

1 H.640

2 Introduced by Representative Sweaney of Windsor

3 Referred to Committee on

4 Date:

5 Subject: Legislature; Vermont Statutes Annotated; technical corrections

6 Statement of purpose of bill as introduced: This bill proposes to make

7 technical corrections to Vermont statutes.

8 An act relating to technical corrections

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

10 Sec. 1. 3 V.S.A. § 253 is amended to read:

11 § 253. DEPUTY OFFICERS

12 \* \* \*

13 (c)(1) The Commissioner of Financial Regulation, with the approval of the  
14 ~~governor~~ Governor, shall appoint a Deputy Commissioner of Banking, a  
15 Deputy Commissioner of Insurance, a Deputy Commissioner of Captive  
16 Insurance, and a Deputy Commissioner of Securities, ~~and a Deputy~~  
17 ~~Commissioner of Health Care Administration~~. The Commissioner of Financial  
18 Regulation may remove the deputy commissioners at pleasure and shall be  
19 responsible for their acts. The functions and duties that relate to banks and  
20 banking shall be in the charge of the Deputy Commissioner of Banking; those

1 that relate to the business of insurance shall be in the charge of the Deputy  
2 Commissioner of Insurance; those that relate to the business of captive  
3 insurance shall be in the charge of the Deputy Commissioner of Captive  
4 Insurance; and those that relate to the business of securities shall be in the  
5 charge of the Deputy Commissioner of Securities; ~~and those that relate to~~  
6 ~~health care administration shall be in the charge of the Deputy Commissioner~~  
7 ~~of health care administration.~~

8 (2) In the case of a vacancy in the Office of the Commissioner of  
9 Financial Regulation, one of the deputies appointed by the Commissioner shall  
10 assume and discharge the duties of that office until the vacancy is filled or the  
11 Commissioner returns.

12 (d) In case a vacancy occurs in the office of any appointing official who by  
13 law is authorized to appoint a deputy, or ~~such~~ the official is absent, his or her  
14 deputy shall assume and discharge the duties of such office until ~~such~~ the  
15 vacancy is filled, or ~~such~~ the official returns. ~~In the case of a vacancy in the~~  
16 ~~office of the Commissioner of Financial Regulation, one of the deputies~~  
17 ~~appointed by the Commissioner shall assume and discharge the duties of that~~  
18 ~~office until the vacancy is filled or the Commissioner returns. In case a~~  
19 ~~vacancy occurs in the office of the Secretary of Agriculture, Food and Markets,~~  
20 ~~the Deputy Commissioner for administration and enforcement shall assume~~

1 ~~and discharge the duties of the Secretary until such vacancy is filled, or the~~  
2 ~~Secretary returns.~~

3 (e)(1) The Secretary of Agriculture, Food and Markets, with the approval  
4 of the Governor, shall appoint a Deputy ~~Commissioner for administration and~~  
5 ~~enforcement~~ Secretary. The Secretary of Agriculture, Food and Markets may  
6 remove the Deputy ~~Commissioner~~ Secretary at pleasure, and he or she shall be  
7 responsible for the Deputy ~~Commissioner's~~ Secretary's acts. The Agency of  
8 Agriculture, Food and Markets shall be so organized that, subject to the  
9 supervision of the Secretary of Agriculture, Food and Markets, the functions  
10 and duties that relate to administration and enforcement shall be in the charge  
11 of the Deputy ~~Commissioner of Administration and Enforcement~~ Secretary.

12 (2) In case a vacancy occurs in the Office of the Secretary of  
13 Agriculture, Food and Markets, the Deputy Secretary shall assume and  
14 discharge the duties of the Secretary until such vacancy is filled or the  
15 Secretary returns.

16 \* \* \*

17 Sec. 2. 3 V.S.A. § 471(m) is amended to read:

18 (m) The committee may authorize the loan of its securities pursuant to  
19 securities lending agreements that provide for collateral consisting of cash or  
20 securities issued or guaranteed by the ~~United States~~ U.S. government or its  
21 agencies equal to 100 percent or more of the market value of the loaned

1 securities. Cash collateral may be invested by the lending institution in  
2 investments approved by the ~~state treasurer~~ State Treasurer. Approval of  
3 investments shall be made in accordance with the standard of care established  
4 by the prudent investor rule under ~~chapter 147 of Title 9~~ 14A V.S.A. chapter 9.

5 Sec. 3. 3 V.S.A. § 472(a) is amended to read:

6 (a) The members of the Vermont ~~pension investment committee~~ Pension  
7 Investment Committee established in chapter 17 of this title shall be the  
8 trustees of the funds created by this subchapter, 16 V.S.A. chapter 55 ~~of~~  
9 ~~Title 16~~, and 24 V.S.A. chapter 125 ~~of Title 24~~, and with respect to them may  
10 invest and reinvest the assets of the fund, and hold, purchase, sell, assign,  
11 transfer, and dispose of the securities and investments in which the assets of  
12 the fund have been invested and reinvested. Investments shall be made in  
13 accordance with the standard of care established by the prudent investor rule  
14 under ~~chapter 147 of Title 9~~ 14A V.S.A. chapter 9.

15 Sec. 4. 3 V.S.A. § 479(d) is amended to read:

16 (d) After January 1, 2007, the State Treasurer may offer and administer a  
17 dental benefit plan for retired members, beneficiaries, eligible dependents, and  
18 eligible retirees of special affiliated groups and the dependents of members of  
19 those groups who are eligible for coverage in the State Employee ~~Group~~  
20 Medical Benefit Plan. The Plan shall be separate and apart from any dental  
21 benefit plan offered to Vermont State employees. The original plan of

1 benefits, and any changes thereto, shall be determined by the State Treasurer  
2 with due consideration of recommendations from the Retired Employees'  
3 Committee on Insurance established in section 636 of this title.

4 \* \* \*

5 Sec. 5. 10 V.S.A. § 543(f)(3) is added to read:

6 (3) Apprenticeship Program. The Vermont Apprenticeship Program  
7 established under 21 V.S.A. chapter 13. Awards under this subdivision may be  
8 used to fund the cost of apprenticeship-related instruction provided by the  
9 Department of Labor.

10 Sec. 6. 10 V.S.A. § 905b(18) is amended to read:

11 (18) study and investigate the wetlands of the State and cooperate with  
12 municipalities, the general public, other agencies, and the Board in collecting  
13 and compiling data relating to wetlands, ~~propose to the Board specific~~  
14 ~~wetlands to be designated as Class I wetlands~~, issue or deny permits pursuant  
15 to section 913 of this title and the rules authorized by this subdivision, issue  
16 wetland determinations pursuant to section 914 of this title, issue orders  
17 pursuant to section 1272 of this title, and in accordance with 3 V.S.A.  
18 chapter 25, adopt rules to address the following:

19 \* \* \*



1 proposes to offer evidence described in subdivision (a)(3) of this section, the  
2 defendant shall prior to the introduction of such evidence file written notice of  
3 intent to introduce that evidence, and the Court shall order an in camera  
4 hearing to determine its admissibility. All objections to materiality, credibility,  
5 and probative value shall be stated on the record by the prosecutor at the in  
6 camera hearing, and the Court shall rule on the objections forthwith, and prior  
7 to the taking of any other evidence.

8 Sec. 9. 16 V.S.A. § 1943(a) is amended to read:

9 (a) The members of the Vermont ~~pension investment committee~~ Pension  
10 Investment Committee established in 3 V.S.A. chapter 17 shall be the trustees  
11 of the fund created by this subchapter, and with respect to them may invest and  
12 reinvest the assets of the fund, and hold, purchase, sell, assign, transfer, and  
13 dispose of the securities and investments in which the assets of the fund have  
14 been invested and reinvested. Investments shall be made in accordance with  
15 the standard of care established by the prudent investor rule under ~~9 V.S.A.~~  
16 ~~chapter 147~~ 14A V.S.A. chapter 9.

17 Sec. 10. 18 V.S.A. § 7505(a) is amended to read:

18 (a) In emergency circumstances where a certification by a physician is not  
19 available without serious and unreasonable delay, and when personal  
20 observation of the conduct of a person constitutes reasonable grounds to  
21 believe that the person is a person in need of treatment, and he or she presents

1 an immediate risk of serious injury to himself or herself or others if not  
2 restrained, a law enforcement officer or mental health professional may make  
3 an application, not accompanied by a physician's certificate, to any ~~district or~~  
4 ~~superior~~ Superior judge for a warrant for an immediate examination.

5 Sec. 11. 18 V.S.A. § 7801(a) is amended to read:

6 (a) A patient who has been ordered hospitalized may apply for discharge to  
7 the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court  
8 within which the hospital is located. A patient who has been ordered to receive  
9 treatment other than hospitalization may apply for discharge to the ~~criminal~~  
10 ~~division~~ Family Division of the ~~superior court~~ Superior Court which originally  
11 entered the order; the ~~court~~ Court in its discretion may transfer the matter, for  
12 the convenience of witnesses or for other reasons, to the ~~criminal division~~  
13 Family Division of the ~~superior court~~ Superior Court within which the  
14 treatment is centered or in which the patient resides. Applications may be  
15 made no sooner than 90 days after the issuance of an order of continued  
16 treatment or no sooner than six months after the filing of a previous application  
17 under this section.

18 Sec. 12. 18 V.S.A. § 7802 is amended to read:

19 § 7802. ADMINISTRATIVE REVIEW

20 The head of the hospital and the board shall cause the condition of every  
21 patient to be reviewed as regularly as practicable, but not less often than every

1 six months, and whenever the head of a hospital or the board certifies that the  
2 patient is not a patient in need of further treatment, the patient shall be  
3 discharged. If requested by the patient all hearings by the board on the issue of  
4 granting a discharge shall be on reasonable notice to the patient's attorney who  
5 shall be afforded an opportunity to attend. In the absence of any attorney, the  
6 board shall notify the ~~criminal division~~ Family Division of the ~~superior court~~  
7 Superior Court and an attorney shall be appointed as provided in section 7111  
8 of this title.

9 Sec. 13. 18 V.S.A. § 9352(c) is amended to read:

10 (c) Health information exchange operation. VITL shall be designated in  
11 the Health Information Technology Plan pursuant to section 9351 of this title  
12 to operate the exclusive statewide health information exchange network for  
13 this State. The Secretary of Administration or designee shall enter into  
14 procurement grant agreements with VITL pursuant to ~~8 V.S.A. § 4089k~~  
15 32 V.S.A. § 10301. Nothing in this chapter shall impede local community  
16 providers from the exchange of electronic medical data.

17 Sec. 14. 19 V.S.A. § 38(a)(2) is amended to read:

18 \* \* \*

19 (2) a representative from the Division ~~of~~ for Historic Preservation  
20 appointed by the Secretary of Commerce and Community Development;

21 \* \* \*

1 Sec. 15. 20 V.S.A. § 3817 is amended to read:

2 § 3817. RULES ADOPTION AUTHORITY

3 The ~~agency of agriculture, food and markets~~ Agency of Human Services  
4 may adopt rules to implement this subchapter.

5 Sec. 16. 21 V.S.A. § 2002(3) is amended to read:

6 (3) “Full-time equivalent” or “FTE” means the number of employees  
7 expressed as the number of employee hours worked during a calendar quarter  
8 divided by 520. “Full-time equivalent” shall not include any employee hours  
9 attributable to a seasonal employee or part-time employee of an employer who  
10 offers health care coverage to all of its regular full-time employees, provided  
11 that the seasonal employee or part-time employee has health care coverage  
12 under either a private or any public plan except ~~VHAP or~~ Medicaid.

13 Sec. 17. 23 V.S.A. § 3318(c) is amended to read:

14 (c) The provisions of this subchapter and the rules adopted pursuant to this  
15 subchapter shall be enforced by law enforcement officers as defined in section  
16 3302 of this title in accordance with the provisions of 12 V.S.A. chapter 193,  
17 and they may also enforce the provisions of 10 V.S.A. § ~~1266~~ 1454 and the  
18 rules adopted pursuant to 10 V.S.A. § 1424. With respect to the provisions of  
19 10 V.S.A. § ~~1266~~ 1454 and the rules adopted pursuant to 10 V.S.A. § 1424,  
20 whenever a penalty for a violation of such a rule is not otherwise established,  
21 three superior judges appointed by the Court Administrator shall establish a

1 schedule, within the limits prescribed by law, of the penalty to be imposed.

2 Any law enforcement officer who issues a complaint shall advise the defendant  
3 of the schedule of penalties and show the defendant a copy of the schedule.

4 Sec. 18. 23 V.S.A. § 4103(4)(B)(iv) is amended to read:

5 (iv) farm vehicles, which are vehicles:

6 (I) controlled and operated by a farmer;

7 (II) used to transport either agricultural products, farm  
8 machinery, farm supplies ~~or both~~, or any of these to or from a farm;

9 (III) not used in the operations of a common or contract motor  
10 carrier; and

11 (IV) used within 150 miles of the farm.

12 Sec. 19. 24 V.S.A. § 3269(d) is amended to read:

13 (d) The ~~reserve fund~~ Reserve Fund shall be capitalized in accordance with  
14 standards and procedures approved by the Commissioner of Financial  
15 Regulation to cover expected foreclosures and fund administration costs based  
16 on good lending practice experience. Interest earned shall remain in the ~~fund~~  
17 Fund. The administrator of the ~~reserve fund~~ Reserve Fund shall invest and  
18 reinvest the ~~moneys~~ monies in the ~~fund~~ Fund and hold, purchase, sell, assign,  
19 transfer, and dispose of the investments in accordance with the standard of care  
20 established by the Prudent Investor Rule under ~~9 V.S.A. chapter 147~~  
21 14A V.S.A. chapter 9. The administrator shall apply the same investment

1 objectives and policies adopted by the Vermont State Employees' Retirement  
2 System, where appropriate, to the investment of ~~moneys~~ monies in the ~~fund~~  
3 Fund.

4 Sec. 20. 24 V.S.A. § 3270(c) is amended to read:

5 (c) At the direction of the Treasurer, a sum shall be transferred to the ~~fund~~  
6 Fund from ~~moneys~~ monies deposited into the Energy Efficiency Fund pursuant  
7 to ~~30 V.S.A. § 209(d)(7)~~ 30 V.S.A. § 209(e)(1)(A) (net capacity savings  
8 payments) and ~~(8)(B)~~ (net revenues from the sale of carbon credits).

9 \* \* \*

10 Sec. 21. 24 V.S.A. § 4306(b)(2) is amended to read:

11 (2) Disbursement to municipalities shall be awarded annually on or  
12 before December 31 through a competitive program administered by the  
13 Department of Housing and Community Affairs providing the opportunity for  
14 any eligible municipality or municipalities to compete regardless of size,  
15 provided that to receive funds, a municipality:

16 \* \* \*

17 Sec. 22. 24 V.S.A. § 4471(e) is amended to read:

18 (e) ~~Vermont neighborhood.~~ Neighborhood development area.  
19 Notwithstanding subsection (a) of this section, a determination by an  
20 appropriate municipal panel shall not be subject to appeal if the determination  
21 is that a proposed residential development within a designated downtown

1 development district, designated growth center, ~~or~~ designated Vermont  
2 neighborhood, or designated neighborhood development area seeking  
3 conditional use approval will not result in an undue adverse effect on the  
4 character of the area affected, as provided in subdivision 4414(3)(A)(ii) of this  
5 title.

6 Sec. 23. 24 V.S.A. § 4472(b) is amended to read:

7 (b) The remedy of an interested person with respect to the constitutionality  
8 of any one or more of the provisions of any bylaw or municipal plan shall be  
9 governed by the Vermont Rules of Civil Procedure with a de novo trial in the  
10 Civil Division of the Superior Court, unless the issue arises in the context of  
11 another case under this chapter, in which instance it may be raised in the  
12 Environmental Division. In such cases, hearings before the appropriate  
13 municipal panel shall not be required. This section shall not limit the authority  
14 of the Attorney General to bring an action before the Environmental Division  
15 under section 4453 of this title, with respect to challenges to housing  
16 provisions in bylaws.

17 Sec. 24. 24 V.S.A. § 5062(o) is amended to read:

18 (o) The Vermont Pension Investment Committee may authorize the loan of  
19 its securities pursuant to securities lending agreements that provide for  
20 collateral consisting of cash or securities issued or guaranteed by the United  
21 States government or its agencies equal to 100 percent or more of the market

1 value of the loaned securities. Cash collateral may be invested by the lending  
2 institution in investments approved by the State Treasurer. Approval of  
3 investments shall be made in accordance with the standard of care established  
4 by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

5 Sec. 25. 24 V.S.A. § 5088(5) is amended to read:

6 (5) A “public transit service” means any fixed route, paratransit,  
7 transportation brokerage, user-side subsidy, ~~and~~ or rideshare/ride-match  
8 program which is available to any person upon payment of the proper fare, and  
9 which is promoted to be available to all members of the public, including those  
10 with special needs.

11 Sec. 26. 30 V.S.A. § 8015(d)(3) is amended to read:

12 (3) ~~A~~ The Fund may issue a grant in lieu of a solar energy tax credit in  
13 accordance with 32 V.S.A. § 5930z(f). Of any Fund ~~moneys~~ monies  
14 unencumbered by such grants, the first \$2.3 million shall fund the Small-scale  
15 Renewable Energy Incentive Program described in subdivision (1)(E)(ii) of  
16 this subsection.

17 Sec. 27. 32 V.S.A. § 434 is amended to read:

18 § 434. INVESTMENT OF CERTAIN FUNDS

19 (a)(1) A “Trust Investment Account” is hereby created to maximize the  
20 earnings of individual funds by associating them together for common  
21 investment.

1 \* \* \*

2 (3) The State Treasurer may invest and reinvest the funds in the ~~account~~  
3 Account, and hold, purchase, sell, assign, transfer, and dispose of the  
4 investments in accordance with the standard of care established by the prudent  
5 investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9. The Treasurer  
6 shall apply the same investment objectives and policies adopted by the  
7 Vermont State Employees' Retirement System, where appropriate, to the  
8 investment of funds in the Trust Investment Account.

9 \* \* \*

10 (b) The State Treasurer may invest and reinvest the monies deposited into  
11 the Tobacco Litigation Settlement Fund established by section 435a of this  
12 title, and may hold, purchase, sell, assign, transfer, and dispose of the  
13 investments in accordance with the standard of care established by the prudent  
14 investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

15 Sec. 28. 32 V.S.A. § 1261(a) is amended to read:

16 (a) Unless otherwise provided, all persons in the employ of the ~~state~~ State  
17 when away from home and office on official duties shall be reimbursed for  
18 expenses necessarily incurred for travel, subsistence, postage, telephone,  
19 telegraph, express, and incidentals which shall be paid out of the ~~biennial~~  
20 appropriation made for the support of their respective departments. Nothing  
21 contained herein shall authorize payment to an administrative official or

1 employee, except the Governor, for travel between his or her place of  
2 residence and office, or subsistence thereat except for mileage reimbursement  
3 when an employee is called in and required to work at any time other than  
4 continuously into his or her normally scheduled shift. Compensation for  
5 subsistence, travel, and other expenses occurring while conducting business for  
6 the State shall be the subject of collective bargaining as defined in 3 V.S.A.  
7 § 904(a). Whenever it shall be necessary to effect the transfer of an employee  
8 of the State from one official station to another by direction of the head of a  
9 department, said employee shall be reimbursed for his or her reasonable and  
10 necessary moving expenses actually incurred. However, the reasonableness of  
11 ~~said~~ the expense shall be determined by the Commissioner of Finance and  
12 Management and no such expense shall be allowed unless the transfer is made  
13 for the convenience of the State and in no event where it is effected for the  
14 convenience or at the request of the employee. Such expense when allowed  
15 shall be paid out of the ~~biennial~~ appropriation made for the support of the  
16 respective departments. When an administrative official or employee works  
17 out of his or her home in the usual course of employment rather than out of an  
18 office, he or she shall be reimbursed for expenses in the same manner as  
19 though he or she were working out of an office and for the purposes of this  
20 section, his or her home shall be considered as his or her office.

1       Sec. 29. REPEALS

2           The following are repealed:

3           (1) 2009 Special Session Acts and Resolves No. 1, Sec. H.7 (directing  
4 the Legislative Council to revise the Vermont Statutes Annotated to reflect the  
5 redesignation of the Department of Taxes as the Department of Revenue).

6           (2) 3 V.S.A. § 252 (cost of bonds; blanket bond).

7           (3) 3 V.S.A. § 3083 (Department of Developmental and Mental Health  
8 Services).

9           (4) 10 V.S.A. § 902(10) (definition of “Panel”).

10          (5) 10 V.S.A. § 914(e) (wetland determination provision).

11          (6) 24 V.S.A. § 2408 (land acquired by virtue of the provisions of  
12 24 V.S.A. § 2407).

13          (7) 30 V.S.A. § 8004(f) (report requirement).

14       Sec. 30. EFFECTIVE DATE

15       This act shall take effect on July 1, 2014.