~(20) "Producer" means the operator of a well or wells capable of producing oil or gas.~~

~~(21) "Product" means any commodity made from oil or gas.~~

~~(22) "Reservoir" means an underground accumulation of oil or gas that is a common source of supply, or several such accumulations that by rule or order of the Board are allowed to be produced on a commingled basis, and are treated by the Board as a common source of supply.~~

~~(23) "Resources" means oil, gas, and their constituents, existing in or under lands within the State of Vermont.~~

~~(24) "State lands" means all State-owned lands inside or outside the State, including the State-owned lands under the waters of Lake Champlain or any other waters.~~

~~(25) "State land manager," with respect to any State lands, means the secretary of any agency to which a department or division having responsibility for those lands is attached; or if not attached to an agency, the commissioner of a department or the chair of a board having responsibility for those lands; or if no agency has responsibility for the lands, the Secretary of Natural Resources.~~

~~(26) "Unitization" means the combining of tracts and interests necessary to establish a field-wide area for the cooperative development or operation of all or part of a reservoir.~~

~~(27) "Waste" includes:~~

~~(A) the inefficient, excessive, or improper use or the unnecessary dissipation of reservoir energy;~~

~~(B) the inefficient storing of oil or gas;~~

~~(C) the locating, drilling, equipping, operating, or producing of an oil and gas well in a manner that causes or tends to cause reduction in the quantity of oil or gas that would be ultimately recoverable from a reservoir under prudent and proper operations, or that causes or tends to cause unnecessary wells to be drilled, or that causes or tends to cause surface or subsurface loss or destruction of oil or gas;~~

~~(D) the unauthorized flaring of gas produced from an oil and condensate well after the Board has found that the use of gas is, or will be, economically feasible within a reasonable time on terms that are just and reasonable.~~

~~(28) "Well log" means all information obtained in and from the drilled borehole including the driller's log, geological log, geophysical log, hydrological log, and other information.~~

~~(29) "Fluid" means any material or substance that flows or moves whether in semi-solid, liquid, sludge, gas, or any other form or state.~~

~~(30) "Hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or gas.~~

~~§ 504. COMPOSITION OF THE BOARD~~

~~(a) The Board shall consist of five members who shall be appointed by the Governor with the advice and consent of the Senate. Appointments shall be for a term of three years and, in the event of death or resignation, successors shall serve out the term of the deceased or resigned member. The terms of members initially appointed shall be set so that not more than two terms shall expire in the same year. Annually, in February after new appointments, the Governor shall designate a chair.~~

~~(b) In order for the Board to function in the best interests of the people of the State, Board members should have a knowledge of one or more of the following: geology, engineering, law, State and local government, economic development, environmental protection, regional planning, agriculture, or related fields of knowledge.~~

~~(c) A person in the employ of or holding any official relation to any company subject to the supervision of the Board, or engaged in the management of such company, or owning stock, bonds, or other securities thereof, or who is, in any manner, connected with the operation of such company in this State, shall not be a member of the Board.~~

~~(d) No member of the Board shall participate in any action of the Board that involves himself or herself or any person engaged in oil and gas development in which he or she has a financial interest.~~

~~(e) Each prospective appointee or member of the Board shall have the affirmative duty to disclose any actual or potential conflicts of interest to the other members of the Board.~~

~~§ 505. AUTHORITY OF THE BOARD~~

~~(a) For the purposes of this chapter, the Board shall have authority over all lands and over all oil and gas resources. The Board shall prevent the waste of oil and gas, promote conservation, protect correlative rights, and otherwise administer and enforce this chapter. In the event of a conflict, the duty to prevent waste is paramount.~~

~~(b) Without limiting its general authority, the Board may:~~

~~(1) require identification of ownership of oil and gas wells, producing leases, tanks, processing plants, structures, and facilities for the transportation or refining of oil and gas;~~

~~(2) require the making and filing of well logs, directional surveys, and reports on well location, drilling, and production; provided that all such records marked "confidential" shall be kept confidential for two years after their filing, unless the owner gives written permission to release them at an earlier date; provided, however, that the State Geologist is authorized access to this information. The Board may provide by rule for extension of the period of~~

~~confidentiality for an additional period of one year upon written request of the owner and a showing of special circumstances requiring an extension;~~

~~(3) require the drilling, casing, installation of proper equipment and facilities, operating, and plugging of wells in such manner as to prevent:~~

~~(A) the escape of oil or gas out of one reservoir into another,~~

~~(B) the detrimental intrusion of water into an oil or gas reservoir where that is avoidable by efficient operations,~~

~~(C) the pollution of fresh water supplies by oil, gas, or salt water, or other substances,~~

~~(D) blowouts, cave-ins, seepages, and fires;~~

~~(4) require the testing of wells used in connection with the production of oil and gas including production, injection, and disposal wells;~~

~~(5) require the licensing of oil and gas well drillers and the furnishing of a reasonable performance bond or other good and sufficient surety, conditioned for the performance of the duty to plug and restore the drilling site of each dry or abandoned well, and to repair each well causing waste or pollution if repair will prevent the waste or pollution;~~

~~(6) require that production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the Board;~~

~~(7) require that wells be operated at efficient gas-oil or water-oil ratios or that production be limited from wells with inefficient gas-oil or water-oil ratios;~~

~~(8) require certificates of clearance in connection with the transportation or delivery of oil, gas, or product;~~

~~(9) require the metering or other measuring of oil, gas, or product;~~

~~(10) require that every person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas in this State keep complete and accurate records of their quantities, which records shall be available for examination by the Board or its agents at all reasonable times;~~

~~(11) require the filing of reports, plats, and other data related to matters within the Board's jurisdiction;~~

~~(12) regulate the drilling, testing, equipping, completing, operating, producing, and plugging of wells, and all other operations for the production of oil or gas;~~

~~(13) regulate the stimulation and treatment of wells;~~

~~(14) regulate the spacing or locating of wells;~~

~~(15) regulate operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into a reservoir;~~

~~(16) regulate the disposal of salt water and oil field wastes;~~

~~(17) determine the amount of oil or gas that may be produced without waste from any unit, reservoir, or field, and allocate the allowed production to and among the wells in such fields or reservoirs;~~

~~(18) permit by rule or order the flaring of gas produced from an oil well, pending the time when, with reasonable diligence, the gas can be sold or otherwise utilized on terms that are just and reasonable, if such flaring is in the public interest;~~

~~(19) identify reservoirs and classify or reclassify them as oil or gas reservoirs, and classify or reclassify wells as oil or gas wells;~~

~~(20) adopt rules and make and enforce orders reasonably necessary to prevent waste, to protect correlative rights, to govern the practice and procedure before the Board and otherwise administer this chapter;~~

~~(21) implement State responsibility under the National Gas Policy Act of 1978 for determining the statutory maximum lawful price for sales of natural gas;~~

~~(22) the Board shall have no authority over sales of gasoline and related products covered by 9 V.S.A. chapter 109, nor any authority over petroleum inventory reporting covered by 9 V.S.A. chapter 110.~~

~~Subchapter 2. Administration~~

~~§ 511. HEARINGS CONDUCTED BY EXAMINERS~~

~~(a) The Board may provide for the appointment of one or more examiners to conduct hearings with respect to any matter properly coming before the Board~~

~~and to make reports and recommendations to the Board with respect thereto. The Board shall provide for compensation to be paid for services performed as an examiner.~~

~~(b) The Board shall adopt rules with regard to hearings to be conducted before examiners. The rules also shall provide procedures for rehearing before the Board and times within which requests for a rehearing must be made. Upon request of an interested party, the Board shall hold a rehearing.~~

~~(c) The Board may enter orders based upon the reports and recommendations of its examiners.~~

~~(1) If an order grants the request of an applicant and no objection has been made or filed before or during the hearing before the examiner, the order shall be effective immediately.~~

~~(2) If an order denies the request of the applicant, in whole or in part, or if a timely protest to the granting of an application is made or filed, the order shall not become effective if a request for rehearing is made; and shall become effective only when either all interested parties have waived their right to rehearing or the time to request a rehearing has expired.~~

~~(d) After an order based on a hearing before an examiner has become effective, it shall have the same force and effect as if the hearing had been conducted before the Board. If a timely request for rehearing is made, the Board may deny rehearing or affirm, revoke, or modify the order.~~

~~§ 512. HEARINGS CONDUCTED BY THE BOARD~~

~~(a) Notwithstanding any provision of this chapter or any rule of the Board, any hearing on any matter or proceeding may be held before the Board if the Board desires to hear the matter; or if the matter is initiated on the motion of the Board and is for the purpose of enforcing, amending, establishing, or revoking a statewide rule, regulation, or order; or if any person who may be affected by the matter or proceeding files with the Board, more than 10 days prior to the date set for the hearing, a written objection to the hearing before an examiner.~~

~~(b) The parties shall have the right to present additional testimony and documentary evidence at any rehearing.~~

~~§ 513. SUBPOENA~~

~~(a) In any matter properly before it, the Board may compel the attendance of witnesses and the production of documentary evidence. A party shall be entitled to the issuance of subpoenas by making a written request. In all other respects, the Vermont Rules of Civil Procedure shall apply to the proceedings before the Board.~~

~~(b) A person aggrieved by a subpoena issued by the Board may petition a Superior judge, who may issue any order authorized in civil cases to protect a party from improper discovery.~~

~~(c) A person who disobeys a proper subpoena of the Board or refuses to take an oath or affirmation properly required by the Board shall be liable to the penalty and attachment provided in Title 12 for disobeying a judicial subpoena.~~

~~§ 514. APPEAL~~

~~An appeal from a decision of the Board shall be to the Supreme Court. The provisions of the Administrative Procedure Act shall apply to the extent they are not inconsistent with the provisions of this chapter.~~

~~§ 515. PERSONNEL~~

~~Within the limits of legislative authorizations of positions and appropriations of funds, the Board may employ an executive officer and other personnel as it finds necessary in carrying out its duties, including engineering, technical, and other consultants.~~

~~§ 516. GOVERNMENTAL COOPERATION~~

~~(a) Other departments and agencies of State government shall cooperate with the Board and, as mutually agreeable, make available at cost data, facilities, and personnel as may be needed to assist the Board in carrying out its duties and functions. Geological services for the Board shall be provided by or in cooperation with the State Geologist.~~

~~(b) The Board, within the scope of its jurisdiction and authorization, may cooperate with agencies of the federal government or other states to protect the interests of the State in its oil and gas resources.~~

~~§ 517. STANDARDS FOR RULEMAKING~~

~~(a) Rulemaking power granted by this chapter shall be exercised in the manner provided by the Vermont Administrative Procedure Act.~~

~~(b) Rules adopted under this chapter shall be consistent with the purposes of this chapter and within the intent of the Legislature.~~

~~(c) Rules adopted under this chapter concerning administrative procedures, such as rules of evidence during hearings, shall be in accordance with due process of law.~~

~~(d) The power under this chapter to establish fees by rule shall be construed to authorize only fees which are approximately sufficient to cover the costs associated with the program or part of the program intended to be financed by the fee.~~

~~Subchapter 3. Conservation of Oil and Gas~~

~~§ 521. WASTE PROHIBITED~~

~~(a) The waste of oil and gas is prohibited.~~

~~(b) The Board shall limit the rate at which oil and gas may be produced from any field or reservoir to the most efficient rate consistent with economically feasible recovery as determined by the Board from available technical information. However, controlled well performance tests to determine maximum potential or maximum productivity may be performed periodically, when authorized by the Board.~~

~~(c) The Board shall allocate the allowable production among the several wells or producing properties in a field or reservoir so that each owner will have a reasonable opportunity to produce or receive his or her just and equitable share of production. However, no allocation made by the Board shall be inconsistent with the prevention of waste.~~

~~§ 522. DRILLING UNITS~~

~~(a) The Board shall regulate the spacing and location of oil and gas wells by the establishment of drilling units whenever reasonably necessary to prevent waste and protect correlative rights.~~

~~(b) The Board may establish an exploratory unit whenever a well is to be drilled to test for the occurrence of a reservoir. The order establishing the exploratory drilling unit shall specify the size and shape of the exploratory unit.~~

~~(1) To the extent that available geological and engineering information permit such a determination to be made, the exploratory unit shall be no smaller than the area expected to be drained by the exploratory well and shall be no larger than the expected total area of the reservoir.~~

~~(2) If insufficient information is available, the Board may establish a temporary unit to ensure orderly development of the reservoir pending the availability of additional information.~~

~~(c) The Board may establish the size and shape of development drilling units in known reservoirs based upon available geological and engineering data.~~

~~(1) The size of a development drilling unit shall be the area that can be efficiently and economically drained by one well. If insufficient information is available to permit such a determination to be made, the Board may establish a temporary development unit pending the availability of the necessary information. In order that all owners are accorded substantially equal treatment, development units shall be of approximately uniform size if consistent with available geological and engineering information.~~

~~(2) A well shall be located on a development drilling unit in accordance with a reasonably uniform field-wide spacing pattern, except for wells drilled or being drilled at the time a notice of hearing was issued. If the Board finds that a well drilled in a uniform spacing pattern would not be likely to produce in economic quantities, or that surface conditions would substantially add to the burden or hazard of drilling the well, or for other good cause, the well may be drilled at another location.~~

~~(3) An order establishing development drilling units for a reservoir shall cover all lands believed to be underlain by that reservoir, and may be modified by the Board from time to time based on additional geological and engineering information. The Board may grant exceptions to the size and shape of any development unit or units, or may change the size or shape of any development~~

~~unit or units, or may permit the drilling of additional wells if such actions are reasonably necessary to prevent waste or protect correlative rights.~~

~~(4) After the date of the notice of hearing called to establish development units in a reservoir, unless expressly authorized by the Board, no well shall be commenced into that reservoir until an order establishing development drilling units has been adopted.~~

~~§ 523. POOLING~~

~~(a) When two or more separately owned tracts are embraced within an exploratory or development drilling unit, or when there are separately owned interests in all or part of a unit, the persons owning such tracts or interests may pool their tracts or interests. In the absence of voluntary pooling and upon application by any person owning a tract or interest within an exploratory or development drilling unit, the Board may enter an order pooling all tracts and interests within the unit.~~

~~(b) All operations, including the commencement, drilling, operation, or production of a well upon any portion of a pooled unit shall be deemed for all purposes the commencement, drilling, operation, or production of a well upon each separately owned tract or upon each separately owned interest in the unit by the several owners. That portion of the production allocated to a separately owned tract or separately owned interest included in a unit shall be deemed to have been produced from such tract or interest.~~

~~(c) Each pooling order of the Board shall specify which owner will drill, complete, and operate a well on the pooled unit. All owners shall share in the reasonable costs of drilling, completing, and operating the well. Any owner whose tract or interest has been involuntarily pooled shall be permitted, at his or her option, to pay his or her share of costs out of production, plus a supervision, risk, and interest assessment not to exceed 300 percent of that owner's share of the costs.~~

~~(d) Production and costs associated with a pooled unit shall be allocated among the owners in the same proportion each owner's acreage in the unit bears to the total acreage in the unit or in any other manner agreed to by the owners and approved by the Board.~~

~~§ 524. ANTITRUST IMMUNITY FOR VOLUNTARY UNITS~~

~~An agreement for the unit or cooperative development or operation of a field, reservoir, or part thereof, may be submitted to the Board for approval as being in the public interest or reasonably necessary to prevent waste or to protect correlative rights. For the purposes of this chapter, approval by the Board shall constitute a complete defense to any suit charging violation of any statute of the State relating to trust and monopolies on account of the agreement or on account of operations conducted pursuant to such agreement. The failure to submit such an agreement to the Board for approval shall not for that reason imply or constitute evidence that the agreement or operations~~

~~conducted pursuant thereto are in violation of laws relating to trusts and monopolies.~~

~~§ 525. FIELD-WIDE UNITIZATION~~

~~(a) In addition to the authority for the establishment of drilling units for individual wells granted in section 522 of this title, the Board may establish field-wide units composed of one or more reservoirs or parts thereof and including one or more wells. After adequate geological, engineering, and other information has been required through development of the reservoir, the Board, on its own motion or upon application of any owner, shall hold a hearing to consider the need for cooperative development or operation as a field-wide unit.~~

~~(b) The Board shall enter an order providing for the unit development or operation of a reservoir or part thereof if it finds that:~~

~~(1) such operation will increase the ultimate recovery of oil or gas; and~~

~~(2) the value of the estimated additional recovery of oil and gas exceeds the estimated additional cost incident to conducting such operations; and~~

~~(3) the development or operation is reasonably necessary to prevent waste.~~

~~(c) The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:~~

~~(1) a description of the reservoir, reservoirs, or parts thereof to be operated as a unit, termed the unitized area;~~

~~(2) a statement of the nature of the operations contemplated;~~

~~(3) an allocation of production and costs to the separately owned tracts in the unitized area. The allocation shall be in accord with the agreement, if any, of the interested parties. If there is no such agreement, production shall be allocated in a manner calculated to ensure that each owner within the unitized area receives his or her just and equitable share of production. Costs shall be allocated on a just and reasonable basis;~~

~~(4) a provision, if necessary, permitting any owner who has involuntarily unitized to pay his or her share of costs out of his or her share of production, plus a supervision, risk, and interest assessment not to exceed 300 percent of that owner's share of the costs;~~

~~(5) a provision for the supervision and conduct of the unit operations, in respect to which each owner shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against its interest;~~

~~(6) the time when the unit operations shall commence and the manner in which, and the circumstances under which, the unit operations shall terminate; and~~

~~(7) such additional provisions as are found to be appropriate for carrying out the unit operations.~~

~~(d) No order of the Board providing for unit operations shall become effective until the plan for unit operations approved by the Board:~~

~~(1) has been approved in writing by the owners who, under the Board's order, will be required to pay at least 60 percent of the costs of the unit operation, and also by those persons who own at least 60 percent of the royalties; and~~

~~(2) the Board has made a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been approved.~~

~~(c) If the plan for unit operations has not been approved at the time the order providing for unit operations is made, the Board shall upon application and notice hold supplemental hearings to determine if and when the plan for unit operations has been approved. If the persons owning required percentages of interest in the unitized area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, or within such additional period or periods of time as the Board prescribes, the order will be unenforceable and shall be withdrawn by the Board.~~

~~(f) An order providing for unit operations may be amended by Board order made in the same manner and subject to the same conditions as an original order providing for unit operations, provided:~~

~~(1) if the amendment affects only the rights and interests of the owners, the approval of the amendment by the owners of interests free of cost shall not be required; and~~

~~(2) the order of amendment shall not change the percentage established in the original order for the allocation of oil and gas as established for any separately owned tract, except with the consent of all persons owning oil and gas rights in the tract; and~~

~~(3) the order of amendment shall not change the percentage established in the original order for the allocation of cost as established for any separately owned tract, except with the consent of all owners in the tract.~~

~~(g) The Board may order the unit operation of a reservoir or parts thereof that include a unitized area established by a previous order of the Board. In providing for the allocation of unit production, the order shall first treat the unitized area previously established as a single tract. The portion of the new unit production shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportions as those specified in the previous order.~~

~~(h) All operations, including the commencement, drilling, or operation of a well under any portion of the unit area shall be deemed for all purposes the conduct of that operation upon each separately owned tract in the unit area by the several owners. The portion of the unit production allocated to a separately owned tract in a unit area shall be deemed, for all purposes, to have actually been produced from the tract by a well drilled on it. Operations conducted pursuant to an order of the Board providing for unit operations shall constitute fulfillment of all the express or implied obligations of each lease or contract~~

~~covering lands in the unit area to the extent that compliance with those obligations cannot be had because of the order of the Board.~~

~~(i) The portion of the unit production allocated to any tract, and the proceeds from its sale, shall be the property and income of the several persons to whom, or to whose credit, they are allocated or payable under the order providing for unit operations.~~

~~(j) No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to that tract until terminated in accordance with the provisions of the order.~~

~~(k) Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations shall be acquired for the account of the owners within the unit area, and shall be the property of those owners in the proportion that the expenses of unit operations are charged.~~

~~§ 526. RATABLE TAKES REQUIRED~~

~~(a) Oil or gas produced in this State shall be purchased and taken without discrimination between producers in the same reservoir. After notice and hearing, the Board may relieve any person of his or her duty to purchase and~~

~~take oil or gas produced in this State without discrimination, if the oil and gas is of inferior quality or for other good cause.~~

~~(b) The provisions of this section do not apply:~~

~~(1) to any wells or reservoirs used for storage and withdrawal from storage of oil or gas originally produced in compliance with this chapter and the rules of the Board;~~

~~(2) to purchases of gas produced from oil wells; or~~

~~(3) to any other purchases or production to which the Board finds, after notice and hearing, the application of this section would be unjust or unreasonable.~~

~~Subchapter 4. State Oil and Gas Leases~~

~~§ 531. MANAGEMENT OF STATE OIL AND GAS RESOURCES~~

~~(a) The management of State oil and gas resources shall be undertaken to accomplish the following goals:~~

~~(1) provide for the timely leasing, exploration, discovery, assessment, and development of oil and gas resources which may be found on State lands;~~

~~(2) provide the State and its citizens an adequate economic return on State oil and gas resources if discovered in commercially valuable quantities;~~

~~(3) encourage competition among oil and gas developers by the use of appropriate competitive bidding and leasing procedures in the granting of exploration and development rights;~~

~~(4) provide for a program of development that will facilitate sound planning by both developers and all levels of government;~~

~~(5) give due consideration to the protection of the State's diverse natural, cultural, and social resources.~~

~~(b) Each State land manager shall be responsible for management of the leasing, exploration, and development of the oil and gas resources found on State lands under the manager's primary jurisdiction.~~

~~(c) Each State land manager shall adopt a written statement of objectives, policies, procedures, and a program to guide the development of the State's oil and gas resources. Biennially, each State land manager and the Board shall prepare and submit to the General Assembly a proposed four-year oil and gas leasing and management program and a report on all leasing and management activities undertaken during the preceding two years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. Managers may elect to collaborate on a joint program of planning, leasing, and reporting to fulfill the requirements of this section.~~

~~§ 532. STATE OIL AND GAS LEASES AUTHORIZED~~

~~(a) State land managers may execute oil and gas leases and other related contracts for lands under their jurisdiction. The leases and contracts shall be upon terms and conditions which the manager finds most beneficial to the interests of the State.~~

~~(b) When a State land manager proposes to lease State lands for oil and gas purposes, he or she shall notify the Board and forward a copy of the proposed lease. The Board shall review and comment on the terms of the proposed lease and shall specify additional terms and conditions necessary or advisable to accomplish the purposes of this chapter.~~

~~(c) Each State land manager shall require, as a condition to the issuance of any oil and gas lease that the lessee make available to the Board all exploration and production information, logs, and records resulting from operations under the lease. Such information shall be held confidential; provided, however, that the State Geologist shall have access to this information.~~

~~(d) State oil and gas leases may be assigned only with the written consent and approval of the State land manager having jurisdiction.~~

~~(e) All proceeds from State leases or other related contracts shall be paid into the General Fund.~~

~~§ 533. NOTICE OF INTENTION TO LEASE STATE LANDS~~

~~(a) At least 30 days before he or she intends to lease State lands, the State land manager shall give public notice of his or her intention by commencing publication in two newspapers of general circulation, one in Montpelier and one where the lands or the greater portion thereof are situated.~~

~~(b) Publication shall be made in newspapers of record approved by the Secretary of State.~~

~~(1) If the notice is published in a daily newspaper there shall be at least five days from the first to the last day of publication, both days included; and if a weekly newspaper, the notice shall appear on at least two different days of publication.~~

~~(2) In addition to the publication required by subdivision (1) of this subsection, the notice shall be published on a weekly basis in selected newspapers in the State as determined by the Secretary of State.~~

~~(c) The notice shall include a description of the State lands, either as a tract or by parcels, and a statement that the terms and conditions of the offered lease may be obtained at a designated office of the Board.~~

~~§ 534. GAS PRODUCED FROM STATE LANDS~~

~~(a) All State oil and gas leases shall provide that the Board may require the lessee to dedicate all the natural gas produced from State lands for the use and benefit of the people of the State.~~

~~(b) If the Board determines that it would benefit the people of the State to so dedicate the natural gas, the Board may arrange for the sale of natural gas for the use of the people of the State, or arrange for the exchange of the natural gas produced with producers of natural gas from other lands if the exchange will benefit the people of the State.~~

~~(c) If the Board determines the dedication would not be in the public interest, or would cause waste, or would unreasonably deny the lessee the opportunity to economically market the natural gas, it may waive dedication.~~

~~§ 535. STATE RESERVATION OF OIL, GAS, AND MINERALS~~

~~Each agricultural, timber, or other lease of any surface interest in state lands, and each mineral lease not for oil and gas purposes, shall reserve to the State all oil, gas, and other minerals not intended to be leased, and the right to drill and operate oil and gas wells on the premises and the easement, use, and right of way to enter upon and fully enjoy the rights reserved in this section.~~

~~Subchapter 5. Permits, Reports, and Notices~~

~~§ 541. DRILLING PERMITS~~

~~(a) No person shall commence drilling a well for oil or gas exploration, development, production, or related purposes without a permit issued by the Board.~~

~~(b) An application for a permit shall be filed with the Board in the manner and form prescribed by rule, and shall include at least the following:~~

~~(1) the applicant's name, address, address of each applicant's offices within the State and, where the applicant is not a natural person, the form, date, and place of formation of the applicant;~~

~~(2) a plat prepared by a competent engineer or certified professional surveyor showing the county, town, and tract of land on which the proposed well is to be located and an exact location of the well site established in accordance with the Vermont coordinate system;~~

~~(3) the proposed angle, direction, and depth of the well if the well is to be substantially deviated from a vertical course;~~

~~(4) a fee, based on the depth to be drilled, as prescribed by rule of the Board;~~

~~(5) a permit under 10 V.S.A. chapter 151 (Act 250). In the case of an application for a permit to drill on lands leased from the State, the State land manager shall be a co-applicant with the lessee for the permit; provided, however, that the Board shall be considered a party for purposes of any hearing or appeal.~~

~~(c) The Board may conduct investigations it considers necessary to verify information contained in the application. The applicant shall grant the Board, its employees, and agents permission to enter upon the site for this purpose.~~

~~(d) Within 30 days of the granting of a drilling permit by the Board, the permit shall be filed by the applicant for recording in the land records of the town in which the proposed well is to be located. Failure to comply with this section shall be cause for revocation of a drilling permit.~~

~~(e) Drilling permits shall expire one year after issuance unless drilling operations are commenced within such time and prosecuted with due diligence. At least 15 days prior to the commencement of drilling operations, every person granted permission to drill a well pursuant to this section shall give written notice by certified mail to the Board, local agencies, and the surface landowner affected.~~

~~§ 542. DRILLING REPORTS~~

~~It shall be the duty of the well operator to keep a geologic log prepared by a competent petroleum geologist showing the character, thickness, and depth of the formations encountered in the drilling of a well and the depths at which all oil, gas, water, or other substances are encountered. The log shall show whether the well is productive of oil, gas, water, or other substances, the quantities thereof, and the initial pressure and production measured over a period of at least 48 hours. A copy of the well log shall be furnished to the Board within 30 days of the completion of the well. Such reports shall be held confidential; provided, however, that the State Geologist shall have access to this information.~~

~~§ 543. REPORTS OF OIL AND GAS OPERATIONS~~

~~(a) The owner, lessee, agent, employee, or other person in charge of any oil and gas well within the State shall forward to the Board, in the manner and form prescribed by the rules of the Board, a report showing the character of the well, method of operation, and total production for the preceding calendar year. Such reports shall be held confidential.~~

~~(b) The Board may conduct investigations it considers necessary to verify compliance with this section. The operator shall grant the Board, its employees, and agents permission to enter upon the site for this purpose.~~

~~(c) Statistical bulletins based on these reports shall be compiled by the Board to show, for the State as a whole, and separately for each town, the~~

~~totals of oil and gas produced, provided that, in order not to disclose the production of any one operator, no production figure shall be published that represents the production of less than three operators. If necessary to maintain confidentiality, production figures for two or more towns shall be combined.~~

~~§ 544. ABANDONMENT OF WELLS~~

~~(a) Prior to the abandonment of any well drilled under a permit issued by the Board, it shall be the duty of the owner or operator of the well to plug it so as to completely shut off and prevent the escape of all oil, gas, salt water, or other substances that might pollute ground or surface waters.~~

~~(b) The operator of the well shall notify the Board in writing of his or her intention to plug and abandon, identifying the well and fixing the time when the work of plugging the well will be commenced so that a representative of the Board may be present.~~

~~(c) When plugging and restoration and reclamation of the drill site have been completed, a certificate of abandonment shall be filed in a form and manner prescribed by the Board.~~

~~(d) If a person fails to produce and sell, or to produce for his or her own purposes, oil or gas from a completed well for a period of more than 24 months, there shall be a rebuttable presumption that the person intends to abandon the well and any well equipment situated on the premises. However, this presumption shall not arise:~~

~~(1) concerning leases for gas storage purposes; or~~

~~(2) where any shut-in royalty, flat rate well rental, delay rental, or other similar payment designed to keep an oil and gas lease in effect or to extend its term has been paid or tendered; or~~

~~(3) where the failure to produce and sell is the result of any act of neglect of a third party beyond the control of the owner or operator of the well; or~~

~~(4) when a delay in excess of 24 months occurs because of any inability to sell, deliver, or otherwise tender any oil or gas product.~~

~~§ 545. CONVEYANCE AND ACQUISITION OF OIL AND GAS INTERESTS~~

~~(a) An oil and gas interest shall be deemed to mean the interest that is created by an instrument transferring, either by grant, reservation, assignment, or otherwise, an interest of any kind in oil and gas, and other minerals if included in an interest in oil and gas.~~

~~(b) An instrument transferring an interest in oil and gas, as described in subsection (a) of this section, shall identify the type of interest transferred in bold face type at the top of the instrument. For example:~~

~~(1) LEASE- OIL AND GAS ONLY;~~

~~(2) LEASE- OIL, GAS, AND OTHER MINERALS;~~

~~(3) DEED- OIL AND GAS ONLY;~~

~~(4) DEED- OIL, GAS, AND OTHER MINERALS.~~

~~(c) The owner or operator of any well shall notify the Board and all royalty owners within 30 days of the sale, assignment, transfer, conveyance, or~~

~~exchange by the owner or operator of such well and the land, owned or leased, upon which the well is located.~~

~~(d) Every person who acquires the ownership or operation of any well, whether by purchase, assignment, transfer, conveyance, exchange, or otherwise shall notify the Board and all royalty owners in writing within 60 days of the acquisition.~~

~~(e) The notice required by this section shall be given in the form and manner prescribed by the Board. The Board shall compile and maintain current records of producing wells and their ownership and location. The State Geologist shall have access to this information.~~

~~Subchapter 6. Violations, Enforcement, and Penalties~~

~~§ 551. ILLEGAL OIL, GAS, AND PRODUCT~~

~~(a) The production, sale, acquisition, transportation, refining, processing, or handling of illegal oil, gas, or product is prohibited. However, no penalty shall be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, gas, or product, unless that person:~~

~~(1) knows, or is put on notice of facts indicating that illegal oil, gas, or product is involved; or~~

~~(2) fails to obtain a certificate of clearance with respect to such oil, gas, or product if prescribed by order of the Board; or~~

~~(3) fails to follow any other method prescribed by an order of the Board for the identification of such oil, gas, or product.~~

~~(b) The payment of any penalty or fine shall not operate to legalize any illegal oil, gas, or product involved in the violation for which the penalty or fine is imposed, or relieve a person on whom a penalty or fine is imposed from liability to any other person for damages arising out of the violations.~~

~~§ 552. ILLEGAL OIL, GAS, OR PRODUCT DECLARED CONTRABAND~~

~~(a) Illegal oil, gas, and product are declared to be contraband and are subject to seizure and sale. Seizure and sale shall be in addition to all other remedies and penalties provided in this chapter.~~

~~(b) Whenever the Board believes that any oil, gas, or product is illegal, the Board, acting by the Attorney General, may bring a civil action in the Superior Court of the county where the oil, gas, or product is found, to seize and sell the same, or the Board may include such an action in any suit brought for an injunction or penalty. Any person claiming an interest in oil, gas, or product, affected by such an action shall have the right to intervene as an interested party.~~

~~(c) Any person having an interest in oil, gas, or product alleged to be illegal and contesting the right of the State to seize and sell the same may obtain its release prior to sale upon furnishing a bond to the court. The bond shall be:~~

~~(1) in an amount equal to 150 percent of the market value of the oil, gas, or product to be released;~~

~~(2) conditioned upon either redelivery of the released commodity or payment of its market value, if and when ordered by the court; and~~

~~(3) conditioned upon full compliance with all further orders of the court.~~

~~(d) If the court finds that the oil, gas, or product is contraband, the court shall order its sale by the sheriff.~~

~~(1) Upon such sale, title to the oil, gas, or product shall vest in the purchaser free of all claims, and it shall be legal oil, gas, or product in the hands of the purchaser.~~

~~(2) All proceeds which are derived from the sale of illegal oil, gas, or product, less the costs of suit and expenses of sale, shall be paid into the General Fund. (Added 1981, No. 240 (Adj. Sess.), § 2, eff. April 28, 1982.)~~

~~§ 553. DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED~~

~~It shall be unlawful for any member of the Board, State land manager, employee, or other person performing any function on behalf of the Board or a State land manager, or any governmental agency or employee utilizing confidential information provided to the Board, to disclose or use such information for purposes other than those authorized by the Board, except upon the written consent of the person making the information available to the Board.~~

~~§ 554. PENALTIES~~

~~(a) Any person who violates any provision of this chapter or the rules or orders of the Board shall be fined not more than $5,000.00 or imprisoned for not more than two years, or both. In the case of a continuing violation, each~~

~~day's continuance may be deemed a separate offense for the purpose of the fine.~~

~~(b) Any person who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or the rules, regulations, or orders of the Board shall be fined not more than $5,000.00 or be imprisoned for not more than two years, or both.~~

~~(c) Any person who unlawfully discloses or knowingly uses for his or her own purpose information made confidential under this chapter shall be fined not more than $5,000.00 or imprisoned for not more than two years, or both.~~

~~(d) Any person knowingly aiding or abetting any other person in the violation of this chapter or any rule, or order of the Board, shall be subject to the same penalties prescribed for the violation of that other person.~~

~~§ 555. ENFORCEMENT~~

~~(a) In addition to the other penalties herein provided, the Board may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this chapter or of the rules, regulations, or orders promulgated hereunder.~~

~~(b) If the Board fails to bring a suit or other action to enjoin a violation or threatened violation of this chapter or any rule or order of the Board within 10 days after the receipt of a written request to do so by any person who is or will be adversely affected by the violation, the person making the request may~~

~~bring suit on his or her own behalf to restrain the violation or threatened violation.~~

~~Subchapter 7. Miscellaneous~~

~~§ 561. RELEASE OF OIL AND GAS LEASES~~

~~(a) After the expiration, cancellation, surrender, or relinquishment of an oil and gas lease, upon written request of the lessor, the lessee shall file a release or discharge of the lease in the land records of the town or towns where the lands described in the lease are located. The filing shall be in recordable form and shall include any fees.~~

~~(b) If any lessee, his or her personal representative, successor, or assign fails or refuses to record a release for a period of 30 days after being so requested, he or she shall be liable for all damages occasioned thereby, including costs and reasonable attorney's fees.~~

~~(c) A lessor's request for release or discharge shall be in writing and delivered to the lessee by personal service or registered mail at his or her last known address.~~

~~§ 562. SUBDIVISION OF LAND SUBJECT TO AN OIL AND GAS LEASE~~

~~Unless the parties agree in writing to the contrary, if ownership of any land subject to an oil and gas lease is thereafter subdivided into separate interests, the land shall be developed and operated for oil and gas purposes as an entirety and the rentals and royalties shall be divided and paid to the separate owners in~~

~~the proportion that the acreage or interest owned bears to the entire leased acreage.~~

~~§ 563. ABANDONMENT OF OIL AND GAS INTERESTS; PRESERVATION~~

~~(a) An abandoned interest in oil and gas shall revert to and merge with the surface estate from which it was severed.~~

~~(b) An interest in oil and gas is deemed abandoned at any time that:~~

~~(1) it has been unused for a continuous period of 10 years after July 1, 1973; and~~

~~(2) no statement of interest under subsection (e) of this section has been filed at any time within the preceding five years.~~

~~(c) The provisions of subsection (b) of this section shall not apply to any interest in oil or gas that has been retained by the owner who originally severed the mineral estate from the surface estate, notwithstanding that other interests in the land, including ownership of the surface, may have been sold, leased, mortgaged, or otherwise transferred.~~

~~(d) This section applies to all interests in oil and gas. It also applies to interests in other minerals if created inclusively in the same instrument which expressly creates an oil and gas interest. It does not apply to mineral interests that do not expressly include an oil and gas interest or were intended to be separate from an oil and gas interest.~~

~~(e) An interest in oil and gas is deemed used at any time in which:~~

~~(1) there is actual production of oil or gas, including production from lands covered by a lease to which an oil and gas interest is subject, or from lands pooled or unitized with such lands; or~~

~~(2) oil and gas operations are conducted under the terms of the instrument creating the oil and gas interest; or~~

~~(3) payment is made of rental or royalties for the purpose of delaying the use or continuing the use of the oil and gas interest; or~~

~~(4) payment of taxes is made on the oil and gas interest; or~~

~~(5) there exists a currently valid permit under 10 V.S.A. chapter 151 or a currently valid drilling permit under this chapter for development of the oil and gas interest.~~

~~(f) The owner of an interest in oil or gas may file a statement of interest in the land records of any municipality in which the land affected is located. The statement shall include a description of the land affected, the nature of the interest claimed, the book and page of recording of the original grant of the interest, and the name and address of the person claiming the interest.~~

~~(g) The owner of the surface estate from which an oil and gas interest was severed may give notice of abandonment under this subsection. Notice shall contain the name of the record owner of the interest, a description of the land and the nature of the interest, the book and page of filing of the interest, if it is filed, the name and address of the person giving notice, and a statement that the interest is presumed abandoned. The notice shall be published in a~~

~~newspaper of general circulation in the town or towns where the land affected is located. If the address of the owner of the oil and gas interest is shown on record, a copy of the notice shall be mailed to that address by certified or registered mail within 10 days after the date of publication.~~

~~(h) A copy of the notice under subsection (g) of this section, and an affidavit, may be filed in the land records of the municipality in which the land is located. The affidavit shall state that the oil or gas interest has been abandoned under the criteria set forth in subsection (b) of this section, and that notice of abandonment has been given under subsection (g). After the notice and affidavit have been filed, unless a court finds to the contrary, the oil and gas interest shall be presumed abandoned, and the interest of the surface owner shall be presumed for all purposes free of encumbrance from that interest.~~

~~§ 564. SURFACE USE VALUE APPRAISAL OF AGRICULTURE AND FORESTLANDS~~

~~In order to support and encourage the accomplishment of the purposes set forth in 32 V.S.A. § 3751, the eligibility of agricultural land and managed forestland for use value appraisal shall not be denied solely by the leasing or development of the subsurface of those lands for oil and gas exploration and production. However, those lands shall nevertheless be required to meet the criteria contained in 32 V.S.A. chapter 124 and the rules adopted by the Current Use Advisory Board.~~

~~§ 565. GOVERNOR AUTHORIZED TO JOIN IN INTERSTATE COMPACT~~

~~(a) The Governor, in the name of the State, may join with the other states in the Interstate Compact to Conserve Oil and Gas. This compact was executed in Dallas, Texas, on February 16, 1935, has been extended, with the consent of Congress on October 14, 1976 by Public Law 94-493, and said compact and all extensions are now on deposit with the Department of State of the United States.~~

~~(b) The Governor, in the name of the State, may execute agreements for the further extension of the expiration date of that interstate compact to conserve oil and gas and to determine if and when it shall be to the best interest of this State to withdraw from said compact upon 60 days' notice as provided by its terms. If he or she determines that the State shall withdraw from said compact, he or she may give necessary notice and take any and all steps necessary and proper to effect the withdrawal.~~

~~(c) The Governor shall be the official representative of the State in the Compact to Conserve Oil and Gas, and shall exercise and perform for the State all of the powers and duties as such; provided, however, that the assistant representative who shall act in his or her stead as the official representative of the State shall be the Chair of the Board.~~

~~§ 566. CONSTRUCTION~~

~~(a) This chapter shall be liberally construed so as to effect the purposes set forth in section 502 of this chapter.~~

~~(b) The provisions of this chapter shall supersede all local laws and regulations relating to oil and gas development insofar as they may specify performance standards, methods, materials, procedures, or equipment to be used by a well operator.~~

~~(c) The provisions of this chapter shall not supersede local laws and regulations that provide for:~~

~~(1) specific uses permitted or prohibited in land use or zoning districts;~~

~~(2) other matters not fully covered by State law, regulation, or rule of the Board, to the extent that local regulation does not conflict or interfere with State regulation.~~ [Repealed.]

~~Subchapter 8. Hydraulic Fracturing for Oil or Gas Recovery~~

§ 571. HYDRAULIC FRACTURING; PROHIBITION

(a) No person may engage in hydraulic fracturing in the State.

(b) No person within the State may collect, store, or treat wastewater from hydraulic fracturing.

* * * Repeal of Review Board on Retail Sales * * *

Sec. 136. REPEAL OF REVIEW BOARD ON RETAIL SALES

30 V.S.A. § 212b (Review Board on Retail Sales) is repealed.

* * * Prospective Repeal of Clean Energy Development Board * * *

Sec. 137. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(d) Expenditures authorized.

* * *

(2) If during a particular year, the Commissioner of Public Service 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 Commissioner shall ~~consult with the Clean Energy Development Board, and shall~~ consider transferring funds to the Energy Efficiency Fund established under the provisions of subsection 209(d) of this title. 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.

* * *

(e) Management of Fund.

(1) This Fund shall be administered by the Department of Public Service to facilitate the development and implementation of clean energy resources. The Department is authorized to expend monies from the Clean Energy Development Fund in accordance with this section. The Commissioner of the Department shall make all decisions necessary to implement this section and administer the Fund ~~except those decisions committed to the Clean Energy Development Board under this subsection~~. The Department shall ensure an open public process in the administration of the Fund for the purposes established in this subchapter.

(2) During fiscal years after FY 2006, up to five percent of amounts appropriated to the Department of Public Service from the Fund may be used for administrative costs related to the Clean Energy Development Fund.

~~(3) There is created the Clean Energy Development Board, which shall consist of seven persons appointed in accordance with subdivision (4) of this subsection.~~

~~(A) The Clean Energy Development Board shall have decision-making and approval authority with respect to the plans, budget, and program designs described in subdivisions (7)(B) (D) of this subsection (e). The Clean Energy Development Board shall function in an advisory capacity to the Commissioner on all other aspects of this section's implementation.~~

~~(B) During a Board member's term and for a period of one year after the member leaves the Board, the Clean Energy Development Fund shall not make any award of funds to and shall confer no financial benefit on a company or corporation of which the member is an employee, officer, partner, proprietor, or Board member or of which the member owns more than 10 percent of the outstanding voting securities. This prohibition shall not apply to a financial benefit that is available to any person and is not awarded on a competitive basis or offered only to a limited number of persons.~~

~~(4) The Commissioner of Public Service shall appoint three members of the Clean Energy Development Board, and the Chairs of the House Committee on Energy and Technology and the Senate Committee on Natural Resources~~

~~and Energy each shall appoint two members of the Clean Energy Development Board. The terms of the members of the Clean Energy Development Board shall be four years, except that when appointments to this Board are made for the first time after May 25, 2011, each appointing authority shall appoint one member for a two-year term and the remaining members for four-year terms. When a vacancy occurs in the Board during the term of a member, the authority who appointed that member shall appoint a new member for the balance of the departing member's term.~~

~~(5) Except for those members of the Clean Energy Development Board otherwise regularly employed by the State, the compensation of the members shall be the same as that provided by 32 V.S.A. § 1010(a).~~

~~(6) In performing its duties, the Clean Energy Development Board may utilize the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Clean Energy Development Board with administrative services.~~

~~(7)~~(3) The Department shall perform each of the following:

(A) On or before January 15 of each year, provide to the Senate Committees on Finance and on Natural Resources and Energy and the House Committees on Commerce and Economic Development and on Energy and Technology a report for the fiscal year ending the preceding June 30 detailing the activities undertaken, the revenues collected, and the expenditures made under this subchapter. The provisions of 2 V.S.A. § 20(d) (expiration of

required reports) shall not apply to the report to be made under this subdivision.

(B) Develop~~, and submit to the Clean Energy Development Board for review and approval,~~ a five-year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process and shall be consistent with State energy planning principles.

(C) Develop~~, and submit to the Clean Energy Development Board for review and approval,~~ an annual operating budget.

(D) Develop~~, and submit to the Clean Energy Development Board for review and approval,~~ 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). Prior to any approval of a new program or of a substantial modification to a previously approved program of the Clean Energy Development Fund, the Department of Public Service shall publish online the proposed program or modification, shall provide an opportunity for public comment of no less than 30 days~~, and shall provide to the Clean Energy Development Board copies of all comments received on the proposed program or modification~~. ~~In~~ For the purposes of this subdivision (D), "substantial modification" ~~shall include~~ includes a change to a program's application criteria or application deadlines and ~~shall include~~ includes any change to a program if advance knowledge of the change could unfairly benefit one

applicant over another applicant. For the purpose of 3 V.S.A. § 831(c) ~~(~~, initiating rulemaking on request~~)~~, a new program or substantial modification of a previously approved program shall be treated as if it were an existing practice or procedure.

~~(8)~~(4) At least annually, the ~~Clean Energy Development Board and the~~ Commissioner or designee jointly 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 they deem necessary to fulfill ~~their~~ the Commissioner's obligations under this section.

(f) Clean Energy Development Fund Manager. The Clean Energy Development Fund shall have a Fund Manager who shall be an employee of the Department of Public Service.

(g) Bonds. The Commissioner of Public Service~~, in consultation with the Clean Energy Development Board,~~ may explore use of the Fund to establish one or more loan-loss reserve funds to back issuance of bonds by the State Treasurer otherwise authorized by law, including Clean Renewable Energy Bonds, that support the purposes of the Fund.

(h) ARRA funds. All American Recovery and Reinvestment Act (ARRA) funds described in section 8016 of this title shall be disbursed, administered, and accounted for in a manner that ensures rapid deployment of the funds and is consistent with all applicable requirements of ARRA, including

requirements for administration of funds received and for timeliness, energy savings, matching, transparency, and accountability. These funds shall be expended for the following categories listed in this subsection, provided that no single project directly or indirectly receives a grant in more than one of these categories. ~~After consultation with the Clean Energy Development Board, the~~ The Commissioner of Public Service shall have discretion to use non-ARRA monies within the fund to support all or a portion of these categories and shall direct any ARRA monies for which non-ARRA monies have been substituted to the support of other eligible projects, programs, or activities under ARRA and this section.

(1) The Vermont ~~Small-scale~~ Small Scale Renewable Energy Incentive Program currently administered by the Renewable Energy Resource Center, for use in residential and business installations. These funds may be used by the Program for all forms of renewable energy as defined by section 8002 of this title, including biomass and geothermal heating. The disbursement to this Program shall seek to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and

training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(4) $2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. ~~In~~ As used in this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process.

(5) $2 million to the Vermont Housing and Conservation Board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) ~~$2 million to the Vermont Telecommunications Authority (VTA) to make grants of no more than $10,000 per turbine for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.~~ [Repealed.]

(7) $880,000.00 to the 11 regional planning commissions ($80,000.00 to each such commission) to conduct energy efficiency and energy conservation activities that are eligible under the EECBG program.

(8) Concerning the funds authorized for use in subdivisions (4)–(7) of this subsection:

(A) To the extent permissible under ARRA, up to five percent may be spent for administration of the funds received.

(B) In the event that the Commissioner of Public Service determines that a recipient of such funds has insufficient eligible projects, programs, or activities to fully utilize the authorized funds, ~~then after consultation with the Clean Energy Development Board,~~ the Commissioner shall have discretion to reallocate the balance to other eligible projects, programs, or activities under this section.

(9) The Commissioner of Public Service is authorized, to the extent allowable under ARRA, to utilize up to 10 percent of ARRA funds received for the purpose of administration. The Commissioner shall allocate a portion of the amount utilized for administration to retain permanent, temporary, or limited service positions or contractors and the remaining portion to the oversight of specific projects receiving ARRA funding pursuant to section 6524 of this title.

(i) Rules. The Department ~~and the Clean Energy Development Board each~~ may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out its functions under this section ~~and shall consult with each other either before or during the rulemaking process~~.

* * * Repeal of Vermont Telecommunications Authority * * *

Sec. 138. REPEAL OF VERMONT TELECOMMUNICATIONS AUTHORITY

30 V.S.A. chapter 91 (Vermont Telecommunications Authority) is repealed.

* * * Repeal and Transfer of Duties of Private Activity Bond Advisory Committee * * *

Sec. 139. 32 V.S.A. § 994 is amended to read:

§ 994. ~~ADVISORY COMMITTEE~~ RECOMMENDATION REGARDING PRIVATE BOND VOLUME CAP

~~(a)(1) Creation; composition. There is created a Private Activity Bond Advisory Committee, which shall consist of the following members:~~

~~(A) the State Treasurer or his or her designee;~~

~~(B) the Secretary of Administration or his or her designee;~~

~~(C) the Secretary of Commerce and Community Development or his or her designee;~~

~~(D) two members who shall be representatives of the public, appointed by the Governor.~~

~~(2) Each public representative shall serve for a two-year term beginning February 1, or until his or her successor is appointed. The terms of the public representatives shall be staggered so that only one member's term expires in each year.~~

~~(3) The State Treasurer or designee shall serve as Chair of the Committee.~~

~~(4) The Office of the State Treasurer shall provide administrative support to the Committee.~~

~~(5) Public representatives may receive reimbursement of expenses and per diem compensation pursuant to section 1010 of this title.~~

~~(b) Committee charge.~~

The Treasurer shall, in coordination with the Secretary of Administration, the Secretary of Commerce and Community Development, and any bond issuing authority of the State or instrumentality of the State that is eligible to issue private activity bonds:

(1) ~~The Committee shall~~ annually survey the expected need for private activity bond allocations ~~among constituted and eligible issuing authorities empowered to issue such bonds on an annual basis~~ and provide recommendations to the Emergency Board prior to its meetings;

(2)~~(A) The Committee shall develop~~ maintain guidelines for allocation of private activity bonding capacity designed to maximize the availability of ~~tax exempt~~ tax-exempt financing among various sectors of the Vermont economy with a focus on economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation, and other activities that ~~the Committee determines will~~ benefit the citizens of Vermont~~.~~ which

~~(B) The~~ guidelines should support efforts and entities that increase the number of good-paying jobs in the State, promote economic development, support affordable housing, and affordable access to postsecondary education and training, and encourage the use of Vermont's human and natural resources in endeavors that maximize Vermont's comparative economic advantages, and be flexible enough to include new and innovative uses of private activity bonds, consistent with federal regulations and the Internal Revenue Code~~.~~;

(3) ~~The Committee shall meet at least annually and shall hold at least one public hearing prior to submitting its recommendations to the Emergency Board. The Committee shall further submit its recommendations in an annual report of its activities to the Governor and the General Assembly.~~

~~(4) On~~ on or before December 1 of each year, ~~the Committee~~ shall make recommendations to the Emergency Board on the allocation, including any amounts reserved for contingency allocations, of the State's private activity bond ceiling for the following calendar year to and among the constituted issuing authorities empowered to issue such bonds~~.~~; and

~~(5)~~(4) ~~On its own initiative,~~ as required, or at the request of the Governor or ~~at the request of~~ the Emergency Board, ~~the Committee may~~ make recommendations to the Governor or Emergency Board concerning assignments or reallocation of any unused portion of the ceiling subsequent to an allocation by the Emergency Board in a given year.

* * * State Ethics Commission Report on Municipal Ethics * * *

Sec. 139a. REPORT ON MUNICIPAL ETHICS

On or before January 15, 2024, the State Ethics Commission shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with its recommendations for creating a framework for municipal ethics in Vermont. The report shall include a summary of the issues related to creating a framework for municipal ethics in Vermont and a summary of any relevant input received by the Commission in drafting the report. The report shall include specific recommendations on how to best provide cities and towns with informational resources about basic ethics practices. In drafting the report, the Commission may consult with any person it deems necessary to conduct a full and complete analysis of the issue of municipal ethics, including the Vermont League of Cities and Towns and the Office of the Secretary of State.

* * * Effective Dates * * *

Sec. 140. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 117 (amending 18 V.S.A. § 4234) shall take effect on July 2, 2023 and Sec. 137 (amending 30 V.S.A. § 8015) shall take effect on June 30, 2027.

Date Governor signed bill: June 8, 2023