

# House Calendar

Tuesday, April 22, 2014

106th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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**ACTION CALENDAR**

**Third Reading**

**S. 299**

An act relating to sampler flights

**Senate Proposal of Amendment**

**H. 112**

An act relating to the labeling of food produced with genetic engineering

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

Sec. 1. FINDINGS

The General Assembly finds and declares that:

(1) U.S. federal law does not provide for the labeling of food that is produced with genetic engineering, as evidenced by the following:

(A) U.S. federal labeling and food and drug laws do not require manufacturers of food produced with genetic engineering to label such food as genetically engineered.

(B) As indicated by the testimony of a U.S. Food and Drug Administration (FDA) Supervisory Consumer Safety Officer, the FDA has statutory authority to require labeling of food products, but does not consider genetically engineered foods to be materially different from their traditional counterparts to require such labeling.

(C) No formal FDA policy on the labeling of genetically engineered foods has been adopted. Currently, the FDA only provides nonbinding guidance on the labeling of genetically engineered foods, including a 1992 draft guidance regarding labeling of food produced from genetic engineering and a 2001 draft guidance for industry regarding voluntary labeling of food produced from genetic engineering.

(2) U.S. federal law does not require independent testing of the safety of food produced with genetic engineering, as evidenced by the following:

(A) In its regulation of food, the FDA does not distinguish genetically engineered foods from foods developed by traditional plant breeding.

(B) Under its regulatory framework, the FDA does not independently test the safety of genetically engineered foods. Instead, manufacturers submit safety research and studies, the majority of which the manufacturers finance or conduct. The FDA reviews the manufacturers' research and reports through a voluntary safety consultation, and issues a letter to the manufacturer acknowledging the manufacturer's conclusion regarding the safety of the genetically engineered food product being tested.

(C) The FDA does not use meta-studies or other forms of statistical analysis to verify that the studies it reviews are not biased by financial or professional conflicts of interest.

(D) There is a lack of consensus regarding the validity of the research and science surrounding the safety of genetically engineered foods, as indicated by the fact that there are peer-reviewed studies published in international scientific literature showing negative, neutral, and positive health results.

(E) There have been no long-term or epidemiologic studies in the United States that examine the safety of human consumption of genetically engineered foods.

(F) Independent scientists may be limited from conducting safety and risk-assessment research of genetically engineered materials used in food products due to industry restrictions or patent restrictions on the use for research of those genetically engineered materials used in food products.

(3) Genetically engineered foods are increasingly available for human consumption, as evidenced by the fact that:

(A) it is estimated that up to 80 percent of the processed foods sold in the United States are at least partially produced from genetic engineering; and

(B) according to the U.S. Department of Agriculture, in 2012, genetically engineered soybeans accounted for 93 percent of U.S. soybean acreage, and genetically engineered corn accounted for 88 percent of U.S. corn acreage.

(4) Genetically engineered foods potentially pose risks to health, safety, agriculture, and the environment, as evidenced by the following:

(A) There are conflicting studies assessing the health consequences of food produced from genetic engineering.

(B) The genetic engineering of plants and animals may cause unintended consequences.

(C) The use of genetically engineered crops is increasing in

commodity agricultural production practices, which contribute to genetic homogeneity, loss of biodiversity, and increased vulnerability of crops to pests, diseases, and variable climate conditions.

(D) Cross-pollination of or cross-contamination by genetically engineered crops may contaminate organic crops and, consequently, affect marketability of those crops.

(E) Cross-pollination from genetically engineered crops may have an adverse effect on native flora and fauna. The transfer of unnatural deoxyribonucleic acid to wild relatives can lead to displacement of those native plants, and in turn, displacement of the native fauna dependent on those wild varieties.

(5) For multiple health, personal, religious, and environmental reasons, the State of Vermont finds that food produced from genetic engineering should be labeled as such, as evidenced by the following:

(A) Public opinion polls conducted by the Center for Rural Studies at the University of Vermont indicate that a large majority of Vermonters want foods produced with genetic engineering to be labeled as such.

(B) Polling by the New York Times indicated that many consumers are under an incorrect assumption about whether the food they purchase is produced from genetic engineering, and labeling food as produced from genetic engineering will reduce consumer confusion or deception regarding the food they purchase.

(C) Because genetic engineering, as regulated by this act, involves the direct injection of genes into cells, the fusion of cells, or the hybridization of genes that does not occur in nature, labeling foods produced with genetic engineering as “natural,” “naturally made,” “naturally grown,” “all natural,” or other similar descriptors is inherently misleading, poses a risk of confusing or deceiving consumers, and conflicts with the general perception that “natural” foods are not genetically engineered.

(D) Persons with certain religious beliefs object to producing foods using genetic engineering because of objections to tampering with the genetic makeup of life forms and the rapid introduction and proliferation of genetically engineered organisms and, therefore, need food to be labeled as genetically engineered in order to conform to religious beliefs and comply with dietary restrictions.

(E) Labeling gives consumers information they can use to make decisions about what products they would prefer to purchase.

(6) Because both the FDA and the U.S. Congress do not require the

labeling of food produced with genetic engineering, the State should require food produced with genetic engineering to be labeled as such in order to serve the interests of the State, notwithstanding limited exceptions, to prevent inadvertent consumer deception, prevent potential risks to human health, protect religious practices, and protect the environment.

Sec. 2. 9 V.S.A. chapter 82A is added to read:

CHAPTER 82A. LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

§ 3041. PURPOSE

It is the purpose of this chapter to:

(1) Public health and food safety. Establish a system by which persons may make informed decisions regarding the potential health effects of the food they purchase and consume and by which, if they choose, persons may avoid potential health risks of food produced from genetic engineering.

(2) Environmental impacts. Inform the purchasing decisions of consumers who are concerned about the potential environmental effects of the production of food from genetic engineering.

(3) Consumer confusion and deception. Reduce and prevent consumer confusion and deception by prohibiting the labeling of products produced from genetic engineering as “natural” and by promoting the disclosure of factual information on food labels to allow consumers to make informed decisions.

(4) Protecting religious practices. Provide consumers with data from which they may make informed decisions for religious reasons.

§ 3042. DEFINITIONS

As used in this chapter:

(1) “Consumer” shall have the same meaning as in subsection 2451a(a) of this title.

(2) “Enzyme” means a protein that catalyzes chemical reactions of other substances without itself being destroyed or altered upon completion of the reactions.

(3) “Food” means food intended for human consumption.

(4) “Genetic engineering” is a process by which a food is produced from an organism or organisms in which the genetic material has been changed through the application of:

(A) in vitro nucleic acid techniques, including recombinant

deoxyribonucleic acid (DNA) techniques and the direct injection of nucleic acid into cells or organelles; or

(B) fusion of cells (including protoplast fusion) or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts do not fall within the same taxonomic group, in a way that does not occur by natural multiplication or natural recombination.

(5) “In vitro nucleic acid techniques” means techniques, including recombinant DNA or ribonucleic acid techniques, that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as micro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion.

(6) “Manufacturer” means a person who:

(A) produces a processed food or raw agricultural commodity under its own brand or label for sale in or into the State;

(B) sells in or into the State under its own brand or label a processed food or raw agricultural commodity produced by another supplier;

(C) owns a brand that it licenses or licensed to another person for use on a processed food or raw commodity sold in or into the State;

(D) sells in, sells into, or distributes in the State a processed food or raw agricultural commodity that it packaged under a brand or label owned by another person;

(E) imports into the United States for sale in or into the State a processed food or raw agricultural commodity produced by a person without a presence in the United States; or

(F) produces a processed food or raw agricultural commodity for sale in or into the State without affixing a brand name.

(7) “Organism” means any biological entity capable of replication, reproduction, or transferring of genetic material.

(8) “Processed food” means any food other than a raw agricultural commodity and includes any food produced from a raw agricultural commodity that has been subjected to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(9) “Processing aid” means:

(A) a substance that is added to a food during the processing of the food but that is removed in some manner from the food before the food is

packaged in its finished form;

(B) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; or

(C) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at levels that do not have any technical or functional effect in that finished food.

(10) “Raw agricultural commodity” means any food in its raw or natural state, including any fruit or vegetable that is washed, colored, or otherwise treated in its unpeeled natural form prior to marketing.

#### § 3043. LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

(a) Except as set forth in section 3044 of this title, food offered for sale by a retailer after July 1, 2016 shall be labeled as produced entirely or in part from genetic engineering if it is a product:

(1) offered for retail sale in Vermont; and

(2) entirely or partially produced with genetic engineering.

(b) If a food is required to be labeled under subsection (a) of this section, it shall be labeled as follows:

(1) in the case of a packaged raw agricultural commodity, the manufacturer shall label the package offered for retail sale, with the clear and conspicuous words “produced with genetic engineering”;

(2) in the case of any raw agricultural commodity that is not separately packaged, the retailer shall post a label appearing on the retail store shelf or bin in which the commodity is displayed for sale with the clear and conspicuous words “produced with genetic engineering”; or

(3) in the case of any processed food that contains a product or products of genetic engineering, the manufacturer shall label the package in which the processed food is offered for sale with the words: “partially produced with genetic engineering”; “may be produced with genetic engineering”; or “produced with genetic engineering.”

(c) Except as set forth under section 3044 of this title, a manufacturer of a food produced entirely or in part from genetic engineering shall not label the product on the package, in signage, or in advertising as “natural,” “naturally made,” “naturally grown,” “all natural,” or any words of similar import that would have a tendency to mislead a consumer.



(d) This section and the requirements of this chapter shall not be construed to require:

(1) the listing or identification of any ingredient or ingredients that were genetically engineered; or

(2) the placement of the term “genetically engineered” immediately preceding any common name or primary product descriptor of a food.

#### § 3044. EXEMPTIONS

The following foods shall not be subject to the labeling requirements of section 3043 of this title:

(1) Food consisting entirely of or derived entirely from an animal which has not itself been produced with genetic engineering, regardless of whether the animal has been fed or injected with any food, drug, or other substance produced with genetic engineering.

(2) A raw agricultural commodity or processed food derived from it that has been grown, raised, or produced without the knowing or intentional use of food or seed produced with genetic engineering. Food will be deemed to be as described in this subdivision only if the person otherwise responsible for complying with the requirements of subsection 3043(a) of this title with respect to a raw agricultural commodity or processed food obtains, from whomever sold the raw agricultural commodity or processed food to that person, a sworn statement that the raw agricultural commodity or processed food has not been knowingly or intentionally produced with genetic engineering and has been segregated from and has not been knowingly or intentionally commingled with food that may have been produced with genetic engineering at any time. In providing such a sworn statement, any person may rely on a sworn statement from his or her own supplier that contains the affirmation set forth in this subdivision.

(3) Any processed food which would be subject to subsection 3043(a) of this title solely because it includes one or more processing aids or enzymes produced with genetic engineering.

(4) Any beverage that is subject to the provisions of Title 7.

(5) Any processed food that would be subject to subsection 3043(a) of this title solely because it includes one or more materials that have been produced with genetic engineering, provided that the genetically engineered materials in the aggregate do not account for more than 0.9 percent of the total weight of the processed food.

(6) Food that an independent organization has verified has not been knowingly or intentionally produced from or commingled with food or seed

produced with genetic engineering. The Office of the Attorney General, after consultation with the Department of Health, shall approve by procedure the independent organizations from which verification shall be acceptable under this subdivision (6).

(7) Food that is not packaged for retail sale and that is:

(A) a processed food prepared and intended for immediate human consumption; or

(B) served, sold, or otherwise provided in any restaurant or other food establishment, as defined in 18 V.S.A. § 4301, that is primarily engaged in the sale of food prepared and intended for immediate human consumption.

(8) Medical food, as that term is defined in 21 U.S.C. § 360ee(b)(3).

#### § 3045. RETAILER LIABILITY

(a) A retailer shall not be liable for the failure to label a processed food as required by section 3043 of this title, unless the retailer is the producer or manufacturer of the processed food.

(b) A retailer shall not be held liable for failure to label a raw agricultural commodity as required by section 3043 of this title, provided that the retailer, within 30 days of any proposed enforcement action or notice of violation, obtains a sworn statement in accordance with subdivision 3044(2) of this title.

#### § 3046. SEVERABILITY

If any provision of this chapter or its application to any person or circumstance is held invalid or in violation of the Constitution or laws of the United States or in violation of the Constitution or laws of Vermont, the invalidity or the violation shall not affect other provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

#### § 3047. FALSE CERTIFICATION

It shall be a violation of this chapter for a person knowingly to provide a false statement under subdivision 3044(2) of this title that a raw agricultural commodity or processed food has not been knowingly or intentionally produced with genetic engineering and has been segregated from and has not been knowingly or intentionally commingled with food that may have been produced with genetic engineering at any time.

#### § 3048. PENALTIES; ENFORCEMENT

(a) Any person who violates the requirements of this chapter shall be liable for a civil penalty of not more than \$1,000.00 per day, per product.

Calculation of the civil penalty shall not be made or multiplied by the number of individual packages of the same product displayed or offered for retail sale. Civil penalties assessed under this section shall accrue and be assessed per each uniquely named, designated, or marketed product.

(b) The Attorney General shall have the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under subchapter 1 of chapter 63 of this title. Consumers shall have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.

### Sec. 3. ATTORNEY GENERAL RULEMAKING; LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

The Attorney General may adopt by rule requirements for the implementation of 9 V.S.A. chapter 82A, including:

(1) a requirement that the label required for food produced from genetic engineering include a disclaimer that the Food and Drug Administration does not consider foods produced from genetic engineering to be materially different from other foods; and

(2) notwithstanding the labeling language required by 9 V.S.A. § 3043(a), a requirement that a label required under 9 V.S.A. chapter 82A identify food produced entirely or in part from genetic engineering in a manner consistent with requirements in other jurisdictions for the labeling of food, including the labeling of food produced with genetic engineering.

### Sec. 4. GENETICALLY ENGINEERED FOOD LABELING SPECIAL FUND

(a) There is established a Genetically Engineered Food Labeling Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5 to pay costs or liabilities incurred by the Attorney General or the State in implementation and administration, including rulemaking, of the requirements under 9 V.S.A. chapter 82A for the labeling of food produced from genetic engineering.

(b) The Fund shall consist of:

(1) private gifts, bequests, grants, or donations of any amount made to the State from any public or private source for the purposes for which the Fund was established;

(2) except for those recoveries that by law are appropriated for other uses, up to \$1,500,000.00 of settlement monies collected by the Office of the Attorney General that, as determined by the Office of the Attorney General after consultation with the Joint Fiscal Office and the Department of Finance and Management, exceed the estimated amounts of settlement proceeds in

the July 2014 official revenue forecast issued under 32 V.S.A. § 305a for fiscal year 2015; and

(3) such sums as may be appropriated or transferred by the General Assembly.

(c) Monies in the Fund from settlement monies collected by the Office of the Attorney General or from funds appropriated or transferred by the General Assembly shall be disbursed only if monies in the Fund from private gifts, bequests, grants, or donations are insufficient to the Attorney General to pay the costs or liabilities of the Attorney General or the State incurred in implementation and administration of the requirements of 9 V.S.A. chapter 82A.

(d) On or after July 1, 2018, if the Attorney General is not involved in ongoing litigation regarding the requirements of 9 V.S.A. chapter 82A and monies in the Fund exceed the costs or liabilities of the Attorney General or the State:

(1) unexpended monies in the Fund received from private or public sources shall be appropriated by the General Assembly, after review by the Senate and House Committees on Appropriations, the Senate Committee on Agriculture, and the House Committee on Agriculture and Forest Products, for the support of agricultural activities or agricultural purposes in the State, including promotion of value-added products, compliance with water quality requirements, and marketing assistance and development; and

(2) unexpended State monies in the Fund shall revert to the General Fund.

#### Sec. 5. ATTORNEY GENERAL FISCAL YEAR BUDGET

If, in fiscal year 2015, \$1,500,000.00 in monies is not collected in the Genetically Engineered Food Labeling Special Fund established under Sec. 4 of this act, the Attorney General shall request in the fiscal year 2016 budget proposal for the Office of the Attorney General the monies necessary to implement and administer the requirements established by 9 V.S.A. chapter 82A for the labeling of food produced from genetic engineering.

#### Sec. 6. ATTORNEY GENERAL REPORT ON LABELING OF MILK

(a) On or before January 15, 2015, the Office of the Attorney General, after consultation with the Agency of Agriculture, Food and Markets, shall submit to the Senate and House Committees on the Judiciary, the Senate Committee on Agriculture, and the House Committee on Agriculture and Forest Products a report regarding whether milk and milk products should be subject to the labeling requirements of 9 V.S.A. chapter 82A for food produced with genetic

engineering. The report shall include:

(1) a recommendation as to whether milk or milk products should be subject to the requirements of 9 V.S.A. chapter 82A; and

(2) the legal basis for the recommendation under subdivision (1) of this subsection.

(b) In exercise of the Attorney General's authority to defend the interests of the State, the Attorney General, in his or her discretion, may notify the General Assembly that it is not in the best interest of the State to submit the report required under subsection (a) of this section on or before January 15, 2015. Any notice submitted under this subsection shall estimate the date when the report shall be submitted to the General Assembly.

#### Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 3 (Attorney General rulemaking), 4 (genetically engineered food labeling special fund), 5 (Attorney General budget fiscal year 2016), 6 (Attorney General report; milk) shall take effect on passage.

(b) Secs. 1 (findings) and 2 (labeling of food produced with genetic engineering) shall take effect on July 1, 2016.

(For text see House Journal May 10, 2014 )

### **H. 260**

An act relating to electronic insurance notices and credit for reinsurance

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

First: By striking out Secs. 1, 2, and 3 (pertaining to electronic insurance notices) in their entirety

Second: In Sec. 4, 8 V.S.A. § 3634a (credit for reinsurance), in subdivision (b)(5), by adding subdivision (H) to read as follows:

(H) Credit for reinsurance ceded to a certified reinsurer shall be permitted only for reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer by the Commissioner.

Third: By striking out Sec. 5 (effective dates) in its entirety and by inserting in lieu thereof a new Sec. 5 (renumbered as Sec. 2) to read as follows:

#### Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And by renumbering all the remaining sections of the bill to be numerically correct

And that after passage the title of the bill be amended to read: “An act relating to credit for reinsurance”.

(For text see House Journal February 4, 2014 )

**H. 483**

An act relating to adopting revisions to Article 9 of the Uniform Commercial Code

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

First: In Sec. 1, in § 9-801, by striking out the following: “2013” and inserting in lieu thereof the following: 2014.

Second: In Sec. 2, by striking out the following: “2013” and inserting in lieu thereof the following: 2014.

(For text see House Journal April 30, 2013 )

**Action Under Rule 52**

**J.R.H. 22**

Joint resolution authorizing the use of the State House on June 18, 2014 for the 2014 Green Mountain Girls State Day

(For text see House Journal 4/18/2014)

**Action Postponed Until April 23, 2014**

**Senate Proposal of Amendment**

**H. 356**

An act relating to prohibiting littering in or on the waters of the State.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

**NOTICE CALENDAR**

**Favorable with Amendment**

**J.R.H. 21**

Joint resolution urging Congress to enact the Blue Water Navy Vietnam Veterans Act of 2013

**Rep. Savage of Swanton**, for the Committee on **General, Housing and Military Affairs**, recommends the resolution be amended as follows:

First: By striking out the seventh Whereas clause in its entirety and inserting in lieu thereof a new seventh Whereas clause to read:

Whereas, U.S. Representative Chris Gibson of New York introduced the Blue Water Navy Vietnam Veterans Act of 2013 (H.R.543) to provide full Agent Orange Act of 1991 compensation benefits to Blue Water Navy Vietnam Veterans, with over 180 cosponsors, including U.S. Representative Peter Welch, and with the support of many veterans service organizations, and

Second: By striking out the eighth Whereas clause in its entirety.

( **Committee Vote: 6-0-2**)

## S. 211

An act relating to permitting of sewage holding and pumpout tanks for public buildings

**Rep. Krebs of South Hero**, for the Committee on **Fish, Wildlife & Water Resources**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Sewage Holding and Pumpout Tanks for Public Buildings \* \* \*

Sec. 1. 10 V.S.A. § 1979 is amended to read:

§ 1979. HOLDING TANKS

(a) The ~~secretary~~ Secretary shall approve the use of sewage holding and pumpout tanks when he or she determines that:

(1) the existing or proposed buildings or structures to be served by the holding tank are publicly owned;

(2) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;

(3) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and

(4) the design flows do not exceed 600 gallons per day.

(b)(1) The Secretary shall approve the use of sewage holding and pumpout tanks for existing buildings or structures that are owned by a charitable, religious, or nonprofit organization when he or she determines that:

(A) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;

(B) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and

operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and

(C) the design flows do not exceed 600 gallons per day.

(2) Before constructing a holding tank permitted under this subsection, the applicant shall post a bond or other financial surety sufficient to finance maintenance of the holding tank for the life of the system, which shall be at least 20 years.

(3)(A) A permit issued under this subsection shall run with the land for the duration of the permit and shall apply to all subsequent owners of the property being served by the holding tank regardless of whether the owner is a charitable, religious, or nonprofit organization.

(B) All permit conditions, including the financial surety requirement of subdivision (b)(2), shall apply to a subsequent owner.

(C) A subsequent owner shall not increase the design flows of the holding and pumpout tank system without approval from the Secretary.

(c) A holding tank may also be used for a project that is eligible for a variance under section 1973 of this title, whether or not the project is publicly owned, if the existing wastewater system has failed, or is expected to fail, and in either instance, if there is no other cost-feasible alternative.

(d) When a holding tank is proposed for use, a designer shall submit all information necessary to demonstrate that the holding tank will comply with the following requirements:

(1) ~~the~~ The holding tank shall be capable of holding at least 14 days of the ~~expected~~ design flow from the building;.

(2) ~~the~~ The tank shall be constructed of durable materials that are appropriate for the site conditions and the nature of the sewage to be stored;.

(3) ~~the~~ The tank shall be watertight, including any piping connected to the tank and all access structures connected to the tank. The tank shall be leakage tested prior to being placed in service;.

(4) ~~the~~ The tank shall be designed to protect against floatation when the tank is empty, such as when it is pumped;.

(5) ~~the~~ The tank shall be equipped with audio and visual alarms that are triggered when the tank is filled to 75 percent of its design capacity;.

(6) ~~the~~ The tank shall be located so that it can be reached by tank pumping vehicles at all times when the structure is occupied; ~~and~~.

(7) ~~the~~ The analysis supports a claim under subdivision (a)(3) of this



section.

~~(d)~~(e) The permit application shall specify the method and expected frequency of pumping.

~~(e)~~(f) Any building or structure served by a holding tank shall have a water meter, or meters, installed that measures all water that will be discharged as wastewater from the building or structure.

~~(f)~~(g) Any permit issued for the use of a holding tank will require a designer to periodically inspect the tank, visible piping, and alarms. The designer shall submit a written report to the ~~secretary~~ Secretary detailing the results of the inspection and any repairs or changes in operation that are required. The report also shall detail the pumping history since the previous report, giving the dates of pumping and the volume of wastewater removed. The frequency of inspections and reports shall be stated in the permit issued for the use of the tank, but shall be no less frequent than once per year. The designer also shall inspect the water meter or meters and verify that they are installed, calibrated, and measuring all water that is discharged as wastewater. The designer shall read the meters and compare the metered flow to the pumping records. Any significant deviation shall be noted in the report and explained to the extent possible.

~~(g)~~(h) The owner of a holding tank shall maintain a valid contract with a licensed wastewater hauler at all times. The contract shall require the licensed wastewater hauler to provide written notice of dates of pumping and volume of wastewater pumped. Copies of all such notices shall be submitted with the written inspection reports.

\* \* \* Municipal Water Connection Certification \* \* \*

Sec. 2. 10 V.S.A. § 1976 is amended to read:

#### § 1976. DELEGATION OF AUTHORITY TO MUNICIPALITIES

(a)(1) If a municipality submits a written request for delegation of this chapter, the ~~secretary~~ Secretary shall delegate authority to the municipality to implement and administer provisions of this chapter, the rules adopted under this chapter, and the enforcement provisions of chapter 201 of this title relating to this chapter, provided that the ~~secretary~~ Secretary is satisfied that the municipality:

(A) has established a process for accepting, reviewing, and processing applications and issuing permits, which shall adhere to the rules established by the ~~secretary~~ Secretary for potable water supplies and wastewater systems, including permits, by rule, for sewerage connections;

(B) has hired, appointed, or retained on contract, or will hire, appoint,

or retain on contract, a licensed designer to perform technical work which must be done by a municipality under this section to grant permits;

(C) will take timely and appropriate enforcement actions pursuant to the authority of chapter 201 of this title;

(D) commits to reporting annually to the ~~secretary~~ Secretary on a form and date determined by the ~~secretary~~ Secretary; and

(E) will comply with all other requirements of the rules adopted under section 1978 of this title.

(2) Notwithstanding the provisions of this subsection, there shall be no delegation of this section or of section 1975 or 1978 of this title.

\* \* \*

(g) Notwithstanding the requirements of subsection (a) of this section, if a municipality submits a written request for partial delegation of this chapter, the Secretary shall delegate authority to the municipality to permit new or modified service connections to an existing municipally owned water main or sewer main, provided that the Secretary is satisfied that the municipality:

(1) shall only issue permits for connections under this subsection if it owns both the water main and the sewer main at the site of the connection;

(2) will provide notice to the Secretary of any new connection; and

(3) has hired, appointed, or retained on contract, or will hire, appoint, or retain on contract, a licensed designer who is or will be responsible for designing and certifying the design of new service connections.

### Sec. 3. WASTEWATER RULES; AMENDMENT

On or before June 1, 2015, the Agency of Natural Resources shall amend its rules under 10 V.S.A. § 1978 to conform to the provisions of Sec. 2 of this act.

### Sec. 4. MUNICIPAL WATER CONNECTION PERMIT DELEGATION REPORT

On or before December 1, 2016, the Secretary of Natural Resources shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report that shall include:

(1) a list of municipalities that have accepted full or partial delegation of permitting authority under 10 V.S.A. § 1964;

(2) a summary of the cost of full and partial delegation of permitting authority under 10 V.S.A. § 1964 for the agency, permitting municipalities, and permit applicants; and

(3) a recommendation for whether to continue to exempt municipalities

from the requirements of 10 V.S.A. § 1964(a) when permitting authority is partially delegated under 10 V.S.A. § 1964(g).

\* \* \* Effective Date \* \* \*

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

**(Committee vote: 9-0 )**

**(For text see Senate Journal February 28, 2014 )**

**S. 220**

An act relating to furthering economic development

**Rep. Botzow of Pownal**, for the Committee on **Commerce and Economic Development**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* One-Stop Business Support Services \* \* \*

Sec. 1. ONE-STOP SHOP WEB PORTAL

(a) Purpose. The State of Vermont seeks to simplify and expedite the process for business creation and growth by providing:

(1) a clear guide to resources and technical assistance for all phases of business development;

(2) a directory of financial assistance, including grants, funding capital, tax credits, and incentives;

(3) a directory of workforce development assistance, including recruiting, job postings, and training;

(4) a link to centralized business services available from the Secretary of State, the Department of Labor, the Department of Taxes, and others; and

(5) agency contacts and links for available services and resources.

(b) Administration. On or before June 30, 2015, the Secretary of State, Department of Taxes, Department of Labor, the Vermont Attorney General, the Agency of Commerce and Community Development, and the Agency of Administration shall coordinate with other relevant agencies and departments within State government and outside partners, including regional development corporations, regional planning commissions, and small business development centers, to provide comprehensive business services, regional coaching teams, print materials, other outreach, and a “One-Stop Shop” website, consistent with

the following timeline:

(1) Phase 1. Complete necessary partner outreach and collaboration and an inventory of existing websites, determine the appropriate content to be included on the One-Stop website, and update current websites to include links to State agencies and departments with regulatory oversight and authority over Vermont businesses.

(2) Phase 2. Edit and organize the content to be included on the One-Stop website.

(3) Phase 3. Complete the design and mapping of the One-Stop website.

(4) Phase 4. Complete a communications and outreach plan with a final funding proposal for the project.

\* \* \* Vermont Enterprise ~~Investment~~ Fund \* \* \*

Sec. 1a. 32 V.S.A. § 136 is added to read:

§ 136. VERMONT ENTERPRISE-~~INVESTMENT~~ FUND

(a) There is created a Vermont Enterprise ~~Investment~~ Fund, the sums of which may be used by the Governor, with the approval of the Emergency Board, for the purpose of making economic and financial resources available to businesses facing circumstances that necessitate State government support and response more rapidly than would otherwise be available from, or that would be in addition to, other economic incentives.

(b)(1) The Fund shall be administered by the Commissioner of Finance and Management as a special fund under the provisions of chapter 7, subchapter 5 of this title.

(2) The Fund shall contain any amounts transferred or appropriated to it by the General Assembly.

(3) Interest earned on the Fund and any balance remaining at the end of the fiscal year shall remain in the Fund.

(4) The Commissioner shall maintain records that indicate the amount of money in the Fund at any given time.

(c) The Governor is authorized to use amounts available in the Fund to offer economic and financial resources to an eligible business pursuant to this section, subject to approval by the Emergency Board as provided in subsection (e) of this section.

(d) To be eligible for an investment through the Fund, the Governor shall determine that a business:

(1) adequately demonstrates:

(A) a substantial statewide or regional economic or employment impact; or

(B) approval or eligibility for other economic development incentives and programs offered by the State of Vermont; and

(2) is experiencing one or more of the following circumstances:

(A) a merger or acquisition may cause the closing of all or a portion of a Vermont business, or closure or relocation outside Vermont will cause the loss of employment in Vermont;

(B) a prospective purchaser is considering the acquisition of an existing business in Vermont;

(C) an existing employer in Vermont, which is a division or subsidiary of a multistate or multinational company, may be closed or have its employment significantly reduced; or

(D) is considering Vermont for relocation or expansion.

(e)(1) Any economic and financial resources offered by the Governor under this section must be approved by the Emergency Board before an eligible business may receive assistance from the Fund.

(2) Subject to approval by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, the Board shall invite the Chair of the Senate Committee on Economic Development, Housing and General Affairs and the Chair of the House Committee on Commerce and Economic Development to participate in Board deliberations under this section in an advisory capacity.

(3) The Governor, or his or her designee, shall present to the Emergency Board for its approval:

(A) information on the company;

(B) the circumstances supporting the offer of economic and financial resources;

(C) a summary of the economic activity proposed or that would be foregone;

(D) other state incentives and programs offered or involved;

(E) the economic and financial resources offered by the Governor requiring use of monies from the Fund;

(F) employment, investment, and economic impact of Fund support

on the employer, including a fiscal cost-benefit analysis; and

(G) terms and conditions of the economic and financial resources offered, including:

(i) the total dollar amount and form of the economic and financial resources offered;

(ii) employment creation, employment retention, and capital investment performance requirements; and

(iii) disallowance and recapture provisions.

(f)(1) Proprietary business information and materials or other confidential financial information submitted by a business to the State, or submitted by the Governor to the Emergency Board, for the purpose of negotiating or approving economic and financial resources under this section shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon authorization of the Chair of the Joint Fiscal Committee, and shall also be available to the auditor of accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent, and the Auditor of Accounts, shall not disclose, directly or indirectly, to any person any proprietary business or other confidential information or any information which would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(2) Nothing in this subsection shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

(g) On or before January 15 of each year following a year in which economic and financial resources were made available pursuant to this section, the Secretary of Commerce and Community Development shall submit to the House Committees on Commerce and Economic Development and on Ways and Means, and to the Senate Committees on Finance and on Economic Development, Housing and General Affairs, a report on the resources made available pursuant to this section, including:

(1) the name of the recipient;

(2) the amount and type of the resources;

(3) the aggregate number of jobs created or retained as a result of the resources;

(4) a statement of costs and benefits to the State; and

(5) whether any offer of resources was disallowed or recaptured.

Sec. 1b. CONTINGENT FISCAL YEAR 2014 APPROPRIATION

Prior to any transfer pursuant to Sec. B 1104 of Act 50 of 2013, the first \$5,000,000.00 of FY 2014 funds that would otherwise be transferred to the General Fund Balance Reserve as specified by 32 V.S.A. § 308c shall be appropriated as follows:

(1) \$500,000.00 to the Vermont Economic Development Authority for loan loss reserves within the Vermont Entrepreneurial Lending Program for the purposes specified in 10 V.S.A. § 280bb.

(2) \$4,500,000.00 to the Vermont Enterprise Investment Fund for the purposes specified in 32 V.S.A. § 136.

\* \* \* Vermont Economic Development Authority \* \* \*

Sec. 2. 10 V.S.A. chapter 12 is amended to read:

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT  
AUTHORITY

\* \* \*

Subchapter 12. ~~Technology Loan~~ Vermont Entrepreneurial Lending  
Program

§ 280aa. FINDINGS AND PURPOSE

(a)(1) ~~Technology-based companies~~ Vermont-based businesses in seed, start-up, and growth-stages are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of ~~this increasingly important sector of Vermont's economy~~ these businesses is dependent upon the availability of flexible, risk-based capital.

(2) Because the primary assets of ~~technology-based companies~~ sometimes Vermont-based businesses in seed, start-up, and growth-stages often consist almost entirely of intellectual property or insufficient tangible assets to support conventional lending, ~~such~~ these companies frequently ~~do~~ may not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of ~~technology-based companies~~ Vermont-based businesses in seed, start-up, and growth-stages and the resultant creation of high-wage higher wage employment in Vermont, ~~a technology loan program is established under this subchapter~~ the General Assembly hereby creates in this subchapter the Vermont Entrepreneurial Lending Program to support the growth and development of seed, start up, and growth stage businesses.

§ 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL  
LENDING PROGRAM

(a) There is created a technology (TECH) loan program the Vermont Entrepreneurial Lending Program to be administered by the Vermont economic development authority Economic Development Authority. The program Program shall seek to meet the working capital and capital-asset financing needs of technology-based companies start-up, early stage, and growth-stage businesses in Vermont. The Program shall specifically seek to fulfill capital requirement needs that are unmet in Vermont, including:

(1) loans up to \$100,000.00 to manufacturing businesses and software developers with innovative products that typically reflect long-term, organic growth;

(2) loans ~~from~~ up to \$1,000,000.00 in growth-stage companies who do not meet the underwriting criteria of other public and private entrepreneurial financing sources; and

(3) loans to businesses that are unable to access adequate capital resources because the primary assets of these businesses are typically intellectual property or similar nontangible assets.

(b) The economic development authority Authority shall establish such adopt regulations, policies, and procedures for the program Program as are necessary to carry out the purposes of this subchapter. The authority's lending criteria shall include consideration of in-state competition and whether a company has made reasonable efforts to secure capital in the private sector increase the amount of investment funds available to Vermont businesses whose capital requirements are not being met by conventional lending sources.

(c) When considering entrepreneurial lending through the Program, the Authority shall give additional consideration and weight to an application of a business whose business model and practices will have a demonstrable effect in achieving other public policy goals of the State, including:

(1) The business will create jobs in strategic sectors such as the knowledge-based economy, renewable energy, advanced manufacturing, wood products manufacturing, and value-added agricultural processing.

(2) The business is located in a designated downtown, village center, growth center, industrial park, or other significant geographic location recognized by the State.

(3) The business adopts energy and thermal efficiency practices in its operations or otherwise operates in a way that reflects a commitment to green energy principles.



(4) The business will create jobs that pay a livable wage and significant benefits to Vermont employees

(d) The Authority shall include provisions in the terms of a loan made under the Program to ensure that a loan recipient shall maintain operations within the State for a minimum of five years from the date on which the recipient receives the loan funds from the Authority or shall otherwise be required to repay the outstanding funds in full.

\* \* \*

Sec. 3. VERMONT ENTREPRENEURIAL LENDING PROGRAM; LOAN LOSS RESERVE FUNDS; CAPITALIZATION; PRIVATE CAPITAL; APPROPRIATION

(a) The Vermont Economic Development Authority shall capitalize loan loss reserves for the Vermont Entrepreneurial Lending Program created in 10 V.S.A. § 280bb with the following funding from the following sources:

(1) up to \$1,000,000.00 from Authority funds or eligible federal funds currently administered by the Authority; and

(2) Fiscal Year 2014 funds appropriated to the Program pursuant to Sec. 1b. of this Act.

(b) The Authority shall use the funds in subsection (a) of this section solely for the purpose of establishing and maintaining loan loss reserves to guarantee loans made pursuant to 10 V.S.A. § 280bb.

Sec. 4. 10 V.S.A. chapter 16A is amended to read:

CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT PROGRAM

\* \* \*

(b) No borrower shall be approved for a loan from the corporation that would result in the aggregate principal balances outstanding of all loans to that borrower exceeding the then-current maximum Farm Service Agency loan guarantee limits, or \$2,000,000.00, whichever is greater.

§ 374b. DEFINITIONS

As used in this chapter:

(1) "Agricultural facility" means land and rights in land, buildings, structures, machinery, and equipment which is used for, or will be used for producing, processing, preparing, packaging, storing, distributing, marketing, or transporting agricultural products which have been primarily produced in

this ~~state~~ State, and working capital reasonably required to operate an agricultural facility.

(2) “Agricultural land” means real estate capable of supporting commercial farming or forestry, or both.

(3) “Agricultural products” mean crops, livestock, forest products, and other farm or forest commodities produced as a result of farming or forestry activities.

(4) “Farm ownership loan” means a loan to acquire or enlarge a farm or agricultural facility, to make capital improvements including construction, purchase, and improvement of farm and agricultural facility buildings that can be made fixtures to the real estate, to promote soil and water conservation and protection, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

(5) “Authority” means the Vermont ~~economic development authority~~ Economic Development Authority.

(6) “Cash flow” means, on an annual basis, all income, receipts, and revenues of the applicant or borrower from all sources and all expenses of the applicant or borrower, including all debt service and other expenses.

(7) “Farmer” means an individual directly engaged in the management or operation of an agricultural facility or farm operation for whom the agricultural facility or farm operation constitutes two or more of the following:

(A) is or is expected to become a significant source of the farmer’s income;

(B) the majority of the farmer’s assets; and

(C) an occupation in which the farmer is actively engaged ~~in~~, either on a seasonal or year-round basis.

(8) “Farm operation” shall mean the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. Farm operation also includes the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land.

\* \* \*

\* \* \* Connecting Capital Providers and Entrepreneurs \* \* \*

## Sec. 5. NETWORKING INITIATIVES; ~~APPROPRIATION~~

(a) The Agency of Commerce and Community Development shall support

networking events offered by one or more regional economic development providers designed to connect capital providers with one another or with Vermont entrepreneurs, or both, and shall take steps to facilitate outreach and matchmaking opportunities between investors and entrepreneurs.

(b) The Agency shall submit to the House Committee on Commerce and Economic Development and to the Senate Committee on Economic Development, Housing and General Affairs:

(1) a status report on or before January 15, 2015 concerning the structure of networking initiatives, the relevant provisions of governing performance contracts, and the benchmarks and measures of performance; and

(2) a report on or before December 15, 2015 concerning the outcomes of and further recommendations for the program.

\* \* \* Downtown Tax Credits \* \* \*

Sec. 6. 32 V.S.A. chapter 151, subchapter 11J is amended to read:

Subchapter 11J. Vermont Downtown and

Village Center Tax Credit Program

§ 5930aa. DEFINITIONS

As used in this subchapter:

\* \* \*

(3) “Qualified code or technology improvement project” means a project:

(A)(i) ~~to~~ to install or improve platform lifts suitable for transporting personal mobility devices, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the ~~department of public safety.~~ Department of Public Safety; or

(ii) to install or improve data or network wiring, or heating, ventilating, or cooling systems reasonably related to data or network installations or improvements, in a qualified building, provided that a professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the fact and cost of the installation or improvement;

(B) ~~to~~ to abate lead paint conditions or other substances hazardous to human health or safety in a qualified building; or

(C) ~~to~~ to redevelop a contaminated property in a designated

downtown or village center under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

(4) “Qualified expenditures” means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) “Qualified façade improvement project” means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown or designated village center. Façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont Division for Historic Preservation.

(6) “Qualified historic rehabilitation project” means an historic rehabilitation project that has received federal certification for the rehabilitation project.

(7) “Qualified project” means a qualified code or technology improvement, qualified façade improvement, qualified technology infrastructure project, or qualified historic rehabilitation project as defined by this subchapter.

(8) “State Board” means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.

#### § 5930bb. ELIGIBILITY AND ADMINISTRATION

(a) Qualified applicants may apply to the State Board to obtain the tax credits provided by this subchapter for ~~qualified code improvement, façade improvement, or historic rehabilitation projects~~ a qualified project at any time before one year after completion of the qualified project.

(b) To qualify for any of the tax credits under this subchapter, expenditures for the qualified project must exceed \$5,000.00.

(c) Application shall be made in accordance with the guidelines set by the State Board.

(d) Notwithstanding any other provision of this subchapter, qualified applicants may apply to the State Board at any time prior to June 30, 2013 to obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of this title of 10 percent of qualified expenditures resulting from damage caused by a federally declared disaster in Vermont in 2011. The credit shall only be claimed against the taxpayer’s State individual income tax under section 5822 of this title. To the extent that any allocated tax credit exceeds the taxpayer’s tax liability for the first tax year in which the qualified project is completed, the taxpayer shall receive a refund equal to the unused portion of the tax credit.

If within two years after the date of the credit allocation no claim for a tax credit or refund has been filed, the tax credit allocation shall be rescinded and recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of tax credits available under this subsection shall not be more than \$500,000.00 and shall not be subject to the limitations contained in subdivision 5930ee(2) of this subchapter.

§ 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

CREDITS

(a) Historic rehabilitation tax credit. The qualified applicant of a qualified historic rehabilitation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's ~~state~~ State individual income tax, corporate income tax, or bank franchise or insurance premiums tax liability a credit of 10 percent of qualified rehabilitation expenditures as defined in the Internal Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified rehabilitation.

(b) Façade improvement tax credit. The qualified applicant of a qualified façade improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, ~~state~~ State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 25 percent of qualified expenditures up to a maximum tax credit of \$25,000.00.

(c) Code improvement tax credit. The qualified applicant of a qualified code or technology improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$12,000.00 for installation or improvement of a platform lift, a maximum tax credit of \$50,000.00 for installation or improvement of an elevator, a maximum tax credit of \$50,000.00 for installation or improvement of a sprinkler system, a maximum tax credit of \$30,000.00 for the combined costs of installation or improvement of data or network wiring or a heating, ventilating, or cooling system, and a maximum tax credit of \$25,000.00 for the combined costs of all other qualified code improvements.

\* \* \*

\* \* \* Electricity Rates for Businesses \* \* \*

Sec. 7. 30 V.S.A. § 218e is added to read:

§ 218e. IMPLEMENTING STATE ENERGY POLICY;  
MANUFACTURING

To give effect to the policies of section 202a of this title to provide reliable and affordable energy and assure the State's economic vitality, it is critical to retain and recruit manufacturing and other businesses and to consider the impact on manufacturing and other businesses when issuing orders, adopting rules, and making other decisions affecting the cost and reliability of electricity and other fuels. Implementation of the State's energy policy should:

(1) encourage recruitment and retention of employers providing high-quality jobs and related economic investment and support the State's economic welfare; and

(2) appropriately balance the objectives of this section with the other policy goals and criteria established in this title.

#### Sec. 7a. INVESTIGATION; ELECTRICITY COSTS; MANUFACTURING

(a) The Commissioner of Public Service and the Secretary of Commerce and Community Development, in consultation with the Public Service Board, a private organization that represents the interests of manufacturers, a cooperative electric company, an efficiency utility, a shareholder-owned utility, the Vermont Public Power Supply Authority (VPPSA), a municipal utility that is not a member of VPPSA, and the Vermont Electric Power Company (VELCO), shall conduct an investigation of how best to advance the public good through consideration of the competitiveness of Vermont's industrial or manufacturing businesses with regard to electricity costs.

(b) In conducting the investigation required by this section, the Commissioner and Secretary shall consider:

(1) how best to incorporate into rate design proceedings the impact of electricity costs on business competitiveness and the identification of the costs of service incurred by businesses;

(2) with regard to the energy efficiency programs established under section 209 of this title, potential changes to their delivery, funding, financing, and participation requirements;

(3) the history and outcome of any evaluations of the Energy Savings Account or Customer Credit programs, as well as best practices for customer self-directed energy efficiency programs;

(4) the history and outcome of any evaluations of retail choice programs or policies, as related to business competitiveness, that have been undertaken in Vermont and in other jurisdictions;

(5) any other programs or policies the Commissioner and the Secretary deem relevant;

(6) whether and to what extent any programs or policies considered by the Commissioner and the Secretary under this section would impose cost shifts onto other customers, result in stranded costs (costs that cannot be recovered by a regulated utility due to a change in regulatory structure or policy), or conflict with renewable energy requirements in Vermont and, if so, whether such programs or policies would nonetheless promote the public good;

(7) whether and to what extent costs have shifted to residential and business ratepayers following the loss of large utility users, and potential scenarios for additional cost shifts of this type; and

(8) the potential benefits and potential cost shift to residential and business ratepayers if a large utility user undertakes efficiency measures and thereby reduces its share of fixed utility costs.

(c) In conducting the investigation required by this section, the Commissioner and Secretary shall provide the following persons and entities an opportunity for written and oral comments:

(1) consumer and business advocacy groups;

(2) regional development corporations and regional planning commissions; and

(3) any other person or entity as determined by the Commissioner and Secretary.

(d) On or before December 15, 2014, the Commissioner and Secretary shall provide a status report to the General Assembly of its findings and recommendations regarding regulatory or statutory changes that would reduce energy costs for Vermont businesses and promote the public good. On or before December 15, 2015, the Commissioner and Secretary shall provide a final report to the General Assembly of such findings and recommendations.

\* \* \* Domestic Export Program \* \* \*

## Sec. 8. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT

### AGRICULTURE AND FOREST PRODUCTS

(a) The Secretary of Agriculture, Food and Markets, in collaboration with the Agency of Commerce and Community Development and the Chief Marketing Officer, shall create a Domestic Export Program Pilot Project within the “Made in Vermont” designation program, the purpose of which shall be to:

(1) connect Vermont producers with brokers, buyers, and distributors in other U.S. state and regional markets,

(2) provide technical and marketing assistance to Vermont producers to

convert these connections into increased sales and sustainable commercial relationships; and

(3) provide one-time matching grants of up to \$2,000.00 per business to attend trade shows and similar events to expand producers' market presence in other U.S. states.

(b) There is appropriated in Fiscal Year 2015 from the General Fund to the Agency of Agriculture, Food and Markets the amount of \$75,000.00 to implement the provisions of this section.

(c) The Secretary shall collect data on the activities and outcomes of the pilot project authorized under this section and shall report his or her findings and recommendations for further action on or before January 15, 2015, to the House Committees on Agriculture and on Commerce and Economic Development and to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs.

\* \* \* Criminal Penalties for Computer Crimes \* \* \*

Sec. 9. 13 V.S.A. chapter 87 is amended to read:

#### CHAPTER 87. COMPUTER CRIMES

\* \* \*

##### § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

(a) A person shall not intentionally and without lawful authority, alter, damage, or interfere with the operation of any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(b) Penalties. A person convicted of violating this section shall be:

(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than ~~\$500.00~~ \$5,000.00, or both;

(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than ~~\$1,000.00~~ \$10,000.00, or both; or

(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

##### § 4105. THEFT OR DESTRUCTION

(a)(1) A person shall not intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of, or intentionally and without lawful authority, destroy any computer system,



computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(2) Copying a commercially available computer program or computer software is not a crime under this section, provided that the computer program and computer software has a retail value of \$500.00 or less and is not copied for resale.

(b) Penalties. A person convicted of violating this section shall be:

(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than ~~\$500.00~~ \$5,000.00, or both;

(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than ~~\$1,000.00~~ \$10,000.00, or both; or

(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

§ 4106. CIVIL LIABILITY

A person damaged as a result of a violation of this chapter may bring a civil action against the violator for damages, costs and fees including reasonable attorney's fees, and such other relief as the court deems appropriate.

\* \* \*

\* \* \* Statute of Limitations to Commence Action

for Misappropriation of Trade Secrets \* \* \*

Sec. 10. 12 V.S.A. § 523 is amended to read:

§ 523. TRADE SECRETS

An action for misappropriation of trade secrets under 9 V.S.A. chapter 143 ~~of Title 9~~ shall be commenced within three years after the cause of action accrues, and not after. The cause of action shall be deemed to accrue as of the date the misappropriation was discovered or reasonably should have been discovered.

\* \* \* Protection of Trade Secrets \* \* \*

Sec. 11. 9 V.S.A. chapter 143 is amended to read:

CHAPTER 143. TRADE SECRETS

§ 4601. DEFINITIONS

As used in this chapter:

(1) "Improper means" includes theft, bribery, misrepresentation, breach

or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

(2) “Misappropriation” means:

(A) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(B) disclosure or use of a trade secret of another without express or implied consent by a person who:

(i) used improper means to acquire knowledge of the trade secret; or

(ii) at the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:

(I) derived from or through a person who had utilized improper means to acquire it;

(II) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(III) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(iii) before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

(3) “Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(A) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

#### § 4602. INJUNCTIVE RELIEF

(a) ~~Actual~~ A court may enjoin actual or threatened misappropriation ~~may be enjoined~~ of a trade secret. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

(b) In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include, ~~but are not limited to,~~ a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

(c) In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

#### § 4603. DAMAGES

(a)(1) Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation.

(2) Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss.

(3) In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

(4) A court shall award a substantially prevailing party his or her costs and fees, including reasonable attorney's fees, in an action brought pursuant to this chapter.

(b) If malicious misappropriation exists, the court may award punitive damages.

#### § 4605. PRESERVATION OF SECRECY

In an action under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

#### § 4607. EFFECT ON OTHER LAW

(a) Except as provided in subsection (b) of this section, this chapter displaces conflicting tort, restitutionary, and any other law of this state providing civil remedies for misappropriation of a trade secret.

(b) This chapter does not affect:

(1) contractual remedies, whether or not based upon misappropriation of a trade secret;

(2) other civil remedies that are not based upon misappropriation of a trade secret; or

(3) criminal remedies, whether or not based upon misappropriation of a trade secret.

\* \* \*

\* \* \* Intellectual Property; Businesses and Government Contracting \* \* \*

Sec. 12. 3 V.S.A. § 346 is added to read:

§ 346. STATE CONTRACTING; INTELLECTUAL PROPERTY, SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

(a) The Secretary of Administration shall include in Administrative Bulletin 3.5 a policy direction applicable to State procurement contracts that include services for the development of software applications, computer coding, or other intellectual property, which would allow the State of Vermont to grant permission to the contractor to use or own the intellectual property created under the contract for the contractor's commercial purposes.

(b) The Secretary may recommend contract provisions that authorize the State to negotiate with a contractor to secure license terms and license fees, royalty rights, or other payment mechanism for the contractor's commercial use of intellectual property developed under a State contract.

(c) If the Secretary authorizes a contractor to own intellectual property developed under a State contract, the Secretary may recommend language to ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid right to continue to use the intellectual property.

\* \* \* Department of Financial Regulation \* \* \*

Sec. 13. SMALL BUSINESS ACCESS TO CAPITAL

(a) Crowdfunding Study. The Department of Financial Regulation shall study the opportunities and limitations for crowdfunding to increase access to capital for Vermont's small businesses. On or before January 15, 2015, the Department shall report its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) Small business issuer education and outreach. On or before January 15, 2015, the Department of Financial Regulation shall conduct at least two educational events to inform the legal, small business, and investor communities and other interested parties, of opportunities for small businesses

to access capital in Vermont, including, the Vermont Small Business Offering Exemption regulation and other securities registration exemptions.

(c) Vermont Small Business Offering Exemption. The Commissioner of Financial Regulation shall exercise his or her rulemaking authority under 9 V.S.A. chapter 150 to review and revise the Vermont Small Business Offering Exemption and any other state securities exemptions, specifically including those designed to complement exemptions from federal registration requirements available under Regulation D, in order to recognize and reflect the evolution of capital markets and to ensure that Vermont remains current and competitive in its securities regulations, particularly with respect to access to capital for small businesses.

Sec. 14. STUDY; DEPARTMENT OF FINANCIAL REGULATION;  
LICENSED LENDER REQUIREMENTS; COMMERCIAL  
LENDERS

On or before January 15, 2015, the Department of Financial Regulation shall solicit public comment on, evaluate, and report to the House Committee on Commerce and Economic Development and to the Senate Committees on Finance and on Economic Development, Housing and General Affairs any statutory and regulatory changes to the State's licensed lender requirements that are necessary to open private capital markets and remove unnecessary barriers to business investment in Vermont.

\* \* \* Licensed Lender Requirements; Exemption for De Minimis  
Lending Activity \* \* \*

Sec. 15. 8 V.S.A. § 2201 is amended to read:

2201. LICENSES REQUIRED

(a) No person shall without first obtaining a license under this chapter from the ~~commissioner~~ Commissioner:

(1) engage in the business of making loans of money, credit, goods, or things in action and charge, contract for, or receive on any such loan interest, a finance charge, discount, or consideration ~~therefore~~ therefor;

(2) act as a mortgage broker;

(3) engage in the business of a mortgage loan originator; or

(4) act as a sales finance company.

(b) Each licensed mortgage loan originator must register with and maintain a valid unique identifier with the Nationwide Mortgage Licensing System and Registry and must be either:

(1) an employee actively employed at a licensed location of, and supervised and sponsored by, only one licensed lender or licensed mortgage broker operating in this ~~state~~ State;

(2) an individual sole proprietor who is also a licensed lender or licensed mortgage broker; or

(3) an employee engaged in loan modifications employed at a licensed location of, and supervised and sponsored by, only one third-party loan servicer licensed to operate in this ~~state~~ State pursuant to chapter 85 of this title. ~~For purposes of~~ As used in this subsection, “loan modification” means an adjustment or compromise of an existing residential mortgage loan. The term “loan modification” does not include a refinancing transaction.

(c) A person licensed pursuant to subdivision (a)(1) of this section may engage in mortgage brokerage and sales finance if such person informs the ~~commissioner~~ Commissioner in advance that he or she intends to engage in sales finance and mortgage brokerage. Such person shall inform the ~~commissioner~~ Commissioner of his or her intention on the original license application under section 2202 of this title, any renewal application under section 2209 of this title, or pursuant to section 2208 of this title, and shall pay the applicable fees required by subsection 2202(b) of this title for a mortgage broker license or sales finance company license.

(d) No lender license, mortgage broker license, or sales finance company license shall be required of:

(1) a ~~state~~ State agency, political subdivision, or other public instrumentality of the ~~state~~ State;

(2) a federal agency or other public instrumentality of the United States;

(3) a gas or electric utility subject to the jurisdiction of the ~~public service board~~ Public Service Board engaging in energy conservation or safety loans;

(4) a depository institution or a financial institution as defined in 8 V.S.A. § 11101(32);

(5) a pawnbroker;

(6) an insurance company;

(7) a seller of goods or services that finances the sale of such goods or services, other than a residential mortgage loan;

(8) any individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual’s residence, including a vacation home, or inherited property that served as the deceased’s dwelling, provided that the individual does not act as a mortgage loan

originator or provide financing for such sales so frequently and under such circumstances that it constitutes a habitual activity and acting in a commercial context;

(9) lenders that conduct their lending activities, other than residential mortgage loan activities, through revolving loan funds, that are nonprofit organizations exempt from taxation under Section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c), and that register with the ~~commissioner of economic development~~ Commissioner of Economic Development under 10 V.S.A. § 690a;

(10) persons who lend, other than residential mortgage loans, an aggregate of less than \$75,000.00 in any one year at rates of interest of no more than 12 percent per annum;

(11) a seller who, pursuant to 9 V.S.A. § 2355(f)(1)(D), includes the amount paid or to be paid by the seller to discharge a security interest, lien interest, or lease interest on the traded-in motor vehicle in a motor vehicle retail installment sales contract, provided that the contract is purchased, assigned, or otherwise acquired by a sales finance company licensed pursuant to this title to purchase motor vehicle retail installment sales contracts or a depository institution;

(12)(A) a person making an unsecured commercial loan, which loan is expressly subordinate to the prior payment of all senior indebtedness of the commercial borrower regardless of whether such senior indebtedness exists at the time of the loan or arises thereafter. The loan may or may not include the right to convert all or a portion of the amount due on the loan to an equity interest in the commercial borrower;

(B) ~~for purposes of~~ as used in this subdivision (12), “senior indebtedness” means:

(i) all indebtedness of the commercial borrower for money borrowed from depository institutions, trust companies, insurance companies, and licensed lenders, and any guarantee thereof; and

(ii) any other indebtedness of the commercial borrower that the lender and the commercial borrower agree shall constitute senior indebtedness;

(13) nonprofit organizations established under testamentary instruments, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), and which make loans for postsecondary educational costs to students and their parents, provided that the organizations provide annual accountings to the Probate Division of the Superior Court;

(14) any individual who offers or negotiates terms of a residential

mortgage loan with or on behalf of an immediate family member of the individual;

(15) a housing finance agency;

(16) a person who makes no more than three mortgage loans in any consecutive three-year period beginning on or after July 1, 2011.

(e) No mortgage loan originator license shall be required of:

(1) Registered mortgage loan originators, when employed by and acting for an entity described in subdivision 2200(22) of this chapter.

(2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.

(3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence, including a vacation home, or inherited property that served as the deceased's dwelling, provided that the individual does not act as a mortgage loan originator or provide financing for such sales so frequently and under such circumstances that it constitutes a habitual activity and acting in a commercial context.

(4) An individual who is an employee of a federal, ~~state~~ State, or local government agency, or an employee of a housing finance agency, who acts as a mortgage loan originator only pursuant to his or her official duties as an employee of the federal, ~~state~~ State, or local government agency or housing finance agency.

(5) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator. To the extent an attorney licensed in this State undertakes activities that are covered by the definition of a mortgage loan originator, such activities do not constitute engaging in the business of a mortgage loan originator, provided that:

(A) such activities are considered by the State governing body responsible for regulating the practice of law to be part of the authorized practice of law within this State;

(B) such activities are carried out within an attorney-client relationship; and

(C) the attorney carries them out in compliance with all applicable



laws, rules, ethics, and standards.

(6) A person who makes no more than three mortgage loans in any consecutive three-year period beginning on or after July 1, 2011

(f) If a person who offers or negotiates the terms of a mortgage loan is exempt from licensure pursuant to subdivision (d)(16) or (e)(6) of this section, there is a rebuttable presumption that he or she is not engaged in the business of making loans or being a mortgage loan originator.

(g) Independent contractor loan processors or underwriters. A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a mortgage loan originator license. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(g)(h) This chapter shall not apply to commercial loans of \$1,000,000.00 or more.

\* \* \* Vermont State Treasurer; Credit Facilities; 10% for Vermont \* \* \*

Sec. 16. 2013 Acts and Resolves No. 87, Sec. 8 is amended to read:

#### Sec. 8. INVESTMENT OF STATE MONIES

The Treasurer is hereby authorized to establish a ~~short-term~~ credit facility for the benefit of the Vermont Economic Development Authority in an amount of up to \$10,000,000.00.

#### Sec. 17. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any other provision of law to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer consistent with the provisions of the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer prior to or subsequent to the effective date of this section, and the renewal or replacement of those credit facilities.

#### Sec. 18. TREASURER'S LOCAL INVESTMENT ADVISORY COMMITTEE; REPORT

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee is established to:

(1) advise the Treasurer on funding priorities for credit facilities authorized by current law; and

(2) address other mechanisms to increase local investment.

(b) Membership.

(1) The Committee shall be composed of the following members:

(A) the State Treasurer or designee, who shall serve as Chair of the Committee;

(B) the Commissioner of Financial Regulation or designee;

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

(D) a senior officer of a Vermont bank, who shall be appointed by the Governor;

(E) a member of the public, who shall be appointed by the Speaker of the House;

(F) a member of the public, who shall be appointed by the President Pro Tempore of the Senate;

(G) the executive director of a Vermont nonprofit organization that, as part of its mission, directly lends or services loans or other similar obligations, who shall be appointed by the Governor; and

(H) the manager of the Vermont Economic Development Authority or designee.

(I) the executive director of the Vermont Housing Finance Agency or designee;

(J) the President of the Vermont Student Assistance Corporation or designee; and

(K) the executive director of the Vermont Municipal Bond Bank or designee.

(2) The State Treasurer shall be the Chair of the Advisory Committee and shall appoint a vice chair and secretary. The appointed members of the Advisory Committee shall be appointed for terms of six years and shall serve until their successors are appointed and qualified.

(c) Powers and duties. The Advisory Committee shall:

(1) meet regularly to review and make recommendations to the State Treasurer on funding priorities and using other mechanisms to increase local investment in the State of Vermont;

(2) invite regularly State organizations and citizens groups to Advisory Committee meetings to present information on needs for local investment, capital gaps, and proposals for financing; and

(3) consult with constituents and review feedback on changes and needs in the local and State investment and financing environments.

(d) Meetings.

(1) Meetings of the Advisory Committee shall occur at the call of the Treasurer.

(2) A majority of the members of the Advisory Committee who are physically present at the same location or available electronically shall constitute a quorum, and a member may participate and vote electronically.

(3) To be effective action of the Advisory Committee shall be taken by majority vote of the members at a meeting in which a quorum is present.

(e) Report. On or before January 15, 2015, and annually thereafter, the Advisory Committee shall submit a report to the Senate Committees on Finance and on Government Operations and the House Committees on Ways and Means and on Government Operations. The report shall include the following:

(1) the amount of the subsidies associated with lending through each credit facility authorized by the General Assembly and established by the Treasurer;

(2) a description of the Advisory Committee's activities; and

(3) any information gathered by the Advisory Committee on the State's unmet capital needs, and other opportunities for State support for local investment and the community.

Sec. 18a. SUNSET

Secs. 17-18 of this Act shall be repealed on July 1, 2015.

Sec. 19. 9 V.S.A. § 2481w is amended to read:

§ 2481W. UNLICENSED LOAN TRANSACTIONS

(a) In this subchapter:

(1) "Financial account" means a checking, savings, share, stored value, prepaid, payroll card, or other depository account.

(2) “Lender” means a person engaged in the business of making loans of money, credit, goods, or things in action and charging, contracting for, or receiving on any such loan interest, a finance charge, a discount, or consideration.

(3) “Process” or “processing” includes printing a check, draft, or other form of negotiable instrument drawn on or debited against a consumer’s financial account, formatting or transferring data for use in connection with the debiting of a consumer’s financial account by means of such an instrument or an electronic funds transfer, or arranging for such services to be provided to a lender.

(4) “Processor” means a person who engages in processing, as defined in subdivision (3) of this subsection. In this section “processor” does not include an interbank clearinghouse.

(5) “Interbank clearinghouse” means a person that operates an exchange of automated clearinghouse items, checks, or check images solely between insured depository institutions.

(b) It is an unfair and deceptive act and practice in commerce for a lender directly or through an agent to solicit or make a loan to a consumer by any means unless the lender is in compliance with all provisions of 8 V.S.A. chapter 73 or is otherwise exempt from the requirements of 8 V.S.A. chapter 73.

(c) It is an unfair and deceptive act and practice in commerce for a processor, other than a federally insured depository institution, to process a check, draft, other form of negotiable instrument, or an electronic funds transfer from a consumer’s financial account in connection with a loan solicited or made by any means to a consumer unless the lender is in compliance with all provisions of 8 V.S.A. chapter 73 or is otherwise exempt from the requirements of 8 V.S.A. chapter 73.

(d) It is an unfair and deceptive act and practice in commerce for any person, including the lender’s financial institution as defined in 8 V.S.A. § 10202(5), but not including the consumer’s financial institution as defined in 8 V.S.A. § 10202(5) or an interbank clearinghouse as defined in subsection (a) of this section, to provide substantial assistance to a lender or processor when the person or the person’s authorized agent receives notice from a regulatory, law enforcement, or similar governmental authority, or knows from its normal monitoring and compliance systems, or consciously avoids knowing that the lender or processor is in violation of subsection (b) or (c) of this section, or is engaging in an unfair or deceptive act or practice in commerce.

Sec. 20. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

\* \* \*

(b) Definitions. ~~For the purposes of~~ As used in this section:

\* \* \*

(4) “Telecommunications facility” means a communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes and any associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(5) “Wireless service” means any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

\* \* \*

(c) Findings. Before the Public Service Board issues a certificate of public good under this section, it shall find that:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public’s use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the Board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

(A) ~~The~~ the Board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision; and

(B) ~~A~~ a telecommunications facility of limited size and scope shall

comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the Department of Environmental Conservation, regardless of any provisions in that handbook that limit its applicability.

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

(3) If the proposed facility relates to the provision of wireless service, the proposed facility reasonably cannot be collocated on or at an existing telecommunications facility, or such collocation would cause an undue adverse effect on aesthetics.

\* \* \*

(e) Notice. No less than 45 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions.

(1) Upon motion or otherwise, the Public Service Board shall direct that further public or personal notice be provided if the Board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(2) On the request of the municipal legislative body or the planning commission, the applicant shall attend a public meeting with the municipal

legislative body or planning commission, or both, within the 45-day notice period before filing an application for a certificate of public good. The Department of Public Service shall attend the public meeting on the request of the municipality. The Department shall consider the comments made and information obtained at the meeting in making recommendations to the Board on the application and in determining whether to retain additional personnel under subsection (o) of this section.

\* \* \*

(i) Sunset of Board authority. Effective on July 1, 2014 2017, no new applications for certificates of public good under this section may be considered by the Board.

\* \* \*

(m) Municipal bodies; participation. The legislative body and the planning commission for the municipality in which a telecommunications facility is located shall have the right to appear and participate on any application under this section seeking a certificate of public good for the facility.

(n) Municipal recommendations. The Board shall consider the comments and recommendations submitted by the municipal legislative body and planning commission. The Board's decision to issue or deny a certificate of public good shall include a detailed written response to each recommendation of the municipal legislative body and planning commission.

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the 45-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

(p) Review process; guide. The Department of Public Service, in consultation with the Board, shall create, maintain, and make available to the public a guide to the process of reviewing telecommunications facilities under this section for use by local governments and regional planning commissions and members of the public who seek to participate in the process. On or before September 1, 2014, the Department shall complete the creation of this guide and make it publically available.

Sec. 20a. PUBLIC SERVICE BOARD; ORDER REVISION

The Public Service Board (the Board) shall define the terms “good cause” and “substantial deference” for the purpose of 30 V.S.A. § 248a(c)(2) in accordance with the following process:

(1) Within 30 days of the effective date of this section, the Board shall provide direct notice to each municipal legislative body and planning commission, the Vermont League of Cities and Towns, the Department of Public Service, and such other persons as the Board considers appropriate, that it will be amending its procedures order issued under 30 V.S.A. § 248a(1) to include definitions of these terms. The notice shall provide an opportunity for submission of comments and recommendations and include the date and time of the workshop to be held.

(2) Within 60 days of giving notice under subdivision (1) of this section, the Board shall amend its procedures order to include definitions of these terms.

Sec. 20b. REPORT; TELECOMMUNICATIONS FACILITY REVIEW  
PROCESS

On or before October 1, 2015, the Department of Public Service shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Finance a report assessing the telecommunications facility review process under 30 V.S.A § 248a. The report shall include the number of applications for the construction or installation of telecommunications facilities filed with the Board, the number of applications for which a certificate of public good was granted, the number of applications for which notice was filed but were then withdrawn, and the number of times the Department used its authority under 30 V.S.A. § 248(o) to allocate expenses incurred in retaining expert personnel to the applicant, during the year ending August 31, 2015.

Sec. 20c. 10 V.S.A. § 1264(j) is amended to read:

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2017 and the discharge will be to a water that is not principally impaired by stormwater runoff:

(1) The Secretary shall issue a decision on the application within 40 days of the date the Secretary determines the application to be complete, if the application seeks authorization under a general permit.

(2) The Secretary shall issue a decision on the application within 60 days of the date the Secretary determines the application to be complete, if



the application seeks or requires authorization under an individual permit.

Sec. 20d. 10 V.S.A. § 8506 is amended to read:

§ 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the ~~secretary~~ Secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the ~~public service board~~ Public Service Board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248 or a telecommunications facility for which the applicant has applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for approval under 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title. This section shall not apply to an appeal of an act or decision of the secretary regarding a telecommunications facility made on or after July 1, ~~2014~~ 2017.

\* \* \*

Sec. 20e. REPEAL

2011 Acts and Resolves No. 53, Sec. 14d (repeal of limitations on municipal bylaws; municipal ordinances; wireless telecommunications facilities) is repealed.

Sec. 20f. 3 V.S.A. § 2809 is amended to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

(a)(1) The Secretary may require an applicant for a permit, license, certification, or order issued under a program that the Secretary enforces under 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, programmatic, or engineering expertise provided by the Agency of Natural Resources, provided that the following apply:

(A) ~~the~~ The Secretary does not have such expertise or services and such expertise is required for the processing of the application for the permit, license, certification, or order; ~~or.~~

(B) ~~the~~ The Secretary does have such expertise but has made a determination that it is beyond the ~~agency's~~ Agency's internal capacity to effectively utilize that expertise to process the application for the permit, license, certification, or order. In addition, the Secretary shall determine that such expertise is required for the processing of the application for the permit, license, certification, or order.

(2) The Secretary may require an applicant under 10 V.S.A. chapter 151 to pay for the time of Agency of Natural Resources personnel providing research, scientific, or engineering services or for the cost of expert witnesses when ~~agency~~ Agency personnel or expert witnesses are required for the processing of the permit application.

(3) In addition to the authority set forth under 10 V.S.A. chapters 59 and 159 and § section 1283, the Secretary may require a person who caused the ~~agency~~ Agency to incur expenditures or a person in violation of a permit, license, certification, or order issued by the Secretary to pay for the time of ~~agency~~ Agency personnel or the cost of other research, scientific, or engineering services incurred by the ~~agency~~ Agency in response to a threat to public health or the environment presented by an emergency or exigent circumstance.

\* \* \*

(g) Concerning an application for a permit to discharge stormwater runoff from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed before July 1, ~~2014~~ 2017:

(1) Under subdivision (a)(1) of this section, the ~~agency~~ Agency shall not require an applicant to pay more than \$10,000.00 with respect to a facility.

(2) The provisions of subsection (c) (mandatory meeting) of this section shall not apply.

#### Sec. 21. JFO ACCD DEMOGRAPHIC STUDY

The Agency of Commerce and Community Development, with consultation and review by the legislative economist and the Joint Fiscal Office, shall conduct an economic impact analysis, including study of demographic and infrastructure impacts associated with recently announced development projects in the Northeast Kingdom of Vermont, and shall submit its findings to the House Committee on Commerce and Community Development, the Senate Committee on Economic Development, Housing and General Affairs, and the Joint Fiscal Committee on or before December 1, 2014.

\* \* \* Tourism Funding; Study \* \* \*

#### Sec. 22. TOURISM FUNDING; PILOT PROJECT STUDY

On or before January 15, 2015, the Secretary of Commerce and Community Development shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that analyzes the results of the performance-based funding pilot project for the Department of Tourism and Marketing and recommends appropriate legislative or administrative

changes to the funding mechanism for tourism and marketing programs.

\* \* \* Land Use; Housing; Industrial Development \* \* \*

Sec. 23. 10 V.S.A. chapter 12 is amended to read:

CHAPTER 12: VERMONT ECONOMIC DEVELOPMENT AUTHORITY

\* \* \*

§ 212. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the authority that meets the criteria established in the Vermont Sustainable Jobs Strategy adopted by the Governor under section 280b of this title, including land and rights in land, air, or water, buildings, structures, machinery, and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of state, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing. Such enterprises or endeavors may include:

\* \* \*

(M) Sustainably Priced Energy Enterprise Development (SPEED) resources, as defined in 30 V.S.A. § 8002; ~~or~~

(N) any combination of the foregoing activities, uses, or purposes. An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities; or

(O) industrial park planning, development, or improvement.

\* \* \*

§ 261. ADDITIONAL POWERS

In addition to powers enumerated elsewhere in this chapter, the authority may:

\* \* \*

(6) provide loans and assistance under this subchapter for the planning, development, or improvement of an industrial park or an eligible project within an industrial park.

Sec. 24. 10 V.S.A. § 6001(35) is added to read:

(35) “Industrial park” means an area of land permitted under this chapter that is planned, designed, and zoned as a location for one or more industrial

buildings, that includes adequate access roads, utilities, water, sewer, and other services necessary for the uses of the industrial buildings, and includes no retail use except that which is incidental to an industrial use, and no office use except that which is incidental or secondary to an industrial use.

Sec. 25. REVIEW OF MASTER PLAN POLICY

On or before January 1, 2015, the Natural Resources Board shall review its master plan policy and commence the policy's adoption as a rule. The proposed rule shall include provisions for efficient master plan permitting and master plan permit amendments for industrial parks. The Board shall consult with affected parties when developing the proposed rule.

\* \* \* Primary Agricultural Soils; Industrial Parks \* \* \*

Sec. 26. 10 V.S.A. § 6093(a)(4) is amended to read:

(4) Industrial parks.

(A) Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils located in an industrial park ~~as defined in subdivision 212(7) of this title and~~ permitted under this chapter and in existence as of January 1, 2006, shall be allowed to pay a mitigation fee computed according to the provisions of subdivision (1) of this subsection, except that it shall be entitled to a ratio of 1:1, protected acres to acres of affected primary agricultural soil. If an industrial park is developed to the fullest extent before any expansion, this ratio shall apply to any contiguous expansion of such an industrial park that totals no more than 25 percent of the area of the park or no more than 10 acres, whichever is larger; provided any expansion based on percentage does not exceed 50 acres. Any expansion larger than that described in this subdivision shall be subject to the mitigation provisions of this subsection at ratios that depend upon the location of the expansion.

(B) In any application to a ~~district commission for expansion of~~ District Commission to amend a permit for an existing industrial park, ~~compact development patterns shall be encouraged that assure the most efficient and full use of land and the realization of maximum economic development potential through appropriate densities shall be allowed consistent with all applicable criteria of subsection 6086(a) of this title.~~ Industrial park expansions and industrial park infill shall not be subject to requirements established in subdivision 6086(a)(9)(B)(iii) of this title, nor to requirements established in subdivision 6086(a)(9)(C)(iii).

\* \* \* Affordable Housing \* \* \*

Sec. 27. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

\* \* \*

(3)(A) “Development” means each of the following:

\* \* \*

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or ~~trailer~~ mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) 275 or more, in a municipality with a population of 15,000 or more;

(bb) 150 or more, in a municipality with a population of 10,000 or more but less than 15,000;

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000;

(ee) 25 or more, in a municipality with a population of less than 3,000; and

(ff) notwithstanding subdivisions (aa) through (ee) of this subdivision (iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have no adverse effect; no adverse effect provided that specified conditions are met; or will have an adverse effect but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

\* \* \*

~~(B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing or mixed use, or any combination thereof, and is located entirely within a growth center designated pursuant to 24 V.S.A. 2793c or, entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, “development” means:~~

~~(I) Construction of mixed income housing with 200 or more housing units or a mixed use project with 200 or more housing units, in a municipality with a population of 15,000 or more.~~

~~(II) Construction of mixed income housing with 100 or more housing units or a mixed use project with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.~~

~~(III) Construction of mixed income housing with 50 or more housing units or a mixed use project with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.~~

~~(IV) Construction of mixed income housing with 30 or more housing units or a mixed use project with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.~~

~~(V) Construction of mixed income housing with 25 or more housing units or a mixed use project with 25 or more housing units, in a municipality with a population of less than 3,000.~~

~~(VI) Historic Buildings. Construction of 10 or more units of mixed income housing or a mixed use project with 10 or more housing units where if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or, will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.~~

~~(ii) Mixed Income Housing Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing and is located entirely within a Vermont neighborhood designated pursuant to 24 V.S.A. § 2793d or a neighborhood development area as defined in 24 V.S.A. § 2791(16), “development” means:~~

~~(I) Construction of mixed income housing with 200 or more housing units, in a municipality with a population of 15,000 or more.~~

~~(II) Construction of mixed income housing with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.~~

~~(III) Construction of mixed income housing with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.~~

~~(IV) Construction of mixed income housing with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.~~

~~(V) Construction of mixed income housing with 25 or more housing units, in a municipality with a population of less than 3,000.~~

~~(VI) Historic Buildings. Construction of 10 or more units of mixed income housing where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document. [Repealed.]~~

~~(C) For the purposes of determining jurisdiction under subdivisions subdivision (3)(A) and (3)(B) of this section, the following shall apply:~~

~~(i) Incentive for Growth Inside Designated Areas. Notwithstanding subdivision (3)(A)(iv) of this section, housing units constructed by a person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area shall not be counted to determine jurisdiction over housing units constructed by that person entirely within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area. [Repealed.]~~

~~(ii) Five Year, Five Mile Radius Jurisdiction Analysis. Within any continuous period of five years, housing units constructed by a person entirely within a designated downtown district, designated growth center, designated Vermont neighborhood, or designated neighborhood development~~

~~area shall be counted together with housing units constructed by that person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area to determine jurisdiction over the housing units constructed by a person partially or completely outside the designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area and within a five-mile radius in accordance with subdivision (3)(A)(iv) of this section. [Repealed.]~~

~~(iii) Discrete Housing Projects in Designated Areas and Exclusive Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19) of this section, jurisdiction shall be determined exclusively by counting housing units constructed by a person within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area, provided that the housing units are part of a discrete project located on a single tract or multiple contiguous tracts of land. [Repealed.]~~

\* \* \*

(27) “Mixed income housing” means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency;

(B) ~~Affordable~~ Rental Housing. At least 20 percent of the housing units that is are rented by the occupants whose gross annual household income does not exceed 60 percent of the county median income, or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development for use with the Housing Credit Program under Section 42(g) of the Internal Revenue Code, and the total annual cost of the housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the gross annual household income as defined at Section 42(g)(2)(C), and with constitute



affordable housing and have a duration of affordability of no less than ~~30~~ 20 years.

(28) “Mixed use” means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. “Mixed use” does not include industrial use.

(29) “Affordable housing” means either of the following:

(A) Housing that is owned by its occupants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees, is not more than 30 percent of the gross annual household income.

(B) Housing that is rented by the occupants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the gross annual household income.

\* \* \*

(36) “Priority housing project” means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

\* \* \*

\* \* \* Workforce Education and Training \* \* \*

Sec. 28. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Investment Board:

(A) Advise the Governor on the establishment of an integrated system of workforce education and training for Vermont.

(B) Create and maintain an inventory of all existing workforce education and training programs and activities in the State.

(C) Use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs.

(D) Develop a State plan, as required by federal law, to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible.

(E) Ensure coordination and non-duplication of workforce education and training activities.

(F) Identify best practices and gaps in the delivery of workforce education and training programs.

(G) Design and implement criteria and performance measures for workforce education and training activities.

(H) Establish goals for the integrated workforce education and training system.

(2) Require from each business, training provider, or program that receives State funding to conduct workforce education and training a report that evaluates the results of the training. Each recipient shall submit its report on a schedule determined by the Commissioner and shall include at least the following information:

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description;

(E) employment status of trainees

(F) future needs for resources.

(3) Review reports submitted by each recipient of workforce education and training funding.

(4) Issue an annual report to the Governor and the General Assembly on or before December 1 that includes a systematic evaluation of the accomplishments of the State workforce investment system and the performance of participating agencies and institutions.

(5) Coordinate public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact.

(6) Facilitate effective communication between the business community and public and private educational institutions.

**§ 541. WORKFORCE DEVELOPMENT COUNCIL; STATE WORKFORCE INVESTMENT BOARD; MEMBERS, TERMS**

~~(a) The Workforce education and training Council is created as the successor to and the continuation of the Governor's Human Resources Investment Council and shall be the State Workforce Investment Board under Public Law 105-220, the Workforce Investment Act of 1998, and any reauthorization of that act. The Council shall consist of the members required under the federal act and the following: the President of the University of Vermont or designee; the Chancellor of the Vermont State Colleges or designee; the President of the Vermont Student Assistance corporation or designee; the President of the Association of Vermont Independent Colleges or designee; a representative of the Abenaki Self Help Organization; at least two representatives of labor appointed by the Governor in addition to the two required under the federal act, who shall be chosen from a list of names submitted by Vermont AFL-CIO, Vermont NEA, and the Vermont State Employees Association; one representative of the low income community appointed by the Governor; two members of the Senate appointed by the Senate Committee on Committees; and two members of the house appointed by the speaker. In addition, the Governor shall appoint enough other members who are representatives of business or employers so that one half plus one of the members of the council are representatives of business or employers. At least one third of those appointed by the Governor as representatives of business or employers shall be chosen from a list of names submitted by the regional technical centers. As used in this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy-making or hiring authority, including a public school superintendent or school board member~~

~~and representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as required under the federal law, the Governor shall decide who shall be the member of the Council.~~

~~(b) Appointed members, except legislative appointees, shall be appointed for three year terms and serve at the pleasure of the Governor.~~

~~(c) A vacancy shall be filled for the unexpired term in the same manner as the initial appointment.~~

~~(d) The Governor shall appoint one of the business or employer members to chair the council for a term of two years. A member shall not serve more than three consecutive terms as chair.~~

~~(e) Legislative members shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406, and other members shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.~~

~~(f) The Department of Labor shall provide the Council with administrative support.~~

~~(g) The Workforce education and training Council shall be subject to 1 V.S.A. chapter 5, subchapters 2 and 3, relating to public meetings and access to public records.~~

~~(h) [Repealed.]~~

~~(i) The Workforce education and training Council shall:~~

~~(1) Advise the Governor on the establishment of an integrated network of workforce education and training for Vermont.~~

~~(2) Coordinate planning and services for an integrated network of workforce education and training and oversee its implementation at State and regional levels.~~

~~(3) Establish goals for and coordinate the State's workforce education and training policies.~~

~~(4) Speak for the workforce needs of employers.~~

~~(5) Negotiate memoranda of understanding between the Council and agencies and institutions involved in Vermont's integrated network of workforce education and training in order to ensure that each is working to achieve annual objectives developed by the Council.~~

~~(6) Carry out the duties assigned to the State Workforce Investment Board, as required for a single service delivery state, under P.L. 105-220, the Workforce Investment Act of 1998, and any amendments that may be made to~~

~~it.~~ [Repealed.]

§ 541a. STATE WORKFORCE INVESTMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 2821, the Governor shall establish a State Workforce Investment Board to assist the Governor in the execution of his or her duties under the Workforce Investment Act of 1998 and to assist the Commissioner of Labor as specified in section 540 of this title.

(b) Additional duties; planning; process. In order to inform its decision-making and to provide effective assistance under subsection (a) of this section, the Board shall:

(1) Conduct an ongoing public engagement process throughout the State at which Vermonters have the opportunity to provide feedback and information concerning their workforce education and training needs.

(2) Maintain familiarity with the federal Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes, and coordinate workforce and education activities in the State, including the development and implementation of the state plan required under the Workforce Investment Act of 1998, with economic development planning processes occurring in the State, as appropriate.

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor and serve at his or her pleasure, unless otherwise indicated:

(1) two Members of the Vermont House of Representatives appointed by the Speaker of the House;

(2) two Members of the Vermont Senate appointed by the Senate Committee on Committees;

(3) the President of the University of Vermont or his or her designee;

(4) the Chancellor of the Vermont State Colleges or his or her designee;

(5) the President of the Vermont Student Assistance Corporation or his or her designee;

(6) a representative of an independent Vermont college or university;

(7) the Secretary of Education or his or her designee;

(8) a director of a regional technical center;

(9) a principal of a Vermont high school;

(10) two representatives of labor organizations who have been

nominated by State labor federations;

(11) two representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § 2801(52);

(12) two representatives of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § 2801(51);

(13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § 2841(b), or if no official has that responsibility, a representative in the State with expertise relating to these programs and activities;

(14) the Commissioner of Economic Development;

(15) the Commissioner of Labor;

(16) the Secretary of Human Services or his or her designee;

(17) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and

(18) a number of appointees sufficient to constitute a majority of the Board who:

(A) are owners, chief executives, or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(B) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Member representation.

(A) Members of the State Board who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(B) The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas.

(2) Chair. The Governor shall select a chair for the Board from among the business representatives appointed pursuant to subdivision (c)(18) of this section.

(3) Meetings. The Board shall meet at least three times annually and shall hold additional meetings upon call of the Chair.

(4) Work groups; task forces. The Chair, in consultation with the Commissioner of Labor, may:

(A) assign one or more members to work groups to carry out the work of the Board; and

(B) appoint one or more members of the Board, or non-members of the Board, or both, to one or more task forces for a discrete purpose and duration.

(5) Quorum; meetings; voting.

(A) A majority of the sitting members of the Board shall constitute a quorum, and to be valid any action taken by the Board shall be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(B) The Board may permit one or more members to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all members participating may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

(C) The Board shall deliver electronically the minutes for each of its meetings to each member of the Board and to the Chairs of the House Committees on Education and on Commerce and Economic Development, and to the Senate Committees on Education and on Economic Development, Housing and General Affairs.

(6) Reimbursement.

(A) Legislative members of the Board shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406.

(B) Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a nonlegislative member of the Board shall be eligible for per diem compensation of \$50.00 per day for attendance at a meeting of the Board, and for reimbursement of his or her necessary expenses, which shall be paid by the Department of Labor solely from funds available for that purpose under the Workforce Investment Act of 1998.

(7) Conflict of interest. A member of the Board shall not:

(A) vote on a matter under consideration by the Board:

(i) regarding the provision of services by the member, or by an entity that the member represents; or

(ii) that would provide direct financial benefit to the member or the immediate family of the member; or

(B) engage in any activity that the Governor determines constitutes a conflict of interest as specified in the State Plan required under 29 U.S.C. § 2822.

(8) Sunshine provision. The Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Board, including information regarding the State Plan adopted pursuant to 29 U.S.C. § 2822 and prior to submission of the State Plan to the U.S. Secretary of Labor, information regarding membership, and, on request, minutes of formal meetings of the Board.

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

(a) To ensure the Workforce Investment Board and the Commissioner of Labor are able to fully perform their duties under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board or the Commissioner in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board and the Commissioner of Labor, including the development and implementation of the state plan for workforce education and training required under the Workforce Investment Act of 1998.

§ 542. REGIONAL WORKFORCE ~~DEVELOPMENT~~ EDUCATION AND TRAINING

(a) The Commissioner of Labor, in coordination with the Secretary of Commerce and Community Development, and in consultation with the Workforce ~~education and training Council~~ Investment Board, is authorized to issue performance grants to one or more persons to perform workforce education and training activities in a region.

(b) Each grant shall specify the scope of the workforce education and training activities to be performed and the geographic region to be served, and shall include outcomes and measures to evaluate the grantee's performance.



(c) The Commissioner of Labor and the Secretary of Commerce and Community Development shall jointly develop a grant process and eligibility criteria, as well as an outreach process for notifying potential participants of the grant program. The Commissioner of Labor shall have final authority to approve each grant.

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created a Workforce Education and Training Fund in the ~~department of labor~~ Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Fund shall be used exclusively for the following ~~two~~ purposes:

(1) training ~~to improve the skills of~~ for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another; and

(2) internships to provide students with work-based learning opportunities with Vermont employers; and

(3) apprenticeship-related instruction.

(c) Administrative Support. Administrative support for the grant award process shall be provided by the ~~Departments~~ Department of Labor and of Economic Development. Technical, ~~administrative, financial, and other~~ support shall be provided whenever appropriate and reasonable by the Workforce ~~Development Council~~ Investment Board and all other public entities involved in ~~Economic Development, workforce development and training, and education~~ economic development and workforce education and training.

(d) Eligible Activities. Awards from the Fund shall be made to employers and entities that offer programs that require collaboration between employees and businesses, including private, public, and nonprofit entities, institutions of higher education, high schools, technical centers, and workforce education and training programs. Funding shall be for training programs and student internship programs that offer education, training, apprenticeship, mentoring, or work-based learning activities, or any combination; that employ innovative intensive student-oriented competency-based or collaborative approaches to workforce education and training; and that link workforce education and economic development strategies. Training programs or projects that demonstrate actual increased income and economic opportunity for employees and employers may be funded for more than one year. Student internships and

training programs that involve the same employer may be funded multiple times, provided that new students participate.

~~(e) Award Criteria and Process. The Workforce education and training Council, in consultation with the Commissioners of Labor and of Economic Development and the Secretary of Education, shall develop criteria consistent with subsection (d) of this section for making awards under this section. The Commissioners of Labor and of Economic Development and the Secretary of Education, shall develop a process for making awards. [Repealed].~~

(f) Awards. ~~Based on guidelines set by the council, the~~ The Commissioner of labor, ~~and the Secretary of Education~~ Labor, in consultation with the Workforce Investment Board, shall jointly develop award criteria and may make awards to the following:

(1) Training Programs.

~~(A) Public, private, and nonprofit entities for existing or new innovative training programs. Awards may be made to programs that retrain incumbent workers that enhance the skills of Vermont workers and:~~

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available programs funded with public money;

(iii) articulate clear goals and demonstrate readily accountable, reportable, and measurable results; and

(iv) demonstrate an integrated connection between training and specific new or continuing employment opportunities.

~~(B) Awards under this subdivision shall be made to programs or projects that do all the following:~~

~~(A)(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, mentoring, or any combination of these;~~

~~(B)(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed due to changing workplace demands by increasing productivity and developing new skills for incumbent workers; or~~

(iii) in the discretion of the Commissioner, otherwise serve the purposes of this chapter.

~~(C) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;~~

~~(D) do not duplicate, supplant, or replace other available programs funded with public money;~~

~~(E) articulate clear goals and demonstrate readily accountable, reportable, and measurable results;~~

~~(F) demonstrate an integrated connection between training and specific employment opportunities, including an effort and consideration by participating employers to hire those who successfully complete a training program; and~~

(2) Vermont Career Internship Program. Funding for eligible internship programs and activities under the Vermont Career Internship Program established in section 544 of this title.

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

(g) [Repealed.]

#### § 544. VERMONT CAREER INTERNSHIP PROGRAM

(a)(1) The Department of Labor, in consultation with the Agency of Education, shall develop and implement a statewide Vermont Career Internship Program for Vermonters who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont Career Internship Program may be used to administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate secondary and postsecondary students and recent graduates through work-based learning opportunities with Vermont employers that are likely to lead to real employment;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; and

(F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) ~~For the purposes of~~ As used in this section, “internship” means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, ~~state-funded~~ State-funded postsecondary educational institutions, the Workforce ~~Development Council~~ Investment Board, and other ~~state~~ State agencies and departments that have workforce education and training and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont Career Internship Program;

(2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont Career Internship Program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the State in the Internship Program to expand internship opportunities with State government and with entities awarded State contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the State. Sec. 29. 10 V.S.A. chapter 22 is amended to read:

CHAPTER 22. ~~EMPLOYMENT~~ THE VERMONT  
TRAINING PROGRAM

§ 531. ~~EMPLOYMENT~~ THE VERMONT TRAINING PROGRAM

(a)(1) ~~The Secretary of Commerce and Community Development may, in consultation with the Workforce Investment Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants to any employer, consortium of employers, or providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances: to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.~~

(2) The Secretary shall structure the Vermont Training Program to serve as a flexible, nimble, and strategic resource for Vermont businesses and workers across all sectors of the economy.

~~(1) when issuing grants to an employer or consortium of employers, the employer promises as a condition of the grant to where eligible facility is defined as in subdivision 212(6) of this title relating to the Vermont Economic Development Authority, or the employer or consortium of employers promises to open an eligible facility within the State which will employ persons; provided that for the purposes of this section, eligible facility may be broadly interpreted to include employers in sectors other than manufacturing; and~~

~~(2) training is required for potential employees, new employees, or long-standing employees in the methods, either singularly or in combination relating to pre-employment training, on-the-job training, upgrade training, and crossover training, or specialized instruction, either in-plant or through a training provider.~~

(b) Eligibility for grant. The Secretary of Commerce and Community Development may award a grant to an employer if:

~~(1) the employer's new or expanded initiative will enhance employment opportunities for Vermont residents; the training is for pre-employment, new employees, or incumbent employees in the methods, either singularly or in combination, relating to pre-employment training, on-the-job training, upgrade training, and crossover training, or specialized instruction, either on-site or through a training provider;~~

(2) the employer provides its employees with at least three of the following:

(A) health care benefits with 50 percent or more of the premium paid by the employer;

(B) dental assistance;

(C) paid vacation ~~and;~~

- (D) paid holidays;
- ~~(D)~~(E) child care;
- ~~(E)~~(F) other extraordinary employee benefits;
- ~~(F)~~(G) retirement benefits; and
- (H) other paid time off, including paid sick days;

(3) the training is directly related to the employment responsibilities of the trainee; and

(4) unless modified by the Secretary if warranted based on regional or occupational wages or economic reality, the training is expected to lead to a position for which the employee is compensated at least twice the State minimum wage, reduced by the value of any benefit package up to a limit of 30 percent of the employee's gross wage; provided that for each grant in which the Secretary modifies the compensation provisions of this subdivision, he or she shall identify in the records for that grant the basis and nature of the modification.

~~(c) The employer promises as a condition of the grant to:~~

~~(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 30 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 20 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the Secretary of Commerce and Community Development in which the Secretary finds that the rate of unemployment is 50 percent greater than the average for the State, the wage rate under this subsection may be set by the Secretary at a rate no less than one and one-half times the federal or state minimum wage, whichever is greater;~~

~~(2) employ persons who have completed the training provided for them and nominated as qualified for a reasonable period at the wages and occupations described in the contract, unless the employer reasonably finds the nominee is not qualified;~~

~~(3) provide its employees with at least three of the following:~~

~~(A) health care benefits with 50 percent or more of the premium paid by the employer;~~

~~(B) dental assistance;~~

- ~~(C) paid vacation and holidays;~~
- ~~(D) child care;~~
- ~~(E) other extraordinary employee benefits; and~~
- ~~(F) retirement benefits.~~

~~(4) submit a customer satisfaction report to the Secretary of Commerce and Community Development, on a form prepared by the Secretary for that purpose, no more than 30 days from the last day of the training program.~~

In the case of a grant to a training provider, the Secretary shall require as a condition of the grant that the provider shall disclose to the Secretary the name of the employer and the number of employees trained prior to final payment for the training.

(d) In order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the Secretary of Commerce and Community Development shall:

~~(1) first consult with the Commissioner of Labor regarding whether the grantee has accessed, or is eligible to access, other workforce education and training resources offered by public or private workforce education and training partners;~~

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

~~(e) The Secretary of Commerce and Community Development shall administer all training programs under this section, may select and use providers of training as appropriate, and shall adopt rules and may accept services, money, or property donated for the purposes of this section. The Secretary may promote awareness of, and may give priority to, training that enhances critical skills, productivity, innovation, quality, or competitiveness, such as training in Innovation Engineering, “Lean” systems, and ISO certification for expansion into new markets. [Repealed.]~~

(f) Upon completion of the training program for any individual, the secretary of Commerce and Community Development shall review the records

and shall award to the trainee, if appropriate, a certificate of completion for the training.

~~(g) None of the criteria in subdivision (a)(1) of this section shall apply to a designated job development zone under chapter 29, subchapter 2 of this title. [Repealed.]~~

~~(h) The Secretary may designate the Commissioner of Economic Development to carry out his or her powers and duties under this chapter. [Repealed.]~~

~~(i) Program Outcomes.~~

~~(1) On or before September 1, 2011, the Agency of Commerce and Community Development, in coordination with the department of labor, and in consultation with the Workforce education and training Council and the legislative Joint Fiscal Office, shall develop, to the extent appropriate, a common set of benchmarks and performance measures for the training program established in this section and the Workforce Education and Training Fund established in section 543 of this title, and shall collect employee specific data on training outcomes regarding the performance measures; provided, however, that the Secretary shall redact personal identifying information from such data.~~

~~(2) On or before January 15, 2013, the Joint Fiscal Office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The Joint Fiscal Office shall submit its report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development.~~

~~(3) The Secretary shall use information gathered pursuant to this subsection and customer satisfaction reports submitted pursuant to subdivision (e)(4) of this section to evaluate the program and make necessary changes that fall within the Secretary's authority or, if beyond the scope of the Secretary's authority, to recommend necessary changes to the appropriate committees of the General Assembly. [Repealed.]~~

~~(j) Consistent with the training program's goal of providing specialized training and increased employment opportunities for Vermonters, and notwithstanding provisions of this section to the contrary, the Secretary shall canvas apprenticeship sponsors to determine demand for various levels of training and classes and shall transfer up to \$250,000.00 annually to the regional technical centers to fund or provide supplemental funding for apprenticeship training programs leading up to certification or licensing as journeyman or master electricians or plumbers. The Secretary shall seek to~~



~~provide these funds equitably throughout Vermont; however, the Secretary shall give priority to regions not currently served by apprenticeship programs offered through the Vermont Department of Labor pursuant to 21 V.S.A. chapter 13. [Repealed].~~

(k) Annually on or before January 15, the Secretary shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs ~~summarizing.~~ In addition to the reporting requirements under section 540 of this title, the report shall identify:

(1) all active and completed contracts and grants;

(2) the types of training activities provided, from among the following, the category the training addressed:

(A) pre-employment training or other training for a new employee to begin a newly created position with the employer;

(B) pre-employment training or other training for a new employee to begin in an existing position with the employer;

(C) training for an incumbent employee who, upon completion of training, assumes a newly created position with the employer;

(D) training for an incumbent employee who upon completion of training assumes a different position with the employer;

(E) training for an incumbent employee to upgrade skills;

(3) for the training identified in subdivision whether the training is onsite or classroom-based;

(4) the number of employees served, ~~and~~ ;

(5) the average wage by employer, ~~and addressing~~ ;

(6) any waivers granted;

(7) the identity of the employer, or, if unknown at the time of the report, the category of employer;

(8) the identity of each training provider; and

(9) whether training results in a wage increase for a trainee, and the amount of increase.

Sec. 30. REPEAL

2007 Acts and Resolves No. 46, Sec. 6(a), as amended by 2009 Acts and Resolves No. 54, Sec. 8 (workforce education and training leader) and 2013

Acts and Resolves No. 81, Sec. 2, is repealed.

Sec. 31. DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND  
COMMUNITY DEVELOPMENT; STATUTORY PROPOSALS

On or before November 1, 2014:

(1) The Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 543 to reflect best practices and improve clarity in the administration of, and for applicants to, the grant program from the Workforce Education and Training Fund under that section.

(2) The Secretary of Commerce and Community Development shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 531 to reflect best practices and improve clarity in the administration of, and for applicants to, the Vermont Training Program under that section.

Sec. 32. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

On or before January 15, 2015, the Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that details the internship opportunities available to Vermonters between 15 and 18 years of age and recommends one or more means to expand these opportunities through the Vermont Career Internship Program, 10 V.S.A. § 544, or through other appropriate mechanisms.

\* \* \* Vermont Strong Scholars Program \* \* \*

Sec. 33. 16 V.S.A. chapter 90 is redesignated to read:

CHAPTER 90. FUNDING OF POSTSECONDARY ~~INSTITUTIONS~~  
EDUCATION

Sec. 34. 16 V.S.A. § 2888 is added to read:

§ 2888. VERMONT STRONG SCHOLARS AND INTERNSHIP  
INITIATIVE

(a) Creation.

(1) There is created a postsecondary loan forgiveness and internship initiative designed to forgive a portion of Vermont Student Assistance Corporation loans of students employed in economic sectors identified as

important to Vermont's economy and to build internship opportunities for students to gain work experience with Vermont employers.

(2) The initiative shall be known as the Vermont Strong Scholars and Internship Initiative and is designed to:

(A) encourage students to:

(i) consider jobs in economic sectors that are critical to the Vermont economy;

(ii) enroll and remain enrolled in a Vermont postsecondary institution; and

(iii) live in Vermont upon graduation;

(B) reduce student loan debt for postsecondary education in targeted fields;

(C) provide experiential learning through internship opportunities with Vermont employers; and

(D) support a pipeline of qualified talent for employment with Vermont's employers.

(b) Vermont Strong Loan Forgiveness Program.

(1) Economic sectors; projections.

(A) Annually, on or before November 15, the Secretary of Commerce and Community Development and the Commissioner of Labor, in consultation with the Vermont State Colleges, the University of Vermont, the Vermont Student Assistance Corporation, and the Secretary of Education, shall identify economic sectors, projecting at least four years into the future, that are or will be critical to the Vermont economy.

(B) Based upon the identified economic sectors and the number of students anticipated to qualify for loan forgiveness under this section, the Secretary of Commerce and Community Development shall annually provide the General Assembly with the estimated cost of the Vermont Student Assistance Corporation's loan forgiveness awards under the loan forgiveness program during the then-current fiscal year and each of the four following fiscal years.

(2) Eligibility. A graduate of a public or private Vermont postsecondary institution shall be eligible for forgiveness of a portion of his or her Vermont Student Assistance Corporation postsecondary education loans under this section if he or she:

(A) was a Vermont resident, as defined in 16 V.S.A. § 2822(7), at the

time he or she was graduated;

(B) completed an associate's degree within three years, or a bachelor's degree within six years;

(C) becomes employed in Vermont within 12 months of graduation in an economic sector identified by the Secretary and Commissioner under subdivision (1) of this subsection;

(D) remains employed in Vermont throughout the period of loan forgiveness in an economic sector identified by the Secretary and Commissioner under subdivision (1) of this subsection; and

(E) remains a Vermont resident throughout the period of loan forgiveness.

(3) Loan forgiveness. An eligible individual shall have a portion of his or her Vermont Student Assistance Corporation loan forgiven as follows:

(A) for an individual awarded an associate's degree, in an amount equal to the comprehensive in-state tuition rate for 15 credits at the Vermont State Colleges during the individual's final semester of enrollment, to be prorated over the three years following graduation; and

(B) for an individual awarded a bachelor's degree, in an amount equal to the comprehensive in-state tuition rate for 30 credits at the Vermont State Colleges during the individual's final year of enrollment, to be prorated over the five years following graduation.

(C) Loan forgiveness may be awarded on a prorated basis to an otherwise eligible Vermont resident who transfers to and is graduated from a Vermont postsecondary institution.

(4) Management.

(A) The Secretary of Commerce and Community Development shall develop all organizational details of the loan forgiveness program consistent with the purposes and requirements of this section.

(B) The Secretary shall enter into a memorandum of understanding with the Vermont Student Assistance Corporation for management of the loan forgiveness program.

(C) The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the Program.

(c) Vermont Strong Internship Program.

(1) Internship program management.

(A) The Commissioner of Labor and the Secretary of Commerce and Community Development shall jointly develop and implement the organizational details of the internship program consistent with the purposes and requirements of this section and may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the internship program.

(B) The Commissioner, in consultation with the Secretary, shall issue a request for proposals for a person to serve as an Internship Program Intermediary, who shall perform the duties and responsibilities pursuant to the terms of a performance contract negotiated by the Commissioner and the Intermediary.

(C) The Department of Labor, the Agency of Commerce and Community Development, the regional development corporations, and the Intermediary, shall have responsibility for building connections within the business community to ensure broad private sector participation in the internship program.

(D) The Program Intermediary shall:

(i) identify and foster postsecondary internships that are rigorous, productive, well-managed, and mentored;

(ii) cultivate relationships with employers, employer-focused organizations, and state and regional government bodies;

(iii) build relationships with Vermont postsecondary institutions and facilitate recruitment of students to apply for available internships;

(iv) create and maintain a registry of participating employers and associated internship opportunities;

(v) coordinate and provide support to the participating student, the employer, and the student's postsecondary institution;

(vi) develop and oversee a participation contract between each student and employer, including terms governing the expectations for the internship, a work plan, mentoring and supervision of the student, reporting by the employer and student, and compensation terms; and

(vii) carry out any additional activities and duties as directed by the Commissioner.

(2) Qualifying internships.

(A) Criteria. To qualify for participation in the internship program an internship shall at minimum:

(i) be with a Vermont employer as approved by the Intermediary

in consultation with the Commissioner and Secretary:

(ii) pay compensation to an intern of at least the prevailing minimum wage; and

(iii) meet the quality standards and expectations as established by the Intermediary.

(B) Employment of interns. Interns shall be employed by the sponsoring employer except, with the approval of the Commissioner on a case-by-case basis, interns may be employed by the Intermediary and assigned to work with a participating Vermont employer, in which case the sponsoring employer shall contribute funds as determined by the Commissioner.

(3) Student eligibility. To participate in the internship program an individual shall be:

(A) a Vermont resident enrolled in a post-secondary institution in or outside Vermont;

(B) a student who graduated from a postsecondary institution within 24 months of entering the program who was classified as a Vermont resident during that schooling or who is a student who attended a post-secondary institution in Vermont; or

(C) a student enrolled in a Vermont post-secondary institution.

(d) Funding.

(1) Loan forgiveness program.

(A) There is created a special fund to be known as the Vermont Strong Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5, which shall be used and administered solely for the purposes of loan forgiveness pursuant to this section.

(B) The Fund shall consist of sums to be identified by the Secretary from any source accepted for the benefit of the Fund and interest earned from the investment of Fund balances.

(C) Any interest earned and any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

(D) The availability and payment of loan forgiveness awards under this section are subject to funding available for the awards.

(2) Internship program. Notwithstanding any provision of law to the contrary, the Commissioner of Labor shall have the authority to use funds allocated to the Workforce Education and Training Fund established in 10 V.S.A. § 543 to implement the internship program created in this section.

Sec. 35. VERMONT STRONG INTERIM REPORT

On or before November 1, 2014, the Secretary of Commerce and Community Development shall report to the Joint Fiscal Committee on the organizational and economic details of the Vermont Strong Scholars Initiative, including:

(1) the economic sectors selected for loan forgiveness;

(2) the projected annual cost of the Initiative,

(3) the proposed funding sources;

(4) programmatic proposals and economic projections on the feasibility and impacts of expanding eligibility for the loan forgiveness program to include Vermont residents who attend postsecondary institutions outside of Vermont and out-of-state residents who attend Vermont postsecondary institutions; and

(5) the projected balance of the Vermont Strong Scholars Fund for each fiscal year through fiscal year 2018.

Sec. 36. VERMONT PRODUCTS PROGRAM; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, the Secretary of Agriculture, Food and Markets, and the Vermont Attorney General, shall collaborate to identify the issues, stakeholders, and processes necessary to consider whether and how to:

(1) provide Vermont businesses with a means of promoting and marketing products and services that are manufactured, designed, engineered, or formulated in Vermont and to avoid confusion by consumers when the Vermont brand is used in marketing products or services; and

(2) harmonize the Vermont origin rule, the Made in Vermont initiative, the proposed Vermont Products Program or similar initiative, and any other programs or initiatives the Secretaries and the Attorney General determine would be appropriate for such consideration.

(b) On or before September 1, 2015, the Secretaries and the Attorney General shall submit a report on their findings and recommendations to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development.

\* \* \* Effective Dates \* \* \*

Sec. 37. EFFECTIVE DATES

(a) This section and Sec. 20a (Public Service Board; rulemaking) shall take effect on passage.

(b) The remainder of this act shall take effect on July 1, 2014, except that 16 V.S.A. § 2888(b)(3) (Vermont Strong loan forgiveness) shall take effect on July 1, 2015.

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal March 26, 2014 )**

### **S. 239**

An act relating to the regulation of toxic substances

**Rep. Deen of Westminster**, for the Committee on **Fish, Wildlife & Water Resources**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. FINDINGS

The General Assembly finds that:

(1) There are more than 84,000 chemicals used commercially in the United States, and each year approximately 1,000 chemicals are added to the list of registered chemicals.

(2) More than 90 percent of the chemicals in commercial use in the United States have never been fully tested for potential impacts on human health or the environment.

(3) In 1976, the federal government passed the Toxic Substances Control Act (TSCA) in an attempt to improve the regulation of chemicals in the United States. However, TSCA grandfathered approximately 62,000 chemicals from regulation under the Act. Consequently, the U.S. Environmental Protection Agency (EPA) is not required to assess the risk of these chemicals. Since TSCA became law, EPA only has required testing for approximately 200 chemicals, and has banned or restricted the use of five of those chemicals. No chemicals have been banned in over 20 years.

(4) Biomonitoring studies reveal that toxic chemicals are in the bodies of people, including chemicals linked to cancer, brain and nervous damage, birth defects, developmental delays, and reproductive harm. Even newborn babies have chemical body burdens, proving that they are being polluted while in the womb.

(5) Vermont has regulated the use of individual chemicals of concern, including lead, mercury, bisphenol A, phthalates, decabromodiphenyl ether, tris(1,3-dichloro-2-propyl) phosphate, and tris(2-chloroethyl) phosphate, but reviewing chemicals individually, one at a time, is inefficient and inadequate for addressing the issues posed by chemicals of concern.



(6) Other states and countries, including Maine, Washington, California, and the European Union, are already taking a more comprehensive approach to chemical regulation in consumer products, and chemical regulation in Vermont should harmonize with these efforts.

(7) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

(8) In order to ensure that the regulation of toxic chemicals is robust and protective, parties affected by the regulation of chemical use shall have ample opportunity to comment on proposed regulation so that the legal and financial risks of regulation are minimized.

Sec. 2. 18 V.S.A. chapter 38A is added to read:

CHAPTER 38A. CHEMICALS OF HIGH CONCERN TO CHILDREN

§ 1771. POLICY

It is the policy of the State of Vermont:

(1) to protect public health and the environment by reducing exposure of its citizens and vulnerable populations, such as children, to toxic chemicals, particularly when safer alternatives exist; and

(2) that the State attempt, when possible, to regulate toxic chemicals in a manner that is consistent with regulation of toxic chemicals in other states.

§ 1772. DEFINITIONS

As used in this chapter:

(1) “Aircraft” shall have the same meaning as in 5 V.S.A. § 202.

(2) “Chemical” means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism. “Chemical” shall not mean crystalline silica in any form, as derived from ordinary sand or as present as a naturally occurring component of any other mineral raw material, including granite, gravel, limestone, marble, slate, soapstone, and talc.

(3) “Chemical of high concern to children” means a chemical listed under section 1773 or designated by the Department as a chemical of high concern by rule under section 1776 of this title.

(4) “Child” or “children” means an individual or individuals under 12 years of age.

(5) “Children’s cosmetics” means cosmetics that are made for, marketed

for use by, or marketed to children. “Children’s cosmetics” includes cosmetics that meet any of the following conditions:

(A) are represented in its packaging, display, or advertising as appropriate for use by children;

(B) are sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children; or

(C) are sold in any of the following:

(i) a retail store, catalogue, or online website, in which a person exclusively offers for sale consumer products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) a discrete portion of a retail store, catalogue, or online website, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(6) “Children’s jewelry” means jewelry that is made for, marketed for use by, or marketed to children and shall include jewelry that meets any of the following conditions:

(A) is represented in its packaging, display, or advertising as appropriate for use by children;

(B) is sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(C) is sized for children and not intended for use by adults; or

(D) is sold in any of the following:

(i) a vending machine;

(ii) a retail store, catalogue, or online website, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) a discrete portion of a retail store, catalogue, or online website, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(7)(A) “Children’s product” means any consumer product, marketed for use by, marketed to, sold, offered for sale, or distributed to children in the State of Vermont, including:

(i) toys;

(ii) children's cosmetics;

(iii) children's jewelry;

(iv) a product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or

(v) child car seats.

(B) "Children's product" shall not mean or include the following:

(i) batteries;

(ii) consumer electronic products, including personal computers, audio and video equipment, calculators, wireless phones, game consoles, and hand-held devices incorporating a video screen used to access interactive software intended for leisure and entertainment and their associated peripherals;

(iii) interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact discs;

(iv) snow sporting equipment, including skis, poles, boots, snow boards, sleds, and bindings;

(v) inaccessible components of a consumer product that during reasonably foreseeable use and abuse of the consumer product would not come into direct contact with a child's skin or mouth; and

(vi) used consumer products that are sold in second-hand product markets.

(8) "Consumer product" means any product that is regularly used or purchased to be used for personal, family, or household purposes. "Consumer product" shall not mean:

(A) a product primarily used or purchased for industrial or business use that does not enter the consumer product market or is not otherwise sold at retail;

(B) a food or beverage or an additive to a food or beverage;

(C) a tobacco product;

(D) a pesticide regulated by the U.S. Environmental Protection Agency;

(E) a drug, or biologic regulated by the U.S. Food and Drug Administration (FDA), or the packaging of a drug, or biologic that is regulated by the FDA, including over the counter drugs, prescription drugs, dietary

supplements, medical devices, or products that are both a cosmetic and a drug regulated by the FDA;

(F) ammunition or components thereof, firearms, air rifles, hunting or fishing equipment or components thereof;

(G) an aircraft, motor vehicle, vessel; or

(H) the packaging in which a consumer product is sold, offered for sale, or distributed.

(9) “Contaminant” means a trace amount of a chemical or chemicals that is incidental to manufacturing and serves no intended function in the children’s product or component of the children’s product, including an unintended by-product of chemical reactions during the manufacture of the children’s product, a trace impurity in feed-stock, an incompletely reacted chemical mixture, and a degradation product.

(10) “Cosmetics” means articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering appearance, and articles intended for use as a component of such an article. “Cosmetics” shall not mean soap, dietary supplements, or food and drugs approved by the U.S. Food and Drug Administration.

(11) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(12) “Manufacturer” means:

(A) any person who manufactures a children’s product or whose name is affixed to a children’s product or its packaging or advertising, and the children’s product is sold or offered for sale in Vermont; or

(B) any person who sells a children’s product to a retailer in Vermont when the person who manufactures the children’s product or whose name is affixed to the children’s product or its packaging or advertising does not have a presence in the United States other than the sale or offer for sale of the manufacturer’s products.

(13) “Motor vehicle” means every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products.

(14) “Persistent bioaccumulative toxic” means a chemical or chemical group that, based on credible scientific information, meets each of the following criteria:

(A) the chemical can persist in the environment as demonstrated by the fact that:

(i) the half-life of the chemical in water is greater than or equal to 60 days;

(ii) the half-life of the chemical in soil is greater than or equal to 60 days; or

(iii) the half-life of the chemical in sediments is greater than or equal to 60 days; and

(B) the chemical has a high potential to bioaccumulate based on credible scientific information that the bioconcentration factor or bioaccumulation factor in aquatic species for the chemical is greater than 1,000 or, in the absence of such data, that the log-octanol water partition coefficient (log Kow) is greater than five; and

(C) the chemical has the potential to be toxic to children as demonstrated by the fact that:

(i) the chemical or chemical group is a carcinogen, a developmental or reproductive toxicant, or a neurotoxicant;

(ii) the chemical or chemical group has a reference dose or equivalent toxicity measure that is less than 0.003 mg/kg/day; or

(iii) the chemical or chemical group has a chronic no observed effect concentration (NOEC) or equivalent toxicity measure that is less than 0.1 mg/L or an acute NOEC or equivalent toxicity measure that is less than 1.0 mg/L.

(15) “Practical quantification limit (PQL)” means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

(16) “Toy” means a consumer product designed or intended by the manufacturer to be used by a child at play.

(17) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water.

#### § 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

(a) List of chemicals of high concern to children. The following chemicals are designated as chemicals of high concern to children for the purposes of the requirements of this chapter:

(1) Formaldehyde.

- (2) Aniline.
- (3) N-Nitrosodimethylamine.
- (4) Benzene.
- (5) Vinyl chloride.
- (6) Acetaldehyde.
- (7) Methylene chloride.
- (8) Carbon disulfide.
- (9) Methyl ethyl ketone.
- (10) 1,1,2,2-Tetrachloroethane.
- (11) Tetrabromobisphenol A.
- (12) Bisphenol A.
- (13) Diethyl phthalate.
- (14) Dibutyl phthalate.
- (15) Di-n-hexyl phthalate.
- (16) Phthalic anhydride.
- (17) Butyl benzyl phthalate (BBP).
- (18) N-Nitrosodiphenylamine.
- (19) Hexachlorobutadiene.
- (20) Propyl paraben.
- (21) Butyl paraben.
- (22) 2-Aminotoluene.
- (23) 2,4-Diaminotoluene.
- (24) Methyl paraben.
- (25) p-Hydroxybenzoic acid.
- (26) Ethylbenzene.
- (27) Styrene.
- (28) 4-Nonylphenol; 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3.
- (29) para-Chloroaniline.
- (30) Acrylonitrile.

- (31) Ethylene glycol.
- (32) Toluene.
- (33) Phenol.
- (34) 2-Methoxyethanol.
- (35) Ethylene glycol monoethyl ester.
- (36) Tris(2-chloroethyl) phosphate.
- (37) Di-2-ethylhexyl phthalate.
- (38) Di-n-octyl phthalate (DnOP).
- (39) Hexachlorobenzene.
- (40) 3,3'-Dimethylbenzidine and Dyes Metabolized to 3,3'-Dimethylbenzidine.
- (41) Ethyl paraben.
- (42) 1,4-Dioxane.
- (43) Perchloroethylene.
- (44) Benzophenone-2 (Bp-2); 2,2',4,4'-Tetrahydroxybenzophenone.
- (45) 4-tert-Octylphenol; 4(1,1,3,3-Tetramethylbutyl) phenol.
- (46) Estragole.
- (47) 2-Ethylhexanoic acid.
- (48) Octamethylcyclotetrasiloxane.
- (49) Benzene, Pentachloro.
- (50) C.I. Solvent yellow 14.
- (51) N-Methylpyrrolidone.
- (52) 2,2',3,3',4,4',5,5',6,6'-Decabromodiphenyl ether; BDE-209.
- (53) Perfluorooctanyl sulphonic acid and its salts; PFOS.
- (54) Phenol, 4-octyl.
- (55) 2-Ethyl-hexyl-4-methoxycinnamate.
- (56) Mercury & mercury compounds including methyl mercury (22967-92-6).
- (57) Molybdenum and molybdenum compounds.
- (58) Antimony and Antimony compounds.

(59) Arsenic and Arsenic compounds, including arsenic trioxide (1327-53-3) and dimethyl arsenic (75-60-5).

(60) Cadmium and cadmium compounds.

(61) Cobalt and cobalt compounds.

(62) Tris(1,3-dichloro-2-propyl)phosphate.

(63) Butylated hydroxyanisole; BHA.

(64) Hexabromocyclododecane

(65) Diisodecyl phthalate (DIDP).

(66) Diisononyl phthalate (DINP).

(67) any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.

(b) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall review the list of chemicals of high concern to children to determine if additional chemicals should be added to the list under subsection 1776(b) of this title. In reviewing the list of chemicals of high concern to children, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(c) Publication of list. The Commissioner shall post the list of chemicals of high concern to children on the Department of Health website by chemical name and Chemical Abstracts Service number.

(d) Addition or removal from list. Under 3 V.S.A. § 806, any person may request that the Commissioner add or remove a chemical from the list of chemicals of high concern to children.

(e) PQL value. A PQL value established under this chapter for individual chemicals shall depend on the analytical method used for each chemical. The PQL value shall be based on scientifically defensible, standard analytical methods as advised by guidance published by the Department.

#### § 1774. CHEMICALS OF HIGH CONCERN TO CHILDREN WORKING

##### GROUP

(a) Creation. A Chemicals of High Concern to Children Working Group (Working Group) is created within the Department of Health for the purpose of providing the Commissioner of Health advice and recommendations regarding implementation of the requirements of this chapter.

(b) Membership.



(1) The Working Group shall be composed of the following members who, except for ex officio members, shall be appointed by the Governor after consultation with the Commissioner of Health:

(A) the Commissioner of Health or designee, who shall be the chair of the Working Group;

(B) the Commissioner of Environmental Conservation or designee;

(C) the State toxicologist or designee;

(D) a representative of a public interest group in the State with experience in advocating for the regulation of toxic substances;

(E) a representative of an organization within the State with expertise in issues related to the health of children or pregnant women;

(F) two representatives of businesses in the State that use chemicals in a manufacturing or production process or use chemicals that are used in a children's product manufactured in the State;

(G) a scientist with expertise regarding the toxicity of chemicals; and

(H) a representative of the children's products industry with expertise in existing state and national policies impacting children's products.

(2)(A) In addition to the members of the Working Group appointed under subdivision (1) of this subsection, the Governor may appoint up to three additional adjunct members.

(B) An adjunct member appointed under this subdivision (2) shall have expertise or knowledge of the chemical or children's product under review or shall have expertise or knowledge in the potential health effects of the chemical at issue.

(C) Adjunct members appointed under this subdivision (2) shall have the same authority and powers as a member of the Working Group appointed under subdivision (1) of this subsection (b).

(3) The members of the Working Group appointed under subdivision (1) of this subsection shall serve staggered three-year terms. The Governor may remove members of the Working Group who fail to attend three consecutive meetings and may appoint replacements. The Governor may reappoint members to serve more than one term.

(c) Powers and duties. The Working Group shall:

(1) upon the request of the Chair of the Working Group, review proposed chemicals for listing as a chemical of high concern to children under section 1773 of this title; and

(2) recommend to the Commissioner of Health whether rules should be adopted under section 1776 of this title to regulate the sale or distribution of a children's product containing a chemical of high concern to children.

(d) Commissioner of Health recommendation; assistance.

(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall recommend chemicals of high concern to children in children's products for review by the Working Group. The Commissioner's recommendations shall be based on the degree of human health risks, exposure pathways, and impact on sensitive populations presented by a chemical of high concern to children.

(2) The Working Group shall have the administrative, technical, and legal assistance of the Department of Health and the Agency of Natural Resources.

(e) Meetings.

(1) The Chair of the Working Group may convene the Working Group at any time, but no less frequently than at least once every other year.

(2) A majority of the members of the Working Group, including adjunct members when appointed, shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

(f) Reimbursement. Members of the Working Group, including adjunct members, whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. A per diem authorized by this section shall be paid from the budget of the Department of Health.

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) Notice requirement. Unless the Commissioner adopts by rule a phased-in reporting requirement under section 1776, beginning on July 1, 2015, and biennially thereafter, a manufacturer of a children's product or a trade association representing a manufacturer of children's products shall submit to the Department the notice described in subsection (b) of this section if a chemical of high concern to children is:

(1) intentionally added to a children's product at a level above the PQL produced by the manufacturer; or

(2) present in a children's product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) Format for notice. The Commissioner shall specify the format for

submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the substance;

(3) the amount of the chemical by weight contained in each unit of the product or product component;

(4) the name and address of the manufacturer of the children's product and the name, address, and telephone number of a contact person for the manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

(c) Reciprocal data-sharing. In order for the Department to obtain the information required in the notice described in subsection (b) of this section, the Department may enter into reciprocal data-sharing agreements with other states in which a manufacturer of children's products is also required to disclose information related to chemicals of high concern to children in children's products. The Department shall not disclose trade secret information, confidential business information, or other information designated as confidential by law under a reciprocal data-sharing agreement.

(d) Waiver of reporting requirement. Upon application of a manufacturer on a form provided by the Department, the Commissioner may waive reporting requirements under this section if a manufacturer submitted the information required by this section to:

(1) a state with which the Department has entered a reciprocal data-sharing agreement; or

(2) a trade association, the Interstate Chemicals Clearinghouse, or other independent third party, if:

(A) the information reported to the third party is publicly available; and

(B) the information required to be reported for chemicals under this

chapter is provided to the third party and access to that information is or will be clearly available from the Department of Health website.

(e) Chemical control program. A manufacturer shall be exempt from the requirements of notice under this section for any chemical of high concern to children that is present in a children's product or component of a children's product only as a contaminant if, during manufacture of the children's product, the manufacturer was implementing a manufacturing control program and exercised due diligence to minimize the presence of the contaminant in the children's product.

(f) Notice of removal of chemical. A manufacturer who submitted the notice required by subsection (a) of this section may at any time submit to the Department notice that a chemical of high concern to children has been removed from the manufacturer's children's product or that the manufacturer no longer sells, offers for sale, or distributes in the State the children's product containing the chemical of high concern to children. Upon verification of a manufacturer's notice under this subsection, the Commissioner shall promptly remove from the Department website any reference to the relevant children's product of the manufacturer.

(g) Certificate of compliance. A manufacturer required to submit notice under this section to the Commissioner may rely on a certificate of compliance from suppliers for determining reporting obligations.

(h) Products for sale out of State. A manufacturer shall not be required to submit notice under this section for a children's product manufactured, stored in, or transported through Vermont solely for use or sale outside of the State of Vermont.

(i) Publication of information; disclaimer. The Commissioner shall post on the Department of Health website information submitted under this section by a manufacturer. When the Commissioner posts on the Department of Health website information submitted under this section by a manufacturer, the Commissioner shall provide the following notice:

"The reports on this website are based on data provided to the Department. The presence of a chemical in a children's product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws. The reporting triggers are not health-based values."

(j) Fee. A manufacturer required under this section to provide information on its use of a chemical of high concern to children shall pay a fee of \$2,000.00 per chemical of high concern to children used by the manufacturer in the production of children's products. A fee required under this subsection

shall be submitted when the manufacturer provides the first submission of notice required under this section for each chemical of high concern to children. The fee required shall be required only with the first submission of notice required under this section and shall not be required for each required subsequent biennial notice. Fees collected under this subsection shall be deposited in the Chemicals of High Concern Fund for the purposes of that Fund.

(k) Application of section. The requirements of this section shall apply unless a manufacturer is exempt or unless notice according to the requirements of this section is specifically preempted by federal law. In the event of conflict between the requirements of this section and federal law, federal law shall control.

§ 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO CHILDREN; PROHIBITION OF SALE

(a) Rulemaking authority. The Commissioner shall, after consultation with the Secretary of Natural Resources, adopt rules as necessary for the purposes of implementing, administering, or enforcing the requirements of this chapter.

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of the weight of credible, scientific evidence, has determined that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The Commissioner of Health has determined that an authoritative governmental entity or accredited research university has demonstrated that the chemical:

(A) harms the normal development of a fetus or child or causes other developmental toxicity;

(B) causes cancer, genetic damage, or reproductive harm;

(C) disrupts the endocrine system;

(D) damages the nervous system, immune system, or organs or cause other systemic toxicity; or

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

(c) Removal of chemical from list. The Commissioner may by rule remove a chemical from the list of chemicals of high concern to children established under section 1773 of this title or rules adopted under this section if the Commissioner determines that the chemical no longer meets both of the criteria of subdivisions (b)(1) and (2) of this section.

(d) Rule to regulate sale or distribution.

(1) The Commissioner, upon the recommendation of the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

(A) children will be exposed to a chemical of high concern to children in the children's product; and

(B) there is a probability that, due to the degree of exposure or frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.

(2) In determining whether children will be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

(A) the market presence of the children's product in the State;

(B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;

(C) the household and workplace presence of the children's product;

(D) the potential and frequency of exposure of children to the chemical of high concern to children in the children's product.

(3) A rule adopted under this section may:

(A) prohibit the children's product containing the chemical of high concern to children from sale, offer for sale, or distribution in the State; or

(B) require that the children's product containing the chemical of high concern to children be labeled prior to sale, offer for sale, or distribution in the State.

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(e) Exemption for chemical management strategy. In adopting a rule under this section, the Commissioner may exempt from regulation a children's product containing a chemical of high concern to children if the manufacturer of the children's product is implementing a comprehensive chemical management strategy designed to eliminate harmful substances or chemicals from the manufacturing process.

(f) Additional rules.

(1) On or before July 1, 2017, the Commissioner of Health shall adopt by rule the process and procedure to be required when the Commissioner of Health adopts a rule under subsection (b) or (c) of this section. The rule shall provide all relevant criteria for evaluation of the chemical, time frames for labeling or phasing out sale or distribution, and other information or process determined as necessary by the Commissioner for implementation of this chapter.

(2) The Commissioner may, by rule, authorize a manufacturer to report ranges of the amount of a chemical in a children's product, rather than the exact amount, provided that if there are multiple chemical values for a given component in a particular product category, the manufacturer shall use the largest value for reporting.

(3) Notwithstanding the required reporting dates under section 1774 of this title, the Commissioner may adopt by rule phased-in reporting requirements for chemicals of high concern to children in children's products based on the size of the manufacturer, aggregate sales of children's products, or the exposure profile of the chemical of high concern to children in the children's product.

(g) Additional public participation. In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding any proposed prohibition of a chemical of high concern to children. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused

work groups, dockets, meetings, or other forms of communication.

§ 1777. CHEMICALS OF HIGH CONCERN TO CHILDREN FUND

(a) The Chemicals of High Concern to Children Fund is established in the State Treasury, separate and distinct from the General Fund, to be administered by the Commissioner of Health. Interest earned by the Fund shall be credited to the Fund. Monies in the Fund shall be made available to the Department of Health and the Agency of Natural Resources to pay costs incurred in administration of the requirements of this chapter.

(b) The Chemicals of High Concern to Children Fund shall consist of:

(1) fees and charges collected under section 1775 of this chapter;

(2) private gifts, bequests, grants, or donations made to the State from any public or private source for the purposes for which the Fund was established; and

(3) such sums as may be appropriated by the General Assembly.

§ 1778. CONFIDENTIALITY

Information submitted to or acquired by the Department or the Chemicals of High Concern to Children Working Group under this chapter may be subject to public inspection or copying or may be published on the Department website, provided that trade secret information and confidential business information shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(9) and information otherwise designated confidential by law shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(1). It shall be the burden of the manufacturer to assert that information submitted under this chapter is a trade secret, confidential business information, or is otherwise designated confidential by law. When a manufacturer asserts under this section that the specific identity of a chemical of high concern to children in a children's product is a trade secret, the Commissioner shall, in place of the specific chemical identity, post on the Department's website the generic class or category of the chemical in the children's product and the potential health effect of the specific chemical of high concern to children.

§ 1779. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act in 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions under 9 V.S.A. chapter 63, subchapter 1. Private parties shall not have a private right of action under this chapter.



Sec. 3. REPORT TO GENERAL ASSEMBLY; CHEMICALS OF HIGH CONCERN TO CHILDREN

On or before January 15, 2015, and biennially thereafter, the Commissioner of Health, after consultation with the Secretary of Natural Resources, shall submit to the Senate Committee on Health and Welfare, the House Committee on Human Services, the House Committee on Ways and Means, the Senate Committee on Finance, and the Senate and House Committees on Appropriations, a report concerning implementation, administration, and financing by the Department of Health of the requirements of 18 V.S.A. chapter 38A regarding the chemicals of high concern to children. The report shall include:

(1) Any updates to the list of chemicals of high concern to children required under 18 V.S.A. § 1773.

(2) The number of manufacturers providing notice under 18 V.S.A. § 1775 regarding whether a children's product includes a chemical of high concern to children.

(3) The number of chemicals of high concern to children for which manufacturers asserted trade secret protection for the specific identity of the chemical, and a recommendation of whether a process should be established to review the validity of asserted trade secrets.

(4) An estimate of the annual cost to the Department of Health to implement the chemicals of high concern to children program.

(5) The number of Department of Health employees needed to implement the chemicals of high concern to children program.

(6) An estimate of additional funding that the Department may require to implement the chemicals of high concern to children program.

(7) A recommendation of how the State should collaborate with other states in implementing the requirements of the chemicals of high concern to children program.

(8) A recommendation as to whether the requirements of this chapter should be expanded to consumer products other than children's products.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee vote: 6-3 )**

**(For text see Senate Journal March 26, 27, 2014 )**

**S. 247**

An act relating to the regulation of medical marijuana dispensaries

**Rep. Burditt of West Rutland**, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than six months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination. The six-month requirement shall not apply if a patient has been diagnosed with:

(A) a terminal illness,

(B) cancer with distant metastases, or

(C) acquired immune deficiency syndrome.

\* \* \*

(4) “Debilitating medical condition,” provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (4), reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms, means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome; severe pain; severe nausea; or seizures.

(5) “Dispensary” means a nonprofit entity registered under section 4474e of this title which acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief. A dispensary may provide marijuana for symptom relief to registered patients at

only one facility or location but may have a second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered to be part of the same dispensary.

(6)(A) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81 who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) Except for naturopaths, this definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

\* \* \*

(14) “Transport” means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

(15) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(15)~~(16) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana, or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition which is in compliance with all the limitations and restrictions of this subchapter. ~~For the purposes of this definition, “transfer” is limited to the transfer of marijuana and paraphernalia between a registered caregiver and a registered patient.~~

Sec. 2. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

(a) A person may submit a signed application to the ~~department of public safety~~ Department of Public Safety to become a registered patient’s registered caregiver. The ~~department~~ Department shall approve or deny the application in writing within 30 days. In accordance with rules adopted pursuant to section 4474d of this title, the Department shall consider an individual’s criminal history record when making a determination as to whether to approve the application. An applicant shall not be denied solely on the basis of a

criminal conviction that is not listed in subsection 4474g(e) of this title or 13 V.S.A. chapter 28. The ~~department~~ Department shall approve a registered caregiver's application and issue the person an authorization card, including the caregiver's name, photograph, and a unique identifier, after verifying:

(1) the person will serve as the registered caregiver for one registered patient only; ~~and~~

(2) ~~the person has never been convicted of a drug-related crime.~~

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime.~~ Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(c)(1) ~~A~~ Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time.

(2) A registered patient who is under 18 years of age may have two registered caregivers.

Sec. 3. 18 V.S.A. § 4473(b) is amended to read:

(b) The ~~department of public safety~~ Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit, ~~under~~

~~oath,~~ a signed application for registration to the ~~department~~ Department. A patient's initial application to the registry shall be notarized, but subsequent renewals shall not require notarization. If the patient is under ~~the age of 18~~ years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the ~~department~~ Department pursuant to subdivision (2) of this subsection.

\* \* \*

Sec. 4. 18 V.S.A. § 4474d(e)–(g) are added to read:

(e) The Department shall adopt rules for the issuance of a caregiver registry identification card that shall include standards for approval or denial of an application based on an individual's criminal history record. The rules shall address whether an applicant who has been convicted of an offense listed in subsection 4474g(e) of this title or 13 V.S.A. chapter 28 has been rehabilitated and should be otherwise eligible for a caregiver registry identification card.

(f) The Department shall adopt rules establishing protocols for the safe delivery of marijuana to patients and caregivers.

(g) The Department shall adopt rules for granting a waiver of the dispensary possession limits in section 4474e of this title upon application of a dispensary for the purpose of developing and providing a product for symptom relief to a registered patient who is under 18 years of age who suffers from seizures.

Sec. 5. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief. ~~For purposes of this section, "transport" shall mean the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, or as otherwise allowed under this subchapter.~~

(A) Marijuana-infused products shall include tinctures, oils, solvents,

and edible or potable goods. Only the portion of any marijuana-infused product that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient. ~~The department of public safety~~ Department of Public Safety shall establish by rule the appropriate method to establish the weight of marijuana that is attributable to marijuana-infused products.

(B) Marijuana-related supplies shall include pipes, vaporizers, and other items classified as drug paraphernalia under chapter 89 of this title.

(2) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided that records are kept concerning the amount and the recipient.

(3)(A) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and ~~two~~ four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

(B) Notwithstanding subdivision (A) of this subdivision, if a dispensary is designated by a registered patient under 18 years of age who qualifies for the registry because of seizures, the dispensary may apply to the Department for a waiver of the limits in subdivision (A) of this subdivision (3) if additional capacity is necessary to develop and provide an adequate supply of a product for symptom relief for the patient. The Department shall have discretion whether to grant a waiver and limit the possession amounts in excess of subdivision (A) of this subdivision (3) in accordance with rules adopted pursuant to section 4474d of this title.

\* \* \*

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards. ~~The department of public safety~~ Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may

enter a dispensary at any time for such purpose. During an inspection, the ~~department~~ Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

(2)(A) A registered patient or registered caregiver may obtain marijuana from the dispensary ~~facility~~ by appointment only.

(B) A dispensary may deliver marijuana to a registered patient or registered caregiver. The marijuana shall be transported in a locked container.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of ~~an annual~~ a financial audit to the ~~department of public safety~~ Department of Public Safety no later than 60 days after the end of the dispensary's first fiscal year, and every other year thereafter. The ~~annual~~ audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The ~~department~~ Department may also periodically require, within its discretion, the audit of a dispensary's financial records by the ~~department~~ Department.

(5) A dispensary shall destroy or dispose of marijuana, marijuana-infused products, clones, seeds, parts of marijuana that are not usable for symptom relief or are beyond the possession limits provided by this subchapter, and marijuana-related supplies only in a manner approved by rules adopted by the ~~department of public safety~~ Department of Public Safety.

\* \* \*

(n) Nothing in this subchapter shall prevent a dispensary from acquiring, possessing, cultivating, manufacturing, transferring, transporting, supplying, selling, and dispensing hemp and hemp-infused products for symptom relief. "Hemp" shall have the same meaning as provided in 6 V.S.A. § 562. A dispensary shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 6. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

\* \* \*

(b) Within 30 days of the adoption of rules, the ~~department~~ Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the ~~department~~ Department shall

grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No more than four dispensaries shall hold valid registration certificates at one time. ~~The total statewide number of registered patients who have designated a dispensary shall not exceed 1,000 at any one time.~~ Any time a dispensary registration certificate is revoked, is relinquished, or expires, the ~~department~~ Department shall accept applications for a new dispensary. If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the ~~department of public safety~~ Department of Public Safety shall accept applications for a new dispensary.

\* \* \*

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:

\* \* \*

(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years.

Sec. 7. 18 V.S.A. § 4474m is added to read:

§ 4474m. DEPARTMENT OF PUBLIC SAFETY; PROVISION OF EDUCATIONAL AND SAFETY INFORMATION

The Department of Public Safety shall provide educational and safety information developed by Vermont Department of Health to each registered patient upon registration pursuant to section 4473 of this title, and to each registered caregiver upon registration pursuant to section 4474 of this title.

Sec. 8. DEPARTMENT OF HEALTH REPORT; POST-TRAUMATIC STRESS DISORDER

The Department of Health shall review and report on the existing research on the treatment of the symptoms of post traumatic stress disorder, as defined by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, as well as the existing research on the use of marijuana for relief of the symptoms of post traumatic stress disorder. The Department shall report its findings to the General Assembly on or before January 15, 2015.

Sec. 9. EFFECTIVE DATES

This section and Sec. 4 shall take effect on passage and the remaining sections shall take effect on July 1, 2014.

and that after passage the title of the bill be amended to read: "An act relating to the regulation of marijuana for symptom relief and dispensaries"

**(Committee vote: 11-0-0)**

**(For text see Senate Journal February 28, 2014)**



**Rep. Ram of Burlington**, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Human Services** and when further amended as follows:

By adding a Sec. 8a to read:

**Sec. 8a. TAXATION AND REGULATION OF MARIJUANA; REPORT**

On or before January 15, 2015, the Secretary of Administration shall report to the General Assembly regarding the taxation and regulation of marijuana in Vermont. The report shall analyze:

(1) the possible taxing systems for the sale of marijuana in Vermont, including sales and use taxes and excise taxes, and the potential revenue each may raise;

(2) any savings or costs to the State that would result from regulating marijuana; and

(3) the experiences of other states with regulating and taxing marijuana.

**( Committee Vote: 8-2-1)**

**Amendment to be offered by Rep. Masland of Thetford to S. 247**

Sec. 1, 18 V.S.A. § 4472, in subdivision (4)(A), by inserting after “acquired immune deficiency syndrome,” post traumatic stress disorder as defined by the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition or subsequent edition,

**Amendment to be offered by Reps. Burditt of West Rutland, Batchelor of Derby, Donahue of Northfield, Frank of Underhill, French of Randolph, Haas of Rochester, Krowinski of Burlington, McFaun of Barre Town, Mrowicki of Putney, Pugh of South Burlington, and Trieber of Rockingham to S. 247**

First: In Sec. 1, 18 V.S.A. § 4472, in subdivision (6)(A), after the words “administer prescription medicines” by inserting the phrase “to the extent that a diagnosis provided by a naturopath under this chapter is within the scope of his or her practice”

Second: In Sec. 8, after the words “Department of Health” by inserting the phrase: “, in consultation with the Department of Mental Health,”

**S. 275**

An act relating to the Court’s jurisdiction over youthful offenders

**Rep. Wizowaty of Burlington**, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by

striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. YOUTHFUL OFFENDERS; LEGISLATIVE INTENT

The maximum age at which a person may be treated as a youthful offender varies under two different statutes under 33 V.S.A. chapter 52. A person may be treated as a youthful offender until the person reaches 22 years of age under 33 V.S.A. § 5104(a); however, in some circumstances, a person may be treated as a youthful offender until the person reaches 23 years of age under 33 V.S.A. § 5204a(b)(2)(A). This distinction is intentional.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal February 25, 2014 )**

**S. 291**

An act relating to the establishment of transition units at State correctional facilities

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

Sec. 1. TRANSITIONAL FACILITIES; DEPARTMENT OF CORRECTIONS; STUDY

(a) Findings. The General Assembly finds that the Department of Corrections has experienced a rise in costs of \$17,624,076.00 since FY 2012. The General Assembly further finds that there are offenders in the State of Vermont who are eligible for release from State correctional facilities but who are not released due to a lack of suitable housing. The General Assembly further finds that recidivism is reduced and public safety is enhanced when offenders receive supervision as they transition to their home community. Therefore, it is the intent of the General Assembly that the Department of Corrections shall explore the creation of secure transitional facilities so that offenders may return to their home communities. It is also the intent of the General Assembly that the housing in these facilities include programs for employment, training, transportation, and other appropriate services. It is also the intent of the General Assembly that the Department of Corrections work with communities to gain support for these programs and services.

(b) Recommendations. The Commissioner of Corrections shall examine and make recommendations for the establishment of transitional facilities

under the supervision of the Department of Corrections. The recommendations shall include an evaluation of costs associated with establishing transitional facilities, a detailed budget for funding transitional facilities, an estimate of State capital funding needs, potential site locations, a summary of the programming and services that are currently available to transitioning offenders, proposals for programming and services for transitioning offenders that may be needed, and eligibility guidelines for offenders to reside in transitional facilities, including the number of offenders who would be eligible for residence in a transitional facility.

(c) Report. On or before January 15, 2015, the Commissioner of Corrections shall submit the recommendations described in subsection (b) of this section to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(d) Definitions. As used in this section, “transitional facility” means housing intended to be occupied by offenders granted furloughs to work in the community.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

**(Committee vote: 9-1-1 )**

**(For text see Senate Journal February 5, 2014 )**

### **S. 297**

An act relating to the recording of custodial interrogations in homicide and sexual assault cases

**Rep. Grad of Moretown**, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, in 13 V.S.A. § 5581(a)(2), before the word “capacity” by inserting current and in 13 V.S.A. § 5581(b)(2), by striking out “simultaneously record” and inserting in lieu thereof record simultaneously

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

## Sec. 2. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board (LEAB) shall develop a plan for the implementation of Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

(b) The LEAB, in consultation with practitioners and experts in recording interrogations, including the Innocence Project, shall:

(1) assess the scope and location of the current inventory of recording equipment in Vermont;

(2) develop recommendations, including funding options, regarding how to equip adequately law enforcement with the recording devices necessary to carry out Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation); and

(3) develop recommendations for expansion of recordings to questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject regarding any felony offense.

(c) On or before October 1, 2014, the LEAB shall submit a written report to the Senate and House Committees on Judiciary with its recommendations for the implementation of Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

Third: In Sec. 3, by striking out “July 1, 2015” and inserting in lieu thereof October 1, 2015.

**(Committee vote: 11-0-0)**

**(For text see Senate Journal February 5, 2014 )**

**Favorable**

**S. 184**

An act relating to eyewitness identification policy

**Rep. Grad of Moretown**, for the Committee on **Judiciary**, recommends that the bill ought to pass in concurrence.

**(Committee Vote: 11-0-0)**

**(For text see Senate Journal February 5, 2014 )**

**S. 283**

An act relating to the changing of the name of the Vermont Criminal Information Center

**Rep. Wizowaty of Burlington**, for the Committee on **Judiciary**, recommends that the bill ought to pass in concurrence.

**(Committee Vote: 11-0-0)**

**(No Senate Amendments)**

## Senate Proposal of Amendment

### H. 650

An act relating to establishing the Ecosystem Restoration and Water Quality Improvement Special Fund

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

By striking out Sec. 2 in its entirety and inserting in lieu thereof new Secs. 2 and 3 to read as follows:

Sec. 2. 2014 Acts and Resolves No. 97, Sec. 1(c) is amended to read:

(c) Report. On or before ~~April 15~~ November 15, 2014, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Fish, Wildlife and Water Resources, and the Senate and House Committees on Appropriations a report that provides specific recommendations for administering, implementing, and financing water quality improvement in Vermont. The report shall:

\* \* \*

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 (ANR report) shall take effect on passage.

(b) Sec. 1 (Ecosystem Restoration and Water Quality Improvement Special Fund) shall take effect on July 1, 2014.

(For text see House Journal March 11, 2014 )

**Ordered to Lie**

**S. 91**

An act relating to privatization of public schools.

Pending Question: Shall the House propose to the Senate to amend the bill as offered by Rep. Turner of Milton??

**Information Notice**

All drafting requests for House Concurrent Resolutions must be in Michael Chernick's hands by the end of the day on April 22nd. Thank You.