Senate Calendar

TUESDAY, MARCH 25, 2014

SENATE CONVENES AT: 9:30 A.M.

TABLE OF CONTENTS

ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF FRIDAY, MARCH 21, 2014

Second Reading

Favorable

H. 609.

An act relating to terminating propane service.

Reported favorably by Senator Bray for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of January 29, 2014, page 173)

NEW BUSINESS

Third Reading

H. 559.

An act relating to membership on the Building Bright Futures Council.

Second Reading

Favorable

H. 577.

An act relating to ski tramways.

Reported favorably by Senator Collins for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of January 24, 2014, page 141)

Favorable with Proposal of Amendment

H. 441.

An act relating to changing provisions within the Vermont Common Interest Ownership Act related to owners of time-shares.

Reported favorably with recommendation of proposal of amendment by Senator Nitka for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

In Sec. 6, by striking "July 1, 2013" and inserting in lieu thereof July 1, 2014

and that when so amended the bill ought to pass.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for May 6, 2013, pages 1292-1295 and May 7, 2013, page 1316.)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 201.

An act relating to siting review by the Public Service Board.

Reported favorably with recommendation of amendment by Senator Hartwell for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

The purposes of this act include:

(1) to encourage regional planning to meet statutory policies and goals to reduce greenhouse gas emissions, increase energy efficiency, and develop renewable electric generation in an orderly fashion and to allow each region to support these policies and goals in a manner that suits the region and preserves and promotes its natural resources;

(2) to strengthen the role of regional planning commissions and local selectboards and planning commissions in the siting review process for energy facilities by giving greater weight to their recommendations and plans;

(3) to provide an option under which a regional planning commission may amend its plan to meet statutory energy policies and goals so that, in the siting review process, electric generation facilities will be required to conform to the regional plan;

(4) to direct that, if a regional planning commission elects this option, the regional commission shall recommend the actions and measures that the region should take to meet:

(A) the goals of 10 V.S.A. § 578 to reduce greenhouse gas emissions from Vermont energy consumption from the 1990 baseline by 50 percent by January 1, 2028 and by 75 percent by January 1, 2050;

(B) the goal of 10 V.S.A § 580 to produce 25 percent of the energy consumed in the State through use of renewable energy resources, particularly from Vermont's farms and forests;

(C) the building efficiency goals of 10 V.S.A. § 581, including improving the energy fitness of at least 20 percent of the State's housing stock by 2017 and 25 percent of the State's housing stock by 2020 and reducing Vermont's fossil fuel energy consumption at a rate of six percent annually by 2017 and 10 percent annually by 2025;

(D) the State energy policy set forth at 30 V.S.A. § 202a, including the promotion of energy efficiency and conservation, the wise use of renewable resources, and environmentally sound energy supply;

(E) the goals of 30 V.S.A. § 8001, including supporting development of renewable energy that uses natural resources efficiently, produces jobs and economic benefits for the State, and displaces fossil fuels; and

(F) the goals and total renewables targets of 30 V.S.A. § 8005, including assuring that 20 percent of the State's total statewide electric retail sales in 2017 be from new renewable energy and that, in that same year, 55 percent of each utility's retail sales be from renewable energy, whether new or existing, rising to 75 percent by 2032;

(5) to provide that, if a regional planning commission elects this option, the regional commission in amending its plan shall consider the State Electrical Energy and Comprehensive Energy Plans and use data, information, and digital resources available from the State and other sources; and

(6) to encourage public engagement and participation in energy siting before and during the siting review process and to reduce the barriers to and burdens of public participation in that process.

Sec. 2. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a) Certificate of public good; obligation and procedure.

(1) Electricity; out-of-state purchases and investments. No company, as defined in section 201 of this title, may:

(A) in any way purchase electric capacity or energy from outside the State:

(i) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(ii) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(B) invest in an electric generation or transmission facility located outside this ~~state~~ State unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect.

(2) In-state electric generation and transmission facilities. Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the ~~state~~ State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect.

(3) Natural gas facilities. No company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may in any way begin site preparation for or commence construction of any natural gas facility, except for the replacement of existing facilities with equivalent facilities in the usual course of business, unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect pursuant to this section.

(A) ~~For the purposes of~~ In this section, the term "natural gas facility" shall mean any natural gas transmission line, storage facility, manufactured-gas

facility, or other structure incident to any of the above. ~~For purposes of~~ In this section, a "natural gas transmission line" shall include any feeder main or any pipeline facility constructed to deliver natural gas in Vermont directly from a natural gas pipeline facility that has been certified pursuant to the Natural Gas Act, 15 U.S.C. § 717 et seq.

(B) ~~For the purposes of~~ In this section, the term "company" shall not include a "natural gas company" (including a "person which will be a natural gas company upon completion of any proposed construction or extension of facilities"), within the meaning of the Natural Gas Act, 15 U.S.C. § 717 et seq.; provided, however, that the term "company" shall include any "natural gas company" to the extent it proposes to construct in Vermont a natural gas facility that is not solely subject to federal jurisdiction under the Natural Gas Act.

(C) The Public Service Board shall have the authority to, and may in its discretion, conduct a proceeding, as set forth in subsection (h) of this section, with respect to a natural gas facility proposed to be constructed in Vermont by a "natural gas company" for the purpose of developing an opinion in connection with federal certification or other federal approval proceedings.

(4) Procedure and participation.

(A) Hearings. With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

~~(B)~~ The ~~Public Service~~ Board shall hold technical hearings at locations which it selects.

~~(C)~~(B) Notice.

(i) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, ~~historic preservation division~~ Division for Historic Preservation, Agency of Transportation, ~~the~~ and Agency of Agriculture, Food and Markets and to the chairperson or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located. At the time of filing its application with the Board, the petitioner shall give the Byways Advisory Council notice of the filing.

~~(D)~~(ii) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the

hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

~~(E)~~(C) Participation. In proceedings under this section:

(i) Each person identified in subdivision (B)(i) of this subdivision (a)(4) as being entitled to receive a copy or notice of the application at the time of filing shall have the right to appear as a party to the proceeding on the application.

(ii) The Agency of Natural Resources shall appear as a party in any proceedings held under this ~~subsection~~ section regarding an in-state facility, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(iii) With respect to an application under this section for an in-state facility, the Board shall allow as a party any adjoining property owner or other person who demonstrates that the person has a particularized interest protected under this section and there is a reasonable possibility that the interest may be affected by an act or decision of the Board on the application.

(iv) The Board may allow any other person as a party as its rules may provide.

(v) The Board may allow a person to participate as a friend of the Board without being accorded party status. Participation may be limited to one or more of the following: providing testimony or other evidence; engaging in cross-examination; or the filing of legal memoranda, proposed findings of fact and conclusions of law, or argument on legal issues. A motion to participate as a friend of the Board shall identify the interest of the requestor and the desired scope of participation and shall state the reasons why the participation of the requestor will be beneficial to the Board. The Board may allow a person to participate as a friend of the Board on its own motion. Unless the Board orders otherwise, all friends of the Board shall submit their filings within the times allowed the parties. A friend of the Board shall not be subject to discovery except to the extent that the friend of the Board provides testimony or other evidence.

(vi) The Board shall adopt and make publicly available one or more forms that a person may complete in order to move to participate as a party or friend of the Board.

(vii) The Board shall limit discovery to that which is necessary for a full and fair determination of the proceeding. In determining the allowed discovery, the Board shall consider the relative resources of the parties and friends of the Board and the need for disclosure by the applicant of relevant information.

(D) Postcertification review. The Board may employ postcertification review for an in-state electric transmission or natural gas facility and shall not employ postcertification review for an in-state electric generation facility. In this subdivision (D), "postcertification review" means a procedure under which a certificate of public good is conditioned on subsequent submission and consideration of other approvals issued for a facility or of specific details or designs of a facility prior to its construction, and does not include an application for an amendment to a certificate of public good that is a new application under this section.

(E) "Person." In this subdivision (4), "person" shall have the same meaning as in 1 V.S.A. § 128.

(5) Application fee. On filing an application under this section, an applicant for an in-state facility shall pay a fee for the purpose of compensating the State of Vermont for the direct and indirect costs incurred with respect to the review of the application and the administration of the State programs involved in this review and for the Board's posting a copy of each transcript of the proceeding online, available for download.

(A) The fee shall be $5.40 for each $1,000.00 of the first $15,000,000.00 of construction costs and $2.50 for each $1,000.00 of construction costs above $15,000,000.00. In no event shall the fee exceed $750,000.00. The Board shall adjust the amounts contained in this subdivision (A) annually commencing in 2015 for inflation since January 1, 2014 using the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(B) Eighty percent of the fee shall be deposited into the special fund described in section 22 of this title and allocated between the Board and the Department of Public Service in accordance with that section. Twenty percent of the fee shall be deposited into the Environmental Permit Fund under 3 V.S.A. § 2805.

(C) The Board shall not require a fee for an application under this section for a net metering system, a facility that will pay expenses allocated pursuant to subsection 8005a(l) of this title, or a facility to be undertaken and owned by an agency of the State or a political subdivision of the State.

(D) Nothing in this subdivision (5) shall affect the authority of the Board, the Department of Public Service, or the Agency of Natural Resources to retain personnel and allocate costs under sections 20 and 21 of this title, except that, if the costs of regular employees are allocated under section 21 of this title to an applicant paying a fee under this subdivision, the allocated amount shall be offset by the portion of the fee available to the allocating agency.

(b) Criteria. Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) with respect to an in-state facility, will not unduly interfere with the orderly development of the region with ~~due consideration~~ substantial deference having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. In this subdivision (1), "substantial deference" means that a recommendation or land conservation measure shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh application of the recommendation or measure. However, if a recommendation of a municipal legislative body and a recommendation of the planning commission of the same municipality conflict, the Board shall apply its independent judgment to resolve the conflict. In addition:

(A) with respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located; and

(B) with respect to an electric generation facility subject to Board review, the facility shall conform with any provisions of the regional plan that are specific to electric generation facilities if the regional plan meets the requirements of this subdivision (B).

(i) The conformance requirement of this subdivision (B) shall apply only to a regional plan that is amended under 24 V.S.A. § 4348 after the effective date of this subdivision to:

(I) state the basis for each provision that is specific to electric generation facilities;

(II) identify the areas within the region that are suitable and are not suitable for siting electric generation facilities; and

(III) analyze the options available to the region and recommend the actions and measures that the region should undertake in order to contribute to meeting the goals of 10 V.S.A. §§ 578 (greenhouse gas reduction), 580 (25 by 25), and 581 (building efficiency) and the goals and policies of sections 202a (state energy policy), 8001 (renewable energy), and 8005 (SPEED; total renewables targets) of this title.

(ii) In amending a regional plan under this subdivision (B), the regional planning commission shall consider the State Electrical Energy and Comprehensive Energy Plans issued under sections 202 and 202b of this title and use data, information, and digital resources available from the State and other sources, including resources that may assist the regional planning commission to identify areas that are likely candidates to site particular categories of generation technologies.

(iii) This subdivision (B) shall not require a region to establish a numerical amount or capacity of electric generation facilities to be sited within the region.

(iv) In any proceeding involving the application of a regional plan that has been amended under this subdivision (B), the Board shall presume that the regional plan complies with the requirements of subdivision (b)(1)(B)(i) of this section unless there is a clear and convincing demonstration that the regional plan does not meet one or more of those requirements or that there is no rational basis for a challenged provision of the regional plan;

* * *

(5) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to greenhouse gas impacts and to the criteria specified in 10 V.S.A. ~~§§~~ § 1424a(d) and substantial deference having been given to the criteria specified in 10 V.S.A. § 6086(a)(1) through (8) and (9)(K) ~~and greenhouse gas impacts~~. In this subdivision (5), "substantial deference" to a criterion of 10 V.S.A. § 6086 means that the Board shall:

(A) apply the criterion to the facts in the same manner that the criterion is applied under 10 V.S.A. chapter 151; and

(B) if the outcome under the criterion is negative, deny the application unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh denial;

* * *

(10) except as to a natural gas facility that is not part of or incidental to an electric generating facility~~,~~:

(A) can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers; and

(B) as to an in-state electric generation facility, is designed to minimize curtailment of the facility's expected generation and includes any transmission facilities needed to place the facility's expected generation on the regional transmission system without causing congestion;

* * *

(f) ~~However, the:~~ Public engagement plan; notice of intent; preapplication plans.

(1) With respect to a proposed in-state electric generation facility with a capacity exceeding 15 MW, at least eight months before filing an application under this section, the petitioner shall submit a public engagement plan to the Public Service Board. The Department of Public Service shall develop and publish guidelines that shall be the basis for each public engagement plan submitted under this subdivision (1). The petitioner shall implement the public engagement plan and its petition to the Board shall identify and respond to the issues raised during the public engagement process conducted under the plan.

(2) The petitioner shall submit a notice of intent to construct an in-state facility requiring a certificate of public good under this section to the municipal and regional planning commissions at least six months prior to an application for a certificate of public good under this section. The Board shall specify by rule the content of such a notice of intent, which shall be designed to provide a reasonable description of the facility to be built, its size and location, and related infrastructure to be constructed. A notice of intent under this subdivision (2) shall not be required for a facility that the Board determines to be eligible for treatment under subsection (j) (facilities of limited size and scope) of this section.

(3) The petitioner shall submit plans for the construction of such a facility within the ~~state must be submitted by the petitioner~~ State to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions ~~shall~~ may make recommendations~~, if any,~~ to the ~~public service board~~ Public Service Board and to the petitioner ~~at least seven days prior to filing of the petition~~ within 21 days after the date the petition is filed with the ~~public service board~~ Board.

(g) Preapplication plans; transmission line relocation. ~~However, notwithstanding the above~~ Notwithstanding subdivision (f)(3) of this section, plans involving the relocation of an existing transmission line within the State ~~must~~ shall be submitted to the municipal and regional planning commissions no less than 21 days prior to application for a certificate of public good under this section.

* * *

(j) Facilities of limited size and scope.

(1) The Board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings otherwise required by this chapter if the Board finds that:

(A) approval is sought for construction of facilities described in subdivision (a)(2) or (3) of this section;

(B) such facilities will be of limited size and scope;

(C) the petition does not raise a significant issue with respect to the substantive criteria of this section; and

(D) the public interest is satisfied by the procedures authorized by this subsection.

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. The Board shall give written notice of the proposed certificate to the parties specified in subdivision (a)(4)~~(C)~~(B)(i) of this section, to any public interest organization that has in writing requested notice of applications to proceed under this subsection and to any other person found by the Board to have a substantial interest in the matter. Such notice shall be published on the Board's website and shall request comment within the Board's website and shall request comment within 28 days of the initial publication on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(k) Waiver.

(1) Notwithstanding any other provisions of this section, the Board may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility or a generation facility necessary to assure the stability or reliability of the electric system or a natural gas facility, pending full review under this section.

(2) A person seeking a waiver under this subsection shall file a petition with the Board and shall provide copies to the Department of Public Service and the Agency of Natural Resources. Upon receiving the petition, the Board shall conduct an expedited preliminary hearing, upon such notice to the governmental bodies listed in subdivision (a)(4)~~(C)~~(B)(i) of this section as the ~~board~~ Board may require.

* * *

(r) When evaluating the need for a purchase, investment, or facility subject to this section and when giving due consideration under this section to the greenhouse gas impacts of an in-state facility, the Board shall consider all greenhouse gas emissions avoided by and related to the facility during its life cycle. The Board shall require a petitioner seeking a certificate of public good under this section for an in-state facility to provide a full accounting of the emissions avoided by and related to the facility.

(s) The Board shall not issue a certificate of public good under this section for an in-state facility to be sited on land subject to a permit issued under 10 V.S.A. chapter 151 unless one of the following applies:

(1) The facility is for the purpose of system reliability.

(2) The facility is allowed by and will comply with the terms and conditions of that permit or the applicant has obtained a permit amendment under that chapter authorizing the facility.

Sec. 3. 3 V.S.A. § 2805 is amended to read:

§ 2805. ENVIRONMENTAL PERMIT FUND

(a) There is ~~hereby~~ established a special fund to be known as the Environmental Permit Fund. Within the ~~fund~~ Fund, there shall be two accounts: the Environmental Permit Account and the Air Pollution Control Account. Unless otherwise specified, fees collected in accordance with subsections 2822(i) and (j) of this title, and 10 V.S.A. § 2625 and gifts and appropriations shall be deposited in the Environmental Permit Account. Fees transferred in accordance with 30 V.S.A. § 248(a) shall be deposited in the Environmental Permit Account. Fees collected in accordance with subsections

2822(j)(1), (k), (l), and (m) of this title shall be deposited in the ~~air pollution control account~~ Air Pollution Control Account. The Environmental Permit Fund shall be used to implement the programs specified under section 2822 of this title. The Secretary of Natural Resources shall be responsible for the Fund and shall account for the revenues and expenditures of the Agency ~~of Natural Resources~~. The Environmental Permit Fund shall be subject to the provisions of 32 V.S.A. chapter 7, subchapter 5. The Environmental Permit Fund shall be used to cover a portion of the costs of administering the Environmental Division established under 4 V.S.A. chapter 27. The amount of $143,000.00 per fiscal year shall be disbursed for this purpose. Fees transferred in accordance with 30 V.S.A. § 248(a) shall be used first to support the Agency's participation in proceedings under 30 V.S.A. § 248 and next for the other purposes authorized in this section.

* * *

Sec. 4. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) "Development" means each of the following:

* * *

(xi) The construction of improvements for a facility located within the State for which a certificate of public good is required under 30 V.S.A. § 248, if the improvements are for a purpose other than system reliability and will be located on a tract or tracts of land that are subject to a permit issued under this chapter and the improvements would constitute a material change to the permitted project under the rules of the Board.

* * *

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

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

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

* * *

Sec. 5. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include ~~but need not be limited to~~ the following:

(1) A statement of basic policies of the region to guide the future growth and development of land and of public services and facilities, and to protect the environment;

(2) A land use element, which shall consist of a map and statement of present and prospective land uses:

(A) indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, and areas identified by the State, regional planning commissions or municipalities, ~~which~~ that require special consideration for aquifer protection, wetland protection, or for other conservation purposes;

(B) indicating locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions;

(C) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services;

(D) indicating those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs;

(E) indicating those areas that are suitable and are not suitable for the siting of electric generation facilities;

(3) An energy element, which may include an analysis of energy resources, needs, scarcities, costs, and problems within the region~~,~~; a statement of policy on the conservation of energy and the development of renewable energy resources~~, and~~; a statement of policy on patterns and densities of land use and control devices likely to result in conservation of energy; and an

analysis of the options available to the region and recommendations of the actions and measures that the region should undertake in order to contribute to meeting the goals of 10 V.S.A. §§ 578 (greenhouse gas reduction), 580 (25 by 25), and 581 (building efficiency) and the goals and policies of 30 V.S.A. §§ 202a (State energy policy), 8001 (renewable energy), and 8005 (SPEED; total renewables targets);

* * *

(5) A utility and facility element, consisting of a map and statement of present and prospective local and regional community facilities and public utilities, whether publicly or privately owned, showing existing and proposed educational, recreational and other public sites, buildings, and facilities, including public schools, ~~state~~ State office buildings, hospitals, libraries, power generating plants and transmission lines, wireless telecommunications facilities and ancillary improvements, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for those facilities, with indications of priority of need;

* * *

(b) The various elements and statements shall be correlated with the land use element and with each other. The maps called for by this section may be incorporated on one or more maps, and may be referred to in each separate statement called for by this section.

Sec. 6. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title. Subdivision 248(a)(4)(C) (participation) of this title shall govern participation in proceedings under this section.

(c) In developing rules or orders, the Board:

(1) Shall develop a simple application form and shall require that completed applications be filed with the Board~~, the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located~~ and the same State, regional, and municipal entities entitled to receive notice of an application under subsection 248(a) of this title.

(2) Shall require that if no objections are filed within 30 days of the Board's receipt of a complete application and the Board determines that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

(5) Shall require an applicant for a certificate of public good for a meteorological station to pay an application fee for the purpose of compensating the State of Vermont for the direct and indirect costs incurred with respect to the review of the application and the administration of the State programs involved in this review. This fee shall be $20,000.00 or the amount calculated in accordance with the requirements for an application fee under subsection 248(a) of this title, whichever is greater. The fee shall be deposited and allocated in the same manner as the application fee under subsection 248(a) of this title.

(d) A proposal for decision shall be issued within five months of when the Board receives a completed application for a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title.

Sec. 7. 30 V.S.A. § 20 is amended to read:

§ 20. PARTICULAR PROCEEDINGS; PERSONNEL

(a)(1) The Board or Department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

(i) to assist the Board or Department in any proceeding listed in subsection (b) of this section;

(ii) to monitor compliance with any formal opinion or order of the Board;

(iii) in proceedings under section 246 or 248 of this title, to assist other State agencies that are named parties to the proceeding where the Board or Department determines that they are essential to a full consideration of the petition, or for the purpose of monitoring compliance with an order resulting from such a petition;

* * *

(2) The Agency of Natural Resources may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific, or engineering services to:

(A) assist the Agency of Natural Resources in any proceeding under section 246 or 248 of this title;

(B) monitor compliance with an order issued under section 246 or 248 of this title;

* * *

(b) Proceedings, including appeals therefrom, for which additional personnel may be retained are:

* * *

(4) hearings resulting from a petition for a certificate of public good;

* * *

Sec. 8. STATUTORY REVISION

In its statutory revision capacity under 2 V.S.A. § 424, the Office of Legislative Council shall:

(1) insert an internal caption in each subsection of 30 V.S.A. § 248 not amended by Sec. 2 of this act that reflects the subsection's subject matter; and

(2) replace the phrase "the effective date of this subdivision" where it appears in Sec. 2, 30 V.S.A. § 248(b)(1)(B)(i), with the actual effective date of Sec. 2.

Sec. 9. EFFECTIVE DATE; ADOPTION OF FORMS

(a) This act shall take effect on June 1, 2014.

(b) On or before September 1, 2014, the Board shall adopt the forms required by Sec. 2, 30 V.S.A. § 248(a)(4)(C) (participation).

(Committee vote: 4-1-0)

Reported without recommendation by Senator Ashe for the Committee on Finance.

(Committee voted: 5-0-2)

Amendment to S. 201 to be offered by Senators Hartwell, Ashe, Bray, Lyons, and MacDonald

Senators Hartwell, Ashe, Bray, Lyons, and MacDonald move that the recommendation of amendment of the Committee on Natural Resources and Energy be amended as follows:

First: In Sec. 2, 30 V.S.A. § 248, in subsection (a) (certificate of public good; obligation and procedure), by striking out subdivision (5) (application fees) in its entirety and inserting in lieu thereof a new subdivision (5) to read:

(5) Application fee. On filing an application under this section, an applicant for an in-state facility shall pay a fee for the purpose of compensating the State of Vermont for the direct and indirect costs incurred with respect to the review of the application and the administration of the State programs involved in this review.

(A) The fee shall be $5.40 for each $1,000.00 of the first $15,000,000.00 of construction costs and $2.50 for each $1,000.00 of construction costs above $15,000,000.00. In no event shall the fee exceed $150,000.00. The Board shall adjust the amounts contained in this subdivision (A) annually commencing in 2015 for inflation since January 1, 2014 using the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(B) Thirty percent of the fee shall be deposited into the special fund described in section 22 of this title and allocated between the Board and the Department of Public Service in accordance with that section. Seventy percent of the fee shall be deposited into the Environmental Permit Fund under 3 V.S.A. § 2805.

(C) The Board shall not require a fee for an application under this section for a net metering system or a facility to be undertaken and owned by an agency of the State or a political subdivision of the State.

(D) The fee for an application under this section for a facility to be undertaken by an entity subject to the gross receipts tax under section 22 of

this title shall be 70 percent of the fee calculated in accordance with subdivision (1)(A) of this subsection (a). Notwithstanding subdivision (5)(B) of this subsection, the entirety of the fee for such a facility shall be deposited into the Environmental Permit Fund under 3 V.S.A. § 2805.

(E) Nothing in this subdivision (5) shall affect the authority of the Board, the Department of Public Service, or the Agency of Natural Resources to retain personnel and allocate costs under sections 20 and 21 of this title, except that, if the costs of regular employees are allocated under section 21 of this title to an applicant paying a fee under this subdivision, the allocated amount shall be offset by the portion of the fee available to the allocating agency.

Second: In Sec. 2, 30 V.S.A. § 248, in subsection (f) (public engagement plan; notice of intent; preapplication plans), in subdivision (2), by striking out the first full sentence and inserting in lieu thereof:

The petitioner shall submit a notice of intent to construct an in-state facility requiring a certificate of public good under this section to the municipal and regional planning commissions at least six months prior to an application for a certificate of public good under this section.

Third: In Sec. 6, 30 V.S.A. § 246, in subsection (c) (rules or orders), in subdivision (5), by striking out the second sentence and inserting in lieu thereof: This fee shall be calculated in accordance with the requirements for an application fee under subsection 248(a) of this title.

Fourth: After Sec. 8, by inserting a Sec. 8a to read:

Sec. 8a. ENERGY POSITIONS; AGENCY OF NATURAL RESOURCES; PUBLIC SERVICE

(a) To fulfill the obligations of the Agency of Natural Resources, the Department of Public Service, and the Public Service Board under 30 V.S.A. § 248, the establishment of the following limited service positions is authorized in fiscal year 2015:

(1) In the Agency of Natural Resources;

(A) one (1) classified position – project manager.

(B) one (1) exempt position – staff attorney.

(2) In the Department of Fish and Wildlife, one (1) classified position – wildlife biologist (Fish and Wildlife Scientist III).

(3) In the Department of Public Service, one (1) exempt position – staff attorney.

(4) In the Public Service Board, one (1) exempt position – a staff attorney or utility analyst to serve as a hearing officer.

(b) These positions shall be supported by the application fee established under 30 V.S.A. § 248(a)(5).

(c) These positions shall focus primarily on the review of applications under 30 V.S.A. § 248. The positions assigned to the Agency of Natural Resources and the Department of Public Service also shall provide outreach and technical assistance with respect to the appropriate siting of electric generation and transmission facilities and natural gas facilities to be sited in Vermont.

Fifth: In Sec. 9 (effective date; adoption of forms), in subsection (a), after "2014", by inserting except that Sec. 8a (energy positions) shall take effect on July 1, 2014

S. 208.

An act relating to solid waste management.

Reported favorably with recommendation of amendment by Senator Hartwell for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Construction and Demolition Waste; Pilot Project * * *

Sec. 1. FINDINGS

The General Assembly finds that, for the purposes of Secs. 1–3 of this act:

(1) Construction and demolition waste create significant issues for the capacity and operation of landfills in the State.

(2) There are opportunities for materials recovery of construction and demolition waste in a manner consistent with Vermont's solid waste management priorities of reuse and recycling.

(3) Substantial opportunity exists in Vermont for the recovery and recycling of certain materials in the construction and demolition waste stream, including wood, sheetrock, asphalt shingles, and metal.

(4) To reduce the amount of construction and demolition waste in landfills and improve materials recovery, the construction industry should attempt to recover as much construction and demolition waste as possible from the overall waste stream.

(5) To initiate and facilitate the recycling of construction and demolition waste, a pilot program should be established to promote increased recycling and reuse of construction and demolition waste, inform interested parties of recycling and reuse opportunities, and evaluate the costs and effectiveness of construction and demolition waste recycling in the State.

Sec. 2. 10 V.S.A. § 6605m is added to read:

§ 6605m. CONSTRUCTION AND DEMOLITION WASTE; PILOT PROJECT

(a) Definitions. In addition to the definitions in section 6602 of this chapter, as used in this section:

(1) "Commercial project" means construction, renovation, or demolition of a commercial building or of a residential building with two or more residential units.

(2) "Construction and demolition waste" means waste derived from the construction or demolition of buildings, roadways, or structures, including clean wood, treated or painted wood, plaster, sheetrock, roofing paper and shingles, insulation, glass, stone, soil, flooring materials, brick, concrete, masonry, mortar, incidental metal, furniture, and mattresses. Construction and demolition waste shall not mean asbestos waste, regulated hazardous waste, hazardous waste generated by households, hazardous waste from conditionally exempt generators, or any material banned from landfill disposal under section 6621a of this title.

(b) Materials recovery requirement. Beginning on or after July 1, 2014, if a person produces 40 cubic yards or more of construction and demolition waste at a commercial project located within 20 miles of a solid waste facility that recycles construction and demolition waste and meets the requirements of subsection (c) of this section, the person shall:

(1) arrange for the transfer of the construction and demolition waste from the project to a solid waste facility that recycles construction and demolition waste, provided that the facility meets the requirements of subsection (c) of this section; or

(2) arrange for a method of disposition of the construction and demolition waste that the Secretary of Natural Resources deems appropriate as an end use.

(c) Minimum requirements of facility. For the purposes of this section, a solid waste facility that recycles construction and demolition waste under this section:

(1) shall dispose of 50 percent or less of the construction and demolition waste received at the facility in a solid waste landfill as indicated by the facility's previous quarterly report to the Secretary of Natural Resources;

(2) shall not charge a fee for construction and demolition waste that exceeds the published gate rate for trash disposal at the facility; and

(3) may dispose of residuals generated from the processing or recycling of construction and demolition waste at a certified solid waste landfill.

(d) Calculation of bulk material.

(1) Concrete, asphalt, brick, and other similar bulk materials shall not be calculated as construction and demolition waste for the purposes of determining under subsection (b) of this section if 40 cubic yards of construction and demolition waste is generated at a commercial project.

(2) Concrete, asphalt, brick, and other similar bulk materials shall not be included in the calculation under subsection (c) of this section of the disposal rate at a solid waste facility that recycles construction and demolition waste, provided that:

(A) the bulk material is recycled or processed as part of a mixed load of construction and demolition waste; and

(B) the facility shall not recycle soil from a contaminated property unless the soil is suitably treated for use as clean fill.

(e) Transition; application. The requirements of this section shall not apply to a commercial project subject to a contract entered into on or before July 1, 2014 for the disposal or recycling of the construction and demolition waste from the project.

(f) Report. On or before January 1, 2017, the Secretary of Natural Resources, after consultation with interested persons, shall submit to the Senate and House Committees on Natural Resources and Energy a report regarding the implementation of the construction and demolition waste pilot project. The report shall include:

(1) a summary of the implementation of the pilot project;

(2) an estimate of the amount of construction and demolition waste recycled or reused under the pilot project;

(3) the economic feasibility of continuing the pilot project, including whether viable markets exist for the cost-effective recycling or reuse of components of the construction and demolition waste stream; and

(4) a recommendation as to whether the pilot project should be permanent, and, if so, any recommended changes to the statutory requirements.

(g) Guidance on separation of hazardous materials. The Secretary of Natural Resources shall publish informational material regarding the need for a solid waste facility that recycles construction and demolition waste to manage properly and provide for the disposition of hazardous waste and hazardous material in construction and demolition waste delivered to a facility.

Sec. 3. REPEAL

10 V.S.A. § 6605m (construction and demolition waste pilot project) shall be repealed on July 1, 2017.

* * * Categorical Solid Waste Facility; Certification * * *

Sec. 4. 10 V.S.A. § 6605c(a) is amended to read:

(a) Notwithstanding sections 6605, 6605f, and 6611 of this title, no person may construct, substantially alter, or operate any categorical solid waste facility without first obtaining a certificate from the Secretary. Certificates shall be valid for a period not to exceed ~~five~~ 10 years.

* * * Solid Waste Transporters; Mandated Recyclables * * *

Sec. 5. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the State shall apply to the Secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the Secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years and shall be renewed annually. The application shall indicate the nature of the waste to be hauled. The Secretary may specify conditions that the Secretary deems necessary to assure compliance with ~~state~~ State law.

(b) As used in this section:

(1) "Commercial hauler" means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a vehicle ~~having a rated capacity of more than one ton~~.

(2) The commercial hauler required to obtain a permit under this section is the legal or commercial entity that is transporting the waste, rather than the individual employees and subcontractors of the legal or commercial entity. In the case of a sole proprietorship, the sole proprietor is the commercial entity.

* * *

(g)(1) Except as set forth in subdivisions (2) and (3) of this subsection, a transporter certified under this section that offers the collection of solid waste shall:

(A) Beginning July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(C) Beginning July 1, 2017, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or food residuals, a transporter in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of ~~municipally provided~~ municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A transporter is not required to comply with the requirements of subdivision (1)(A), (B), or (C) of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) the approved plan delineates an area where solid waste management services required by subdivision (1)(A), (B), or (C) of this subsection are not required; and

(C) in the delineated area, alternatives to the services, including ~~on site~~ on-site management, required under subdivision (1)(A), (B), or (C) of this subsection are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

* * * Waste Management Assistance Fund; Solid Waste Franchise Tax * * *

Sec. 6. 10 V.S.A. § 6618 is amended to read:

§ 6618. WASTE MANAGEMENT ASSISTANCE FUND

(a) There is hereby created in the State Treasury a fund to be known as the Waste Management Assistance Fund, to be expended by the Secretary of Natural Resources. The Fund shall have ~~three~~ four accounts: one for Solid Waste Management Assistance, one for Solid Waste Infrastructure Assistance, one for Hazardous Waste Management Assistance, and one for Electronic Waste Collection and Recycling Assistance. The Hazardous Waste Management Assistance Account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the Secretary, the toxics use reduction fees under subsection 6628(j) of this title, and appropriations of the General Assembly. In no event shall the amount of the hazardous waste tax, which is deposited to the Hazardous Waste Management Assistance Account, exceed 40 percent of the annual tax receipts. The Solid Waste Management Assistance Account shall consist of 90 percent of revenue from the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13, and appropriations of the General Assembly. The Electronic Waste Collection and Recycling Account shall consist of the program and implementation fees required under section 7553 of this title. The Solid Waste Infrastructure Assistance Account shall consist of 14 percent of the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13, and appropriations of the General Assembly. All balances in the Fund accounts at the end of any fiscal year shall be carried forward and remain a part of the Fund Accounts, except as provided in subsection (e) of this section. Interest earned by the Fund shall be

deposited into the appropriate fund account. Disbursements from the fund accounts shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management.

(b) The Secretary may authorize disbursements from the Solid Waste Management ~~assistance account~~ Assistance Account for the purpose of enhancing ~~Solid Waste Management~~ solid waste management in the State in accordance with the adopted waste management plan. This includes:

(1) ~~the~~ The costs of implementation planning, design, obtaining permits, construction, and operation of ~~state~~ State or regional facilities for the processing of recyclable materials and of waste materials that because of their nature or composition create particular or unique environmental, health, safety, or management problems at treatment or disposal facilities~~;~~.

(2) ~~the~~ The costs of assessing existing landfills, and eligible costs for closure and any necessary steps to protect public health at landfills operating before January 1, 1987, provided those costs are the responsibility of the municipality or ~~Solid Waste Management~~ solid waste management district requesting assistance. The Secretary of Natural Resources shall adopt by procedure technical and financial criteria for disbursements of funds under this subdivision~~;~~.

(3) ~~the~~ The costs of preparing the State waste management plan~~;~~.

(4) ~~hazardous~~ Hazardous waste pilot projects consistent with this chapter~~;~~.

(5) ~~the~~ The costs of developing markets for recyclable material~~;~~.

(6) ~~the~~ The costs of the Agency of Natural Resources in administering ~~Solid Waste Management~~ solid waste management functions that may be supported by the Fund established in subsection (a) of this section~~;~~.

(7) ~~a~~ A portion of the costs of administering the ~~environmental division~~ Environmental Division established under 4 V.S.A. chapter 27. The amount of $120,000.00 per fiscal year shall be disbursed for this purpose~~;~~.

(8) ~~the~~ The costs, not related directly to capital construction projects, that are incurred by a district, or a municipality that is not a member of a district, in the design and permitting of implementation programs included in the adopted ~~Solid Waste Implementation Plan~~ solid waste implementation plan of the district or of the municipality that is not a member of a district. These disbursements shall be issued in the form of advances requiring repayment. These advances shall bear interest at an annual rate equal to the interest rate which the State pays on its bonds. These advances shall be repaid in full by the grantee no later than 24 months after the advance is awarded~~;~~.

(9) ~~the~~ The Secretary shall annually allocate 17 percent of the receipts of this account, based on the projected revenue for that year, for implementation of the Plan adopted pursuant to section 6604 of this title and ~~Solid Waste Implementation Plans~~ solid waste implementation plans adopted pursuant to 24 V.S.A. § 2202a.

(10) ~~the~~ The costs of the proper disposal of waste tires. Prior to disbursing funds under this subsection, the Secretary shall provide a person with notice and opportunity to dispose of waste tires properly. The Secretary may condition a disbursement under this subsection on the repayment of the disbursement. If a person fails to provide repayment subject to the terms of a disbursement, the Secretary may initiate an action against the person for repayment to the Fund or may record against the property of the person a lien for the costs of cleaning up waste tires at a property.

(c) The Secretary may authorize disbursements from the Hazardous Waste Management Assistance Account for the purpose of enhancing hazardous waste management in the State in accordance with this chapter. This includes:

(1) ~~The~~ the costs of supplementing the State Waste Management Plan with respect to hazardous waste management~~.~~;

(2) ~~The~~ the costs of the Agency of Natural Resources in administering hazardous waste management functions that may be supported by the Fund established in subsection (a) of this section~~.~~; and

(3) ~~The~~ the costs of administering the Hazardous Waste Facility Grant Program under section 6603g of this title.

(d) The Secretary shall annually allocate from the fund accounts the amounts to be disbursed for each of the functions described in subsections (b), (c), and (f) of this section. The Secretary, in conformance with the priorities established in this chapter, shall establish a system of priorities within each function when the allocation is insufficient to provide funding for all eligible applicants.

(e) The Secretary may allocate funds at the end of the fiscal year from the Solid Waste Management Assistance Account to the Fund, established pursuant to section 1283 of this title, upon a determination that the Funds available in the Environmental Contingency Fund are insufficient to meet the State's obligations pursuant to subdivision 1283(b)(9) of this title. Any expenditure of funds transferred shall be restricted to funding the activities specified in subdivision 1283(b)(9) of this title. In no case shall the unencumbered balance of the Solid Waste Account following the transfer authorized under this subsection be less than $300,000.00.

(f) The Secretary may authorize disbursements from the Solid Waste Infrastructure Assistance Account for the following:

(1) costs of solid waste districts, municipalities, or other private or public entities to construct solid waste management facilities or infrastructure identified by the Solid Waste Infrastructure Advisory Committee as necessary to comply with the requirements of subsection 6605(j) of this title, and meet any demand for the processing or recycling of mandated recyclables, leaf and yard residuals, or food residuals; and

(2) up to 50 percent of the costs to a commercial hauler or transporter certified under this chapter to acquire or modify a vehicle:

(A) when the hauler or transporter demonstrates to the Secretary the need for financial assistance; and

(B) the vehicle will be used to transport mandated recyclables, leaf and yard residuals, or food residuals in rural or under populated areas of the State.

Sec. 7. 32 V.S.A. § 5952 is amended to read:

§ 5952. IMPOSITION OF TAX

(a)(1) A tax is imposed for each calendar quarter or part thereof upon the franchise or privilege of doing business of every person required by 10 V.S.A. chapter 159 to obtain certification for a facility. The tax shall be imposed in the amount of ~~$6.00~~ $7.00 per ton of waste delivered for disposal or incineration at the facility, regardless of the amount charged by the operator to recoup its expenses of operation, including the expense of this tax.

(2) The tax shall be similarly imposed on waste delivered to a transfer facility for shipment to an incinerator or other treatment facility or disposal facility that is located outside the ~~state~~ State. However, if the transfer station is located within a district which is authorized by an interstate compact to enter into cooperative agreements with a district in another state, the tax shall only be imposed if the treatment or disposal facility is located outside the ~~state~~ State and also outside the cooperating district in another state. For purposes of this determination, a treatment or disposal facility may be considered to be located within a district only if that district existed before July 1, 1987.

(3) The tax shall be similarly imposed on waste shipped to an incinerator or other treatment facility or disposal facility that is located outside the ~~state~~ State, without having been delivered to a transfer station located in this ~~state~~ State. In this situation, the tax is imposed for each calendar quarter or part thereof upon the franchise or privilege of doing business of every person regulated under 10 V.S.A. § 6607a as a commercial hauler of solid waste. This

tax shall not be imposed on waste exempt under subdivision (2) of this subsection.

(b) The tax imposed by this section shall be in addition to any other taxes imposed on the taxpayer.

(c) If a return required by this chapter is not filed, or if a return, when filed, is incorrect or insufficient, the ~~commissioner~~ Commissioner shall determine the amount of tax due from any information available. If adequate information is not available to determine the tax otherwise due under this section, the ~~commissioner~~ Commissioner may assess a tax at the rate of $3.50 per year per person served by the facility. The number of persons served by a facility shall be determined by the ~~commissioner~~ Commissioner based upon any available information and with regard given to seasonal and recreational use.

(d) Every person required to pay the tax imposed by this subchapter shall use a weight scale that accurately gauges the weight of the waste and shall keep accurate contemporaneous records of the volume or weight of all waste delivered for disposal; provided, however, that a landfill receiving less than 1,000 tons of municipal solid waste per year which does not have scales which accurately gauge the weight of the waste may compute weight indirectly from volume using accurate records of the volume of waste delivered for disposal and a conversion rate approved by the ~~commissioner~~ Commissioner. The taxpayer's records relating to imposition of the tax imposed by this subchapter shall be available for inspection or examination at any time upon demand by the ~~commissioner of taxes~~ Commissioner of Taxes or the ~~secretary of the agency of natural resources,~~ Secretary of Natural Resources or their duly authorized agents or employees and shall be preserved for a period of three years.

Sec. 8. 10 V.S.A. § 6618 is amended to read:

§ 6618. WASTE MANAGEMENT ASSISTANCE FUND

(a) There is hereby created in the State Treasury a fund to be known as the Waste Management Assistance Fund, to be expended by the Secretary of Natural Resources. The Fund shall have ~~four~~ three accounts: one for Solid Waste Management Assistance, ~~one for Solid Waste Infrastructure Assistance,~~ one for Hazardous Waste Management Assistance, and one for Electronic Waste Collection and Recycling Assistance. The Hazardous Waste Management Assistance Account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the Secretary, the toxics use reduction fees under subsection 6628(j) of this title, and appropriations of the General Assembly. In no event shall the amount of the hazardous waste tax, which is deposited to the Hazardous Waste

Management Assistance Account, exceed 40 percent of the annual tax receipts. The Solid Waste Management Assistance Account shall consist of ~~90 percent of revenue from~~ the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13, and appropriations of the General Assembly. The Electronic Waste Collection and Recycling Account shall consist of the program and implementation fees required under section 7553 of this title. ~~The Solid Waste Infrastructure Assistance Account shall consist of 10 percent of the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13, and appropriations of the General Assembly.~~ All balances in the Fund accounts at the end of any fiscal year shall be carried forward and remain a part of the Fund Accounts, except as provided in subsection (e) of this section. Interest earned by the Fund shall be deposited into the appropriate fund account. Disbursements from the fund accounts shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management.

* * *

(f) ~~The Secretary may authorize disbursements from the Solid Waste Infrastructure Assistance Account for the following:~~

~~(1) costs of solid waste districts, municipalities, or other private or public entities to construct solid waste management facilities to accept, process, or recycle mandated recyclables, leaf and yard residuals, or food residuals; and~~

~~(2) costs of commercial haulers or transporters certified under this chapter to acquire or modify vehicles intended to transport mandated recyclables, leaf and yard residuals, or food residuals, provided that assistance under this fund shall be limited to 50 percent per vehicle for which the commercial hauler or transporter applies for assistance.~~ [Repealed.]

* * * Solid Waste Infrastructure Advisory Committee * * *

Sec. 9. SOLID WASTE INFRASTRUCTURE ADVISORY COMMITTEE

(a) The Secretary of Natural Resources shall convene a Solid Waste Infrastructure Advisory Committee to review the current solid waste management infrastructure in the State, evaluate the sufficiency of existing solid waste management infrastructure to meet the requirements of subsection 6605(j) of this title, and recommend development or construction of new solid waste management infrastructure in the State.

(b) The Solid Waste Infrastructure Advisory Committee shall be composed of the Secretary of Natural Resources or his or her designee and the following members, to be appointed by the Secretary of Natural Resources:

(1) three representatives of the solid waste management districts or other solid waste management entities in the State;

(2) one representative of a solid waste collector that owns or operates a material recovery facility;

(3) two representatives of solid waste commercial haulers, provided that one of the commercial haulers shall serve rural or underpopulated areas of the State;

(4) one representative of recyclers of food residuals or leaf and yard residuals; and

(5) one Vermont institution or business subject to the requirements under subsection 6605(j) of this title for the management of food residuals.

(c) The Solid Waste Infrastructure Advisory Committee shall:

(1) review the existing systems analysis of the State waste stream to determine whether the existing solid waste management facilities operating in the State provide sufficient services to comply with the requirements of subsection 6605(j) of this title, and meet any demand for services;

(2) summarize the locations or service sectors where the State lacks sufficient infrastructure or resources to comply with the requirements of and demand generated by subsection 6605(j) of this title, including the infrastructure necessary in each location;

(3) estimate the cost of constructing the necessary infrastructure identified under subdivision (2) of this subsection; and

(4) review options for generating the revenue sufficient to fund the costs of constructing necessary infrastructure.

(d) Report. On or before January 15, 2015 and annually thereafter, the Solid Waste Infrastructure Advisory Committee shall submit to the Senate and House Committees on Natural Resources and Energy a report with an accounting of disbursements from the Solid Waste Infrastructure Assistance Fund, a summary of the financial stability of the Fund, and any recommendations for legislative action. The report submitted to the General Assembly on January 15, 2015 under this subsection shall include the information and data developed under subsection (c) of this section.

* * * Municipal Participation in Solid Waste District * * *

Sec. 10. 24 V.S.A. § 2202a is amended to read:

§ 2202a. MUNICIPALITIES-RESPONSIBILITIES FOR SOLID WASTE

(a) Municipalities are responsible for joining a solid waste district for the purpose of the management and regulation of the storage, collection, processing, and disposal of solid wastes within their jurisdiction in conformance with the State Solid Waste Management Plan authorized under 10 V.S.A. chapter 159. ~~Municipalities~~ Solid waste districts may issue exclusive local franchises and may make, amend, or repeal rules necessary to manage the storage, collection, processing, and disposal of solid waste materials within their limits and impose penalties for violations thereof, provided that the rules are consistent with the State Plan and rules adopted by the Secretary of Natural Resources under 10 V.S.A. chapter 159. A fine may not exceed $1,000.00 for each violation. This section shall not be construed to permit the existence of a nuisance.

(b) ~~Municipalities~~ Solid waste districts may satisfy the requirements of the State Solid Waste Management Plan and the rules of the Secretary of Natural Resources through agreement between any other unit of government or any operator having a permit from the Secretary, as the case may be.

(c)(1) ~~No later than~~ On or before July 1, ~~1988~~ 2016, each municipality, as defined in subdivision 4303(12) of this title, shall join or participate in a solid waste management district organized pursuant to chapter 121 of this title ~~no later than January 1, 1988 or participate in a regional planning commission's planning effort for purposes of solid waste implementation planning, as implementation planning is defined in 10 V.S.A. § 6602~~.

(2) ~~No later than July 1, 1990 each regional planning commission shall work on a cooperative basis with municipalities within the region to prepare a solid waste implementation plan for adoption by all of the municipalities within the region which are not members of a solid waste district, that conforms to the State Waste Management Plan and describes in detail how the region will achieve the priorities established by 10 V.S.A. § 6604(a)(1). A solid waste implementation plan adopted by a municipality that is not a member of a district shall not in any way require the approval of a district.~~ The Secretary shall not approve a solid waste implementation plan submitted by a person or entity other than a solid waste management district. ~~No later than~~ On or before July 1, 1990, each solid waste district shall adopt a solid waste implementation plan that conforms to the State Waste Management Plan, describes in detail how the district will achieve the priorities established by 10 V.S.A. § 6604(a), and is in conformance with any regional plan adopted pursuant to chapter 117 of this title. Municipalities or solid waste management districts that have contracts in existence as of January 1, ~~1987~~ 2016, which contracts are inconsistent with the requirement to join a solid waste management district, the State Solid Waste Plan ~~and~~, or the priorities established in 10 V.S.A. § 6604(a), shall not be required to breach those

contracts, provided they make good faith efforts to renegotiate those contracts in order to comply. ~~The Secretary may extend the deadline for completion of a plan upon finding that despite good faith efforts to comply, a regional planning commission or solid waste management district has been unable to comply, due to the unavailability of planning assistance funds under 10 V.S.A. § 6603b(a) or delays in completion of a landfill evaluation under 10 V.S.A. § 6605a.~~

(3) A municipality that does not join or participate in a solid waste management district as ~~provided~~ required in this subsection shall not be eligible for State funds from the Solid Waste Management Assistance Account or the Solid Waste Infrastructure Assistance Account to plan and construct solid waste facilities, nor can it use facilities certified for use by the region or by the solid waste management district.

* * *

* * * Municipal Reporting Regarding Solid Waste Management * * *

Sec. 11. 24 V.S.A. § 2202b is added to read:

§ 2202b. SOLID WASTE DISTRICT REPORTING; SOLID WASTE MANAGEMENT

(a) Beginning July 1, 2016 and annually thereafter, a solid waste district, individually or through a solid waste management district by the Secretary of Natural Resources, shall submit the following data to the Secretary of Natural Resources:

(1) the number and type of solid waste collection facilities owned, operated, or used by the solid waste district;

(2) a list of the commercial haulers doing business in the solid waste district and the services provided by each commercial hauler;

(3) the total weight of the following collected in the solid waste district in the preceding year:

(A) mandated recyclables;

(B) leaf and yard residuals; and

(C) food residuals.

(4) the collection services that the solid waste district offers for construction and demolition materials, and, if collection services are provided:

(A) the total weight of construction and demolition debris collected in the solid waste district in the preceding year;

(B) whether the solid waste district has established a program for the recycling of clean wood and, if so, the total weight of clean wood collected;

(C) whether the solid waste district has established a program for the recycling of asphalt shingles and, if so, the total weight of asphalt shingles collected; and

(D) whether the solid waste district has established a drywall collection program and, if so, the total weight of drywall collected;

(5) the collection services provided for household hazardous waste and conditionally exempt generator waste, including:

(A) whether the solid waste district provides year-round access to a permanent facility for the collection of household hazardous waste and conditionally exempt generator waste; and

(B) if a permanent facility is not available under subdivision (5)(A) of this subsection (a), the number and type of collection events in the preceding year provided for household hazardous waste and conditionally exempt generator waste; and

(6) a summary of how biosolids and septage are managed within the solid waste district.

(b) The Secretary of Natural Resources shall compile the data provided under subsection (a) of this section. Notwithstanding the requirements of 2 V.S.A. § 20(d), beginning January 1, 2017 and annually thereafter, the Secretary shall submit the compiled data to the Senate and House Committees on Natural Resources and Energy.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2014, except that Sec. 8 (repeal of solid waste infrastructure assistance account) shall take effect on January 1, 2021.

(Committee vote: 5-0-0)

Reported favorably by Senator Galbraith for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy and that when so amended, ought to pass.

(Committee vote: 5-1-1)

Reported favorably by Senator Snelling for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy and that when so amended, ought to pass.

(Committee vote: 5-2-0)

S. 218.

An act relating to temporary employees.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 331 is amended to read:

§ 331. TEMPORARY EMPLOYEES

(a) The ~~state~~ State shall not employ any person in a temporary capacity except in accordance with the provisions of this section.

(b)(1) On request of the appointing authority, the ~~commissioner of human resources~~ Commissioner of Human Resources may approve, in writing, the creation of a temporary position and the hiring of a person to fill such temporary position only if the position and person are needed:

(A) ~~to~~ To meet a seasonal employment need of ~~state~~ State government~~;~~.

(B) ~~to~~ To respond to a bona fide emergency~~;~~.

(C) ~~to~~ To fill in for the temporary absence of an existing employee, or a vacancy in an existing position~~; or~~.

(D) ~~to~~ To perform a governmental function that requires only intermittent, sporadic, or ongoing employment that averages less than 20 hours per week during any one calendar year, provided that such employment does not exceed ~~1,520~~ 1,280 hours in any one calendar year.

(2)(A) Except as provided in subdivision (1) of this subsection, the ~~commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position if the governmental function is ongoing and continuing.

(B) The ~~commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position

if approval is intended to circumvent, or has the effect of circumventing, the policies and purposes of the classified service under this chapter.

(c) The ~~commissioner~~ Commissioner may authorize the continued employment of a person in a temporary capacity for more than ~~1,520~~ 1,280 hours in any one calendar year if the ~~commissioner~~ Commissioner determines, in writing, that a bona fide emergency exists for the appointing authority that requires such continued employment. Annually, on January 15th, the Commissioner shall submit a report to the General Assembly:

(1) identifying the total number of temporary employees who have worked:

(A) 1,280 hours in the prior calendar year, or

(B) in excess of 1,280 hours in the prior calendar year;

(2) the agency or department that is assigned the temporary position;

(3) the total number of hours worked by each temporary employee; and

(4)(A) a statement:

(i) recommending the conversion of the position to a permanent classified position, or

(ii) stating the reasons why the temporary position should be continued.

(B) It shall be the responsibility of the head of each department to provide a detailed justification for each waiver to exceed the 1,280 hour limit within his or her department and such other information as may be required to the Department of Human Resources in order to enable that Department to carry out its responsibility under this section.

(d) On an annual basis, all temporary employees shall accrue one hour of paid health leave for every 40 hours worked, which will be capped at a total number of five days, and may be rolled over into the next calendar year. Paid health care leave shall be compensated at the same hourly rate as the employee normally earns for hours worked.

Sec. 2. DEPARTMENT OF CORRECTIONS PROVISIONS RELATING TO CONTRABAND

The Commissioner of Corrections:

(1) shall have the sole discretion to conduct searches of personal belongings of all persons when entering the secure portion of a State correctional facility;

(2) may conduct pre-employment drug screening of all permanent and temporary Department of Correction employees hired after July 1, 2014;

(3) may conduct background investigations before hiring any permanent or temporary employee; and

(4) may permit offenders to earn contact visits if the contact privilege was taken away.

Sec. 3. DEPARTMENT OF CORRECTIONS STAFFING STUDY

(a) The Department of Corrections shall conduct a study of all State correctional facilities to determine the appropriate number of permanent employees at each facility.

(b) The Department of Corrections shall report quarterly to the General Assembly the number of temporary employees employed by the Department of Corrections, the date of hire for each, and the hours worked by each temporary employee in the calendar year.

(c) The Department of Corrections shall develop a three- and five-year plan to provide adequate permanent staffing to meet the staffing needs identified at each Correction's facility and present the plans to the General Assembly by January 15, 2015.

Sec. 4. TEMPORARY EMPLOYEES IN THE JUDICIAL BRANCH

(a) The Judiciary may authorize the continued employment of a person in a temporary capacity for more than 1,280 hours in one calendar year if the Judiciary determines in writing that a bona fide emergency exists for the appointing authority that requires such continued employment. This section shall not apply to the following:

(1) Assistant Judges;

(2) retired former permanent employees of the Vermont Judicial branch; and

(3) retired former permanent employees of any branch of Vermont State government.

(b)(1) Annually, on January 15, the Judiciary shall submit a report to the General Assembly identifying the total number of temporary employees who have worked 1,280 or more hours in the prior calendar year; and

(A) the unit to which the temporary employee is assigned;

(B) the total number of hours worked by each temporary employee; and

(C) a statement recommending:

(i) conversion of the position to a permanent classified position; or

(ii) stating the reasons why the temporary position should be continued.

(2) This report shall identify retired former permanent State employees currently holding temporary positions in the Judiciary.

(c) On an annual basis, all temporary employees, except those identified in subdivisions (a)(1)-(3) of this section, shall accrue one hour of paid health leave for every 40 hours worked, which will be capped at a total number of five days, and which may be rolled over into the next calendar year. Paid health care leave shall be compensated at the same hourly rate as the employee normally earns for hours worked.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 331 is amended to read:

§ 331. TEMPORARY EMPLOYEES

(a) The ~~state~~ State shall not employ any person in a temporary capacity except in accordance with the provisions of this section.

(b)(1) On request of the appointing authority, the ~~commissioner of human resources~~ Commissioner of Human Resources may approve, in writing, the creation of a temporary position and the hiring of a person to fill such temporary position only if the position and person are needed:

(A) ~~to~~ To meet a seasonal employment need of ~~state~~ State government~~;~~.

(B) ~~to~~ To respond to a bona fide emergency~~;~~.

(C) ~~to~~ To fill in for the temporary absence of an existing employee, or a vacancy in an existing position~~; or~~.

(D) ~~to~~ To perform a governmental function that requires only intermittent, sporadic, or ongoing employment that averages less than 20 hours per week during any one calendar year, provided that such employment does not exceed ~~1,520~~ 1,280 hours in any one calendar year.

(2)(A) Except as provided in subdivision (1) of this subsection, the ~~commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position if the governmental function is ongoing and continuing.

(B) The ~~commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position if approval is intended to circumvent, or has the effect of circumventing, the policies and purposes of the classified service under this chapter.

(c)(1) The ~~commissioner~~ Commissioner may authorize the continued employment of a person in a temporary capacity for more than ~~1,520~~ 1,280 hours in any one calendar year if the ~~commissioner~~ Commissioner determines, in writing, that a bona fide emergency exists for the appointing authority that requires such continued employment. Annually, on January 15th, the Commissioner shall submit a report to the General Assembly:

(A) identifying the total number of temporary employees who have worked:

(i) 1,280 hours in the prior calendar year; or

(ii) in excess of 1,280 hours in the prior calendar year;

(B) identifying the agency or department that is assigned the temporary position;

(C) identifying the total number of hours worked by each temporary employee; and

(D) including a statement:

(i) recommending the conversion of the position to a permanent classified position; or

(ii) stating the reasons why the temporary position should be continued.

(2) It shall be the responsibility of the head of each department to provide to the Department of Human Resources a detailed justification for each waiver to exceed the 1,280-hour limit within his or her department and such other information as may be required in order to enable that Department to carry out its responsibility under this section.

(d) The ~~commissioner~~ Commissioner may transfer and convert existing, vacant positions in the ~~executive branch~~ Executive Branch of ~~state~~ State government to replace the temporary positions of long-term temporary employees who are performing ongoing and continuing functions of ~~state~~ State

government for more than an average of 20 hours per week during any one calendar year or for more than ~~1,520~~ 1,280 hours in any one calendar year.

* * *

Sec. 2. DEPARTMENT OF CORRECTIONS PROVISIONS RELATING TO CONTRABAND

The Commissioner of Corrections:

(1) shall have the sole discretion to conduct searches of personal belongings of all persons when entering the secure portion of a State correctional facility;

(2) may conduct preemployment drug screening of all permanent and temporary Department of Corrections employees hired after July 1, 2014;

(3) may conduct background investigations before hiring any permanent or temporary employee; and

(4) may permit offenders to earn contact visits if the contact privilege was taken away.

Sec. 3. DEPARTMENT OF CORRECTIONS STAFFING STUDY

(a) The Department of Corrections shall conduct a study of all State correctional facilities to determine the appropriate number of permanent employees at each facility.

(b) The Department of Corrections shall report quarterly to the General Assembly the number of temporary employees employed by the Department of Corrections, the date of hire for each, and the hours worked by each temporary employee in the calendar year.

(c) The Department of Corrections shall develop three- and five-year plans to provide adequate permanent staffing to meet the staffing needs identified at each Correction's facility and present the plans to the General Assembly by January 15, 2015.

Sec. 4. EFFECTIVE DATE

(a) This Sec. and Sec. 2 shall take effect on passage.

(b) Secs. 1 and 3 shall take effect on July 1, 2014.

(Committee vote: 7-0-0)

S. 220.

An act relating to amending the workers' compensation law, establishing a registry of sole contractors, increasing the funds available to the Department of Tourism and Marketing for advertising, and regulating legacy insurance transfers.

Reported favorably with recommendation of amendment by Senator Mullin for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * One-Stop Shop Business Portal * * *

Sec. 1. ONE STOP SHOP WEB PORTAL

(a) In order to simplify the process for business creation and growth, the Office of 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 have formed a Business Portal Committee to create an online "one-stop shop" for business registration, business entity creation, and registration compliance.

(b) On or before January 15, 2015, the Business Portal Committee shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development to inform the committees of the status of the project and a timeline for its completion.

* * * Vermont Entrepreneurial Lending Program;
Vermont Entrepreneurial Investment Tax Credit * * *

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 seed, start-up, and early growth-stage businesses 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~~ seed, start-up, and early growth-stage businesses often consist almost entirely of intellectual property or insufficient tangible assets to support conventional lending, ~~such~~ these companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of ~~technology-based companies~~ seed, start-up, and early growth-stage businesses and the resultant creation of high-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 early 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 early 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 for manufacturing businesses with innovative products that typically reflect long-term growth;

(2) loans from $250,000.00 through $1,000,000.00 to early growth-stage companies who do not meet the current underwriting criteria of other public and private lending institutions; 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, 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 an entrepreneurial loan made under the Program to ensure that an entrepreneurial loan recipient shall maintain operations within the State for a minimum of five years from the date on which the recipient receives the entrepreneurial loan funds from the Authority.

* * *

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 up to $1,000,000.00 from Authority funds or eligible federal funds currently administered by the Authority.

(b) The Vermont Economic Development Authority shall use the funds allocated to the Program, as referenced in subsection (a) of this section, solely for the purpose of establishing and maintaining loan loss reserves to guarantee entrepreneurial loans.

Sec. 4. 32 V.S.A. § 5930zz is added to read:

§ 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX CREDITS

(a) A person may receive a credit against his or her income tax imposed by this chapter in an amount equal to 35 percent of his or her direct investment

in a Vermont-domiciled business that had gross revenues in the preceding 12 months of less than $3,000,000.00.

(b) A person who owns or controls 50.1 percent or more of the business and members of his or her immediate family or household are not eligible for the credit under this section.

(c)(1) A person may claim no more than 25 percent of the amount of a credit under this section in a single tax year and may not use the credit to reduce the amount of tax due under this chapter by more than 50 percent of the person's liability in a taxable year.

(2) A person may carry forward any unused portion of a credit for five additional years beyond the year in which an eligible investment was made.

(d) A person who makes a direct investment and thereby qualifies for a credit pursuant to this section shall not have a right to receive a return of the person's investment for a period of five years; provided, however, that the investor may have the right to receive stock options, warrants, or other forms of return that are not in the nature of return of principal.

(e) A person that receives an investment that qualifies for a credit pursuant to this section shall annually report to the Department of Taxes the total number and amounts of investments received, the number of employees, the number of jobs created and retained, annual payroll, total sales revenue in the 12 months preceding the date of the report, and any additional information required by the Department.

(f) The total value of credits awarded pursuant to this section shall not exceed $6,000,000.00.

* * * Electricity Rates for Businesses * * *

Sec. 5. COMMISSIONER OF PUBLIC SERVICE STUDY; BUSINESS ELECTRICITY RATES

(a) The Commissioner of Public Service, in consultation with the Public Service Board and the Secretary of Commerce and Community Development, shall conduct a study of how best to advance the public good through consideration of the competitiveness of Vermont's energy-intensive businesses with regard to electricity costs. As used in this section, "energy-intensive business" or "business" means a manufacturer, a business that uses 1,000 MWh or more of electricity per year, or a business that meets another energy threshold deemed more appropriate by the Commissioner.

(b) In conducting the study required by this section, the Commissioner 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 30 V.S.A. § 209, 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 they relate to business competitiveness, that have been undertaken in Vermont and in other jurisdictions;

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

(6) whether and to what extent any programs or policies considered by the Commissioner 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.

(c) In conducting the study required by this section, the Commissioner 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

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

(d) On or before December 15, 2014, the Commissioner shall provide a status report to the General Assembly of his or her 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 shall provide a final report to the General Assembly of such findings and recommendations.

* * * Domestic Export Program * * *

Sec. 6. 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 matching grants of up to $2,000.00 per business per year 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.

* * * Cloud Tax * * *

Sec. 7. SALES TAX ON PREWRITTEN SOFTWARE DOES NOT APPLY TO REMOTELY ACCESSED SOFTWARE

(a) The imposition of sales and use tax on prewritten computer software by 32 V.S.A. chapter 233 shall not apply to charges for remotely accessed software made after December 31, 2006.

(b) In this section, "charges for remotely accessed software" means charges for the right to access and use prewritten software run on underlying infrastructure that is not managed or controlled by the consumer. The term "charges for remotely accessed software" does not include charges for the right to access and use prewritten software that is also commercially available in a tangible form.

(c) Enforcement of the sales and use tax imposed on the purchase of specified digital products pursuant to 32 V.S.A. § 9771(8) is not affected by this section.

* * * Criminal Penalties for Computer Crimes * * *

Sec. 8. 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~~ $100,000.00, 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~~ $100,000.00, 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. 9. 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~~ five 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. 10. 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 successful complainant his or her costs and fees, including reasonable attorney's fees, arising from a misappropriation of the complainant's trade secret.

(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~~ 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.

* * *

* * * Technology Businesses and Government Contracting * * *

Sec. 11. 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 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 shall recommend language to ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid right to continue to use the intellectual property.

* * * Study; Commercial Lenders * * *

Sec. 12. STUDY; DEPARTMENT OF FINANCIAL REGULATION; LICENSED LENDER REQUIREMENTS; COMMERCIAL LENDERS

On or before January 15, 2015, the Department of Financial Regulation shall 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.

* * * Tourism Funding; Study * * *

Sec. 13. 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. 14. 10 V.S.A. § 238 is added to read:

§ 238. AVAILABILITY OF LOANS AND ASSISTANCE FOR INDUSTRIAL PARKS

Notwithstanding any provision of this chapter to the contrary, the developer of a project in an industrial park permitted under chapter 151 of this title shall have access to the loans and assistance available to a local development corporation from the Vermont Economic Development Authority for the creation or improvement of industrial parks under this subchapter.

Sec. 15. 3 V.S.A. § 2875 is added to read:

§ 2875. ASSISTANCE FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The developer of a project in an industrial park permitted under 10 V.S.A. chapter 151 shall have access to:

(1) site planning assistance from the Department of Housing and Community Development in an amount up to 25 percent of the project cost; and

(2) financing of up to 25 percent of site acquisition and infrastructure development costs from the Department of Housing and Community Development through grants, loans, or other mechanisms as determined by the Commissioner of Housing and Community Development in the Commissioner's discretion.

Sec. 16. 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 or office use, except that which is incidental or secondary to an industrial use.

Sec. 17. 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. 18. 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, taking into account any long-term needs for project expansion within the industrial park~~ 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. 19. 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.

* * *

* * * Credit Facility for Vermont Clean Energy Loan Fund * * *

Sec. 20. 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.

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

Sec. 21. 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.

* * * Workforce Education and Training * * *

Sec. 22. 10 V.S.A. § 545 is added to read:

§ 545. WORKFORCE EDUCATION AND TRAINING LEADER

(a) The Commissioner of Labor shall have the authority to create one full-time position of Workforce Education and Training Leader within the Department.

(b) The Workforce Leader shall have primary authority within State government to conduct an inventory of the workforce education and training activities throughout the State both within State government agencies and departments that perform those activities and with State partners who perform

those activities with State funding, and to coordinate those activities to ensure an integrated workforce education and training system throughout the State.

(c) In conducting the inventory pursuant to subsection (b) of this section, the Workforce Leader shall design and implement a stakeholder engagement process that brings together employers with potential employees, including students, the unemployed, and incumbent employees seeking further training.

(d) Notwithstanding any provision of State law to the contrary, and to the fullest extent allowed under federal law, the Leader shall ensure that in each State and State-funded workforce education and training program, the program administrator collects and reports individual data and outcomes at the individual level by Social Security Number or equivalent.

Sec. 23. 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. 24. 16 V.S.A. chapter 90 is redesignated to read:

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

Sec. 25. 16 V.S.A. § 2888 is added to read:

§ 2888. VERMONT STRONG SCHOLARS PROGRAM

(a) Program creation. There is created a postsecondary loan forgiveness program to be known as the Vermont Strong Scholars Program designed to forgive a portion of Vermont Student Assistance Corporation (the Corporation) loans in order to encourage Vermonters to select majors that prepare them for jobs that are critical to the Vermont economy, to enroll and remain enrolled in a Vermont postsecondary institution, and to live in Vermont upon graduation.

(b) Academic majors; projections.

(1) Annually, on or before November 15, the Secretary of Commerce and Community Development (the Secretary), in consultation with the Vermont State Colleges, the University of Vermont, the Corporation, the Commissioner of Labor, and the Secretary of Education, shall identify eligible postsecondary majors, projecting at least four years into the future, that:

(A) are offered by the Vermont State Colleges, the University of Vermont, or Vermont independent colleges (the eligible institutions); and

(B) lead to jobs the Secretary has identified as critical to the Vermont economy.

(2) The Secretary shall prioritize the identified majors and shall select a similar number of associate's degree and bachelor's degree programs. A major shall be identified as eligible for this Program for no less than two years.

(3) Based upon the identified majors, the Secretary of Administration shall annually provide the General Assembly with the estimated cost of the Corporation's loan forgiveness awards under the Program during the then-current fiscal year and each of the four following fiscal years.

(c) Eligibility. An individual shall be eligible for loan forgiveness under this section if he or she:

(1) was classified as a Vermont resident by the eligible institution from which he or she was graduated;

(2) is a graduate of an eligible institution;

(3) shall not hold a prior bachelor's degree;

(4) was awarded an associate's or bachelor's degree in a field identified pursuant to subsection (b) of this section;

(5) completed the associate's degree within three years or the bachelor's degree within five years;

(6) is employed in Vermont in a field or specific position closely related to the identified degree during the period of loan forgiveness; and

(7) is a Vermont resident throughout the period of loan forgiveness.

(d) Loan forgiveness.

(1) An eligible individual shall have his or her postsecondary loan from the Corporation forgiven as follows:

(A) for an individual awarded an associate's degree by an eligible institution, in an amount equal to the tuition rate for 15 credits at the Community College of Vermont 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 by an eligible institution, in an amount equal to the in-state tuition rate at the Vermont State Colleges during the individual's final year of enrollment, to be prorated over the five years following graduation;

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

(e) Program management and funding. The Secretary shall develop all organizational details of the Program consistent with the purposes and requirements of this section, including the identification of eligible major programs and eligible jobs. The Secretary may contract with the Corporation for management of the Program. The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the Program. The availability and payment of loan forgiveness awards under this section are subject to funding available to the Corporation for the awards.

(f) Fund creation.

(1) 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. The Fund shall be used and administered solely for the purposes of this section. The Secretary may draw warrants for disbursements from the Fund in anticipation of receipts. Any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

(2) 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.

* * * Effective Date * * *

Sec. 26. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

First: By striking out Secs. 4 and 7 in their entireties

Second: In Sec. 5, in subdivision (b)(6) after "Vermont" by striking out "and, if so, whether such programs or policies would nonetheless promote the public good"

Third: In Sec. 5, in subsection (d), by striking out "and recommendations" and immediately preceding the term "energy costs" by inserting the word electric

Fourth: In Sec. 14, in 10 V.S.A. § 238, by striking out "creation or"

Fifth: By striking out Sec. 15 in its entirety

and by renumbering 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 furthering economic development",

and that when so amended the bill ought to pass.

(Committee vote: 6-1-0)

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read:

Sec. 6. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT AGRICULTURE AND FOREST PRODUCTS

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 connect Vermont producers with brokers, buyers, and distributors in other U.S. state and regional markets, and to provide technical and marketing assistance to Vermont producers to convert these connections into increased sales and sustainable commercial relationships.

Second: In Sec. 22, in 10 V.S.A. § 545, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) The Commissioner of Labor shall have the authority to designate one existing full-time position within the Department as "Workforce Education and Training Leader."

Third: By striking out Sec. 24 and Sec. 25 (16 V.S.A. § 2888) in their entireties and by inserting in lieu thereof a new Sec. 24 to read:

Sec. 24. VERMONT STRONG SCHOLARS PROGRAM FEASIBILITY STUDY

(a) The Secretary of Commerce and Community Development shall develop organizational and economic details of a postsecondary loan forgiveness program to be known as the Vermont Strong Scholars Program designed to forgive a portion of Vermont Student Assistance Corporation loans in order to encourage Vermonters to select majors that prepare them for jobs that are critical to the Vermont economy, to enroll and remain enrolled in a Vermont postsecondary institution, and to live in Vermont upon graduation.

(b) On or before January 15, 2015, the Secretary shall submit to the General Assembly a report of his or her findings and recommendations for the program, specifically including eligible major programs, eligible jobs, loan forgiveness eligibility criteria, proposed funding sources and mechanisms, and anticipated costs of the program.

(Committee vote: 6-1-0)

S. 225.

An act relating to early retirement allowance.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

* * *

(d) Early retirement allowance.

* * *

(2)(A)(i) Upon early retirement, a group F member, except facility employees of the Department of Corrections and Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community ~~and~~, Woodside facility employees, dispatchers in the Department of Public Safety, and Vermont State Hospital employees or employees of its successor in interest who provide direct patient care, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by one-half of one percent for each month the member is under ~~age~~ 62 years of age at the time of early retirement.

(ii) Group F members who have 20 years of service as facility employees of the Department of Corrections, as Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community ~~or,~~ as Woodside facility employees, as dispatchers in the Department of Public Safety, or as Vermont State Hospital employees~~,~~ or as employees of its successor in interest~~,~~ who provide direct patient care shall receive an early retirement allowance which shall be equal to the normal retirement allowance at ~~age~~ 55 years of age without reduction; provided the 20 years of service occurred in one or more of the following capacities as an employee of the Department of Corrections, Woodside facility, dispatchers in the Department of Public Safety, or the Vermont State Hospital, or its successor in interest: facility employee, community service center employee, or court and reparative service unit employee.

(B) Upon early retirement, a group F member first included in the membership of the system on or after July 1, 2008, except facility employees of the Department of Corrections and Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community ~~and,~~ Woodside facility employees, dispatchers in the Department of Public Safety, and Vermont State Hospital employees or employees of its successor in interest who provide direct patient care, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by:

* * *

Sec. 2. EARLY RETIREMENT; STUDY COMMITTEE; REPORT

(a) Creation. There is created an Early Retirement Study Committee to study the issue of early retirement benefits for the employees described in subsection (c) of this section.

(b) Membership. The Early Retirement Study Committee shall be composed of the following nine members:

(1) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) one current member of the Senate, who shall be appointed by the Committee on Committees;

(3) four members appointed by the Vermont State Employees Association;

(4) the State Treasurer or his or her designee;

(5) the Commissioner of Human Resources or his or her designee; and

(6) one member appointed by the State Treasurer.

(c) Powers and duties.

(1) The Committee shall study the issue of early retirement benefits for each of the following types of employees:

(A) employees of the Department of Corrections;

(B) employees of the Woodside facility;

(C) dispatchers in the Department of Public Safety;

(D) direct care providers at the Vermont Veterans' Home; and

(E) the following types of employees of the Vermont State Hospital:

(i) facility employees;

(ii) community service center employees; and

(iii) court and reparative service unit employees.

(2) In studying the issue of early retirement benefits for the employees set forth in subdivision (1) of this subsection, the Committee shall examine:

(A) each of those types of employees independently and not on the basis of providing early retirement benefits to all of those types of employees;

(B) existing retirement laws and proposed legislation in other states;

(C) the appropriateness and legality of mandatory retirement; and

(D) any other issues relevant to early retirement benefits.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before January 15, 2015, the Committee shall submit a written report to the Senate and House Committees on Government Operations with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The State Treasurer or his or her designee shall be the Chair of the Committee.

(2) The Committee shall convene on or before September 1, 2014 at the call of the Chair, and the Chair shall call any subsequent meetings.

(3)(A) A majority of the members of the Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of the members physically present and voting.

(4) The Committee shall cease to exist on the date it submits its report under subsection (e) of this section.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 3. REPORT; STATE TREASURER; EFFECT OF SEC. 1

After five years have passed since the effective date of Sec. 1 of this act and on or before January 15, 2020, the State Treasurer shall report to the Senate and House Committees on Government Operations regarding any effect Sec. 1 of this act had on the retention of dispatchers in the Department of Public Safety.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Appropriations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. COMMISSIONER OF HUMAN RESOURCES; REPORT; HIGH-STRESS STATE EMPLOYEE POSITIONS

(a) On or before January 15, 2015, the Commissioner of Human Resources shall report to the Senate and House Committees on Appropriations and the Senate and House Committees on Government Operations regarding recommended changes in the structure of State employment that would help alleviate the health and safety impacts related to high-stress State employee positions and their effect on State employees and the Vermont State Retirement System.

(b) In addition to any classes of employees he or she deems relevant, the Commissioner shall specifically consider the employment of:

(1) employees of the Department of Corrections;

(2) employees of the Woodside facility;

(3) dispatchers in the Department of Public Safety;

(4) social workers in the Family Services Division of the Department for Children and Families who provide direct child safety services;

(5) direct care providers at the Vermont Veterans' Home;

(6) State Police officers in the Computer Crimes Unit that assist in cases regarding child pornography; and

(7) employees of the Vermont Psychiatric Care Hospital.

(c) In considering potential changes in the structure of State employment, the Commissioner shall consider:

(1) the number of workers' compensation claims Vermont has had due to post-traumatic stress disorder;

(2) how job stresses affect State employees;

(3) whether changes in job rotation or personnel practices could decrease job-related stress; and

(4) how high-stress positions impact the sustainability of the Vermont State Retirement System, including the impact of early retirement benefits.

(d) The Commissioner shall specifically review and consider the job groups or positions that are treated differently in the Vermont State Retirement System, including in the provision of early retirement benefits, and shall recommend the criteria that should be used to differentiate among those groups or positions in the System.

(e) In conducting his or her analysis, the Commissioner shall consult with the Office of State Treasurer, the Vermont State Employees' Association, and the heads of the departments of those employees set forth in subsection (b) of this section and shall review available evidence and research regarding employment-related stress.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to a report on recommended changes in the structure of Vermont State employment in order to reduce employment-related stress".

(Committee vote: 7-0-0)

S. 239.

An act relating to the regulation of toxic substances.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out 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) A growing body of scientific evidence demonstrates that these chemical exposures are taking a toll on public health and are playing a role in the incidence and prevalence of many diseases and disorders, including leukemia, breast cancer, asthma, reproductive difficulties, birth defects, and autism.

(6) The societal and health care costs attributed to toxic exposures are extraordinary. More than $2.3 billion are spent every year just on the medical costs of cancer, asthma, and neurobehaviorial disorders associated with toxic chemicals.

(7) 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.

(8) 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.

(9) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

Sec. 2. 18 V.S.A. chapter 38A is added to read:

CHAPTER 38A. TOXIC CHEMICAL IDENTIFICATION

§ 1771. POLICY

It is the policy of the State of Vermont 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.

§ 1772. DEFINITIONS

As used in this chapter:

(1) "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.

(2) "Chemical of high concern" means a chemical identified by the Department pursuant to section 1773 of this title.

(3) "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.

(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 federal Food and Drug Administration, or the packaging of a drug or biologic that is regulated by the federal Food and Drug Administration;

(F) an item sold for outdoor residential use that consists of a composite material made from polyester resins; or

(G) ammunition or components thereof, firearms, hunting or fishing equipment or components thereof, including lead pellets from air rifles.

(4) "Contaminant" means a chemical that is not an intentionally added ingredient in a product, and the source or sources of the chemical in the product are one or more of the following:

(A) a naturally occurring contaminant commonly found in raw materials that are frequently used to manufacture the product;

(B) air or water frequently used as a processing agent or an ingredient to manufacture the product;

(C) a contaminant commonly found in recycled materials that are frequently used to manufacture the product; or

(D) a processing reagent, processing reactant, by-product, or intermediate frequently used to promote certain chemical or physical changes during manufacturing, and the incidental retention of a residue is not desired or intended.

(5) "Manufacturer" means:

(A) any person who manufactures a consumer product or whose name is affixed to a consumer product or its packaging or advertising, and the consumer product is sold or offered for sale in Vermont; or

(B) any person who sells a consumer product to a retailer in Vermont when the person who manufactures the consumer product or whose name is affixed to the consumer 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.

(6) "Priority chemical" means a chemical that:

(A) is on the list of chemicals published by the Department as required under section 1773 of this title; and

(B) is found in a consumer product.

(7) "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.

§ 1773. CHEMICALS OF HIGH CONCERN

(a) List of chemicals. On or before July 1, 2016, the Commissioner of Health, in consultation with the Secretary of Natural Resources, shall adopt and publish a list of chemicals of high concern to human health or the environment. Beginning on July 1, 2018, and biennially thereafter, the Commissioner of Health shall review, revise, update, and reissue the list of chemicals of high concern to human health or the environment.

(b) Criteria. The Commissioner of Health shall designate a chemical as a chemical of high concern if it is a chemical that meets, on the basis of credible scientific evidence, both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The chemical has been demonstrated to:

(A) harm the normal development of a fetus or child or cause other developmental toxicity;

(B) cause cancer, genetic damage, or reproductive harm;

(C) disrupt the endocrine system;

(D) damage the nervous system, immune system, or organs or cause other systemic toxicity; or

(E) be persistent and bioaccumulative.

(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) Resources for consideration. In determining the list of chemicals of concern, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(d) Publication of list. On or before July 1, 2016, the list of chemicals of concern shall be posted on the Department of Health website.

(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 ADVISORY COMMITTEE

(a)(1) A Chemicals of High Concern Advisory Committee is created for the purpose of advising the Commissioner of Health regarding:

(A) the listing of chemicals of high concern under section 1773 of this title; and

(B) the adoption of rules under section 1776 of this title regulating the sale or distribution of a consumer product containing a priority chemical.

(2) The Chemicals of High Concern Advisory Committee shall serve an advisory function and all authority and decisions to act under this chapter remain solely the authority of the Commissioner of Health.

(b)(1) The Commissioner of Health shall appoint the members of the Chemicals of High Concern Advisory Committee established by this section. The Chemicals of High Concern Advisory Committee shall be composed of the following members:

(A) the Commissioner of Environmental Conservation or his or her designee;

(B) a representative of a public interest group in the State with experience in advocating for the regulation of toxic substances;

(C) a representative of an organization within the State with expertise in issues related to the health of children or pregnant women;

(D) two representatives of businesses in the State that use chemicals in a manufacturing or production process;

(E) a scientist with expertise in the toxicity of chemicals; and

(F) any other member appointed by the Commissioner of Health.

(2) The members of the Chemicals of High Concern Advisory Committee shall serve staggered three-year terms. The Commissioner may remove members of the Chemicals of High Concern Advisory Committee who fail to attend three consecutive meetings and may appoint replacements. The Commissioner may reappoint members to serve more than one term.

(3) Members of the Chemicals of High Concern Advisory Committee 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.

(c) The Commissioner may convene the Chemicals of High Concern Advisory Committee at any time, but no less frequently than at least once every other year.

(d) The Advisory Committee shall have an opportunity to review and comment on the list of chemicals of high concern required under section 1773 of this title or of any rule proposed under section 1776 of this title.

(e) A majority of the members of the Advisory Committee shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) No later than one year after a chemical is placed on the list of chemicals of high concern under section 1773 of this title, and biennially thereafter, a manufacturer of a consumer product shall submit to the Department the notice described in subsection (b) of this section if a chemical of high concern is:

(1) added to a consumer product at a level above the PQL produced by the manufacturer; or

(2) present in a consumer product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) 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) a description of the function of the chemical in the product;

(4) the amount of the chemical used in each unit of the product or product component;

(5) the name and address of the manufacturer of the consumer product and the name, address, and telephone number of a contact person for the manufacturer;

(6) any other information the manufacturer deems relevant to the appropriate use of the product; and

(7) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

(c) 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 consumer products is also required to disclose information related to chemicals of concern in consumer products.

(d) 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 has been removed from the manufacturer's consumer product or that the manufacturer no longer sells, offers for sale, or distributes in the State the consumer product containing the chemical of high concern.

(e) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:

(1) the Department may share submitted or acquired information with other states under a reciprocal data-sharing agreement; and

(2) the Commissioner shall publish on the Department website submitted or acquired information in a summary or aggregate form that does not directly or indirectly identify individual manufacturers.

(f) A manufacturer required under this section to provide information on its use of a chemical of high concern shall, within 30 days of receipt of an invoice from the Department, pay a fee not to exceed $2,000.00 per chemical included on the list of chemicals of high concern. Fees collected under this subsection shall be deposited in the Chemicals of High Concern Fund for the purposes of that Fund.

§ 1776. PRIORITY CHEMICALS; PROHIBITION OF SALE; DEPARTMENT OF HEALTH RULEMAKING

(a) The Commissioner may, after consultation with the Secretary of Natural Resources and the Chemicals of High Concern Advisory Committee, designate by rule that one or more chemicals of high concern are a priority chemical under the criteria found in subsection 1773(b) of this chapter and require by rule that a consumer product containing the priority chemical be:

(1) prohibited from sale, offer for sale, or distribution in the State; or

(2) labeled prior to sale, offer for sale, or distribution in the State.

(b)(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner shall review at least two priority chemicals in consumer products for regulation under subsection (a) of this section.

(2) In adopting any rule under this section that prohibits the sale, offer for sale, or distribution in the State of a consumer product that contains a priority chemical, the Commissioner may consider whether a safer alternative to the priority chemical exists.

(c)(1) In any rule adopted under this section, 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 consumer product in the State shall take effect sooner than two years after the adoption of a rule adopted under this subsection unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(2) 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 (a) of this section. The rule shall provide:

(A) criteria for evaluation of priority chemicals in a consumer product, including criteria for whether the consumer product should be prohibited from sale, subject to labeling, or subject to no regulation;

(B) requirements or time frames for phasing out the sale or distribution of a consumer product containing a priority chemical, including whether retailers selling the consumer product shall be afforded an inventory exception;

(C) requirements or time frames afforded to a manufacturer to replace a priority chemical in a consumer product; and

(D) other criteria, requirements, time frames, processes, or procedures that the Commissioner determines are necessary for implementation of rulemaking under subsection (a) of this section.

(d) 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 priority chemical. 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 FUND

(a) The Chemicals of High Concern 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 Fund shall consist of:

(1) monies accepted by the Department pursuant to subsection (a) of this section;

(2) fees and charges collected under section 1775 of this chapter;

(3) 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

(4) such sums as may be appropriated by the General Assembly.

§ 1778. 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 and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

Sec. 3. REPORT TO GENERAL ASSEMBLY; TOXIC CHEMICAL IDENTIFICATION

(a) On or before January 15, 2015, and biennially thereafter, the Commissioner of Health shall submit to the Senate Committee on Health and Welfare, the House Committee on Human Service, 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 toxic chemical identification requirements of 18 V.S.A. chapter 38A. The report shall include:

(1) any updates to the list of chemicals of high concern required under 10 V.S.A. § 1773;

(2) the number of manufacturers providing notice under 10 V.S.A. § 1775 regarding whether a consumer product includes a chemical of high concern;

(3) the number of priority chemicals in consumer products identified or regulated by the Department of Health under 10 V.S.A. § 1776;

(4) an estimate of the annual cost to the Department of Health to implement the toxic chemical identification program;

(5) the number of Department of Health employees needed to implement the toxic chemical identification program;

(6) an estimate of additional funding that the Department may require to implement the toxic chemical identification program; and

(7) a recommendation of how the State should collaborate with other states in implementing the requirements of the toxic chemical identification program.

(b) As part of the report submitted on or before January 15, 2015, the Commissioner of Health shall recommend a process or method of informing consumers in the State of the presence of a priority chemical in a consumer product. A recommendation under this subsection may include recommended legislative changes, rulemaking, public notice requirements, or reference to other publicly available resources that identify priority chemicals in consumer products.

Sec. 4. 10 V.S.A. § 1775(e) is amended to read

(e)(1) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be ~~exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:~~

~~(1) the Department may share submitted or acquired information with other states under a reciprocal data-sharing agreement; and~~

~~(2) the Commissioner shall publish on the Department website submitted or acquired information in a summary or aggregate form that does not directly or indirectly identify individual manufacturers~~ available for public inspection and copying, provided that:

(A) Information protected under the Uniform Trade Secrets Act, as codified under 9 V.S.A. chapter 143, or under the trade secret exemption under 1 V.S.A. § 317(c)(9) shall be exempt from public inspection and copying under the Public Records Act;

(B) The Commissioner may publish information confidential under this subsection in a summary or aggregated form that does not directly or indirectly identify individual manufacturers.

(2) The Commissioner may require, as a part of a report or notice submitted under this chapter, that a manufacturer submit a notice or report that does not contain trade secret information and is available for public inspection and review.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (toxic chemical identification program), and 3 (Department of Health report) shall take effect on passage.

(b) Sec. 4 (trade secret information) shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Bray for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out 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) A growing body of scientific evidence demonstrates that these chemical exposures are taking a toll on public health and are playing a role in the incidence and prevalence of many diseases and disorders, including leukemia, breast cancer, asthma, reproductive difficulties, birth defects, and autism.

(6) The societal and health care costs attributed to toxic exposures are extraordinary. More than $2.3 billion are spent every year just on the medical costs of cancer, asthma, and neurobehaviorial disorders associated with toxic chemicals.

(7) 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.

(8) 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.

(9) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

Sec. 2. 18 V.S.A. chapter 38A is added to read:

CHAPTER 38A. TOXIC CHEMICAL IDENTIFICATION

§ 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 be defined 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" means a chemical identified by the Department pursuant to section 1773 of this title.

(4) "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 federal Food and Drug Administration, or the packaging of a drug or biologic that is regulated by the federal Food and Drug Administration;

(F) an item sold for outdoor residential use that consists of a composite material made from polyester resins; or

(G) ammunition or components thereof, firearms, air rifles, hunting or fishing equipment or components thereof.

(5) "Contaminant" means a chemical that is not an intentionally added ingredient in a product, and the source or sources of the chemical in the product are one or more of the following:

(A) a naturally occurring contaminant commonly found in raw materials that are frequently used to manufacture the product;

(B) air or water frequently used as a processing agent or an ingredient to manufacture the product;

(C) a contaminant commonly found in recycled materials that are frequently used to manufacture the product; or

(D) a processing reagent, processing reactant, by-product, or intermediate frequently used to promote certain chemical or physical changes during manufacturing, and the incidental retention of a residue is not desired or intended.

(6) "Manufacturer" means:

(A) any person who manufactures a consumer product or whose name is affixed to a consumer product or its packaging or advertising, and the consumer product is sold or offered for sale in Vermont; or

(B) any person who sells a consumer product to a retailer in Vermont when the person who manufactures the consumer product or whose name is affixed to the consumer 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.

(7) "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.

(8) "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.

(9) "Priority chemical" means a chemical that:

(A) is on the list of chemicals published by the Department as required under section 1773 of this title; and

(B) is found in a consumer product.

(10) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

§ 1773. CHEMICALS OF HIGH CONCERN

(a) List of chemicals. On or before July 1, 2016, the Commissioner of Health, in consultation with the Secretary of Natural Resources, shall adopt and publish a list of chemicals of high concern to human health or the environment. Beginning on July 1, 2018, and biennially thereafter, the Commissioner of Health shall review, revise, update, and reissue the list of chemicals of high concern to human health or the environment.

(b) Criteria. The Commissioner of Health shall designate a chemical as a chemical of high concern if it is a chemical that meets, on the basis of credible

scientific evidence, both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The chemical has been demonstrated to:

(A) harm the normal development of a fetus or child or cause other developmental toxicity;

(B) cause cancer, genetic damage, or reproductive harm;

(C) disrupt the endocrine system;

(D) damage the nervous system, immune system, or organs or cause other systemic toxicity; or

(E) be persistent and bioaccumulative.

(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) Resources for consideration. In determining the list of chemicals of concern, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(d) Publication of list. On or before July 1, 2016, the list of chemicals of concern shall be posted on the Department of Health website.

(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 ADVISORY COMMITTEE

(a)(1) A Chemicals of High Concern Advisory Committee is created for the purpose of advising the Commissioner of Health regarding:

(A) the listing of chemicals of high concern under section 1773 of this title; and

(B) the adoption of rules under section 1776 of this title regulating the sale or distribution of a consumer product containing a priority chemical.

(2) The Chemicals of High Concern Advisory Committee shall serve an advisory function and all authority and decisions to act under this chapter remain solely the authority of the Commissioner of Health.

(b)(1) The Commissioner of Health shall appoint the members of the Chemicals of High Concern Advisory Committee established by this section. The Chemicals of High Concern Advisory Committee shall be composed of the following members:

(A) the Commissioner of Environmental Conservation or his or her designee;

(B) a representative of a public interest group in the State with experience in advocating for the regulation of toxic substances;

(C) a representative of an organization within the State with expertise in issues related to the health of children or pregnant women;

(D) two representatives of businesses in the State that use chemicals in a manufacturing or production process;

(E) a scientist with expertise in the toxicity of chemicals; and

(F) three other members appointed by the Commissioner of Health.

(2) The members of the Chemicals of High Concern Advisory Committee shall serve staggered three-year terms. The Commissioner may remove members of the Chemicals of High Concern Advisory Committee who fail to attend three consecutive meetings and may appoint replacements. The Commissioner may reappoint members to serve more than one term.

(3) Members of the Chemicals of High Concern Advisory Committee 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.

(c) The Commissioner may convene the Chemicals of High Concern Advisory Committee at any time, but no less frequently than at least once every other year.

(d) In order to ensure that the regulation of toxic chemicals is robust and protective, that affected parties have ample opportunity to comment, and that legal and financial risks are minimized, the Advisory Committee shall have an opportunity to review and comment on the list of chemicals of high concern required under section 1773 of this title or of any rule proposed under section 1776 of this title.

(e) A majority of the members of the Advisory Committee shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) No later than one year after a chemical is placed on the list of chemicals of high concern under section 1773 of this title, and biennially thereafter, a manufacturer of a consumer product shall submit to the Department the notice described in subsection (b) of this section if a chemical of high concern is:

(1) added to a consumer product at a level above the PQL produced by the manufacturer; or

(2) present in a consumer product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) 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 used in each unit of the product or product component;

(4) the name and address of the manufacturer of the consumer 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) 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 consumer products is also required to disclose information related to chemicals of concern in consumer products. The Department shall

not disclose trade secret information or other information designated as confidential by law under a reciprocal data-sharing agreement.

(d) 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 has been removed from the manufacturer's consumer product or that the manufacturer no longer sells, offers for sale, or distributes in the State the consumer product containing the chemical of high concern.

(e) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Commissioner shall publish on the Department website information submitted by a manufacturer under this section except for trade secret information or information otherwise designated confidential by law. It shall be the burden of the manufacturer to assert that information submitted under this section is a trade secret or is otherwise designated confidential by law.

(f) A manufacturer required under this section to provide information on its use of a chemical of high concern shall, within 30 days of receipt of an invoice from the Department, pay a fee not to exceed $2,000.00 per chemical included on the list of chemicals of high concern. A fee submitted under this subsection shall be submitted 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.

§ 1776. PRIORITY CHEMICALS; PROHIBITION OF SALE; DEPARTMENT OF HEALTH RULEMAKING

(a) The Commissioner may, after consultation with the Secretary of Natural Resources and the Chemicals of High Concern Advisory Committee, designate by rule that one or more chemicals of high concern are a priority chemical under the criteria found in subsection 1773(b) of this chapter and require by rule that a consumer product containing the priority chemical be:

(1) prohibited from sale, offer for sale, or distribution in the State; or

(2) labeled prior to sale, offer for sale, or distribution in the State.

(b)(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner shall review at least two priority chemicals in consumer products for regulation under subsection (a) of this section.

(2) In adopting any rule under this section that prohibits the sale, offer for sale, or distribution in the State of a consumer product that contains a

priority chemical, the Commissioner may consider whether a safer alternative to the priority chemical exists.

(c)(1) In any rule adopted under this section, 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 consumer product in the State shall take effect sooner than two years after the adoption of a rule adopted under this subsection unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(2) 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 (a) of this section. The rule shall provide:

(A) criteria for evaluation of priority chemicals in a consumer product, including criteria for whether the consumer product should be prohibited from sale, subject to labeling, or subject to no regulation;

(B) requirements or time frames for phasing out the sale or distribution of a consumer product containing a priority chemical, including whether retailers selling the consumer product shall be afforded an inventory exception;

(C) requirements or time frames afforded to a manufacturer to replace a priority chemical in a consumer product; and

(D) other criteria, requirements, time frames, processes, or procedures that the Commissioner determines are necessary for implementation of rulemaking under subsection (a) of this section.

(d) 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 priority chemical. 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. EXEMPTIONS

The requirements and prohibitions of this chapter shall not apply to a consumer product:

(1) that is an electronic device, a motor vehicle, an aircraft, or a vessel;

(2) in which the chemical of high concern is present solely within the internal components of the device, motor vehicle, aircraft, or vessel; and

(3) the internal components of which are encased in a housing, compartment, or panel or are otherwise inaccessible to a consumer using the product as intended.

§ 1778. CHEMICALS OF HIGH CONCERN FUND

(a) The Chemicals of High Concern 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 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.

§ 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 and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

Sec. 3. REPORT TO GENERAL ASSEMBLY; TOXIC CHEMICAL IDENTIFICATION

(a) On or before January 15, 2015, and biennially thereafter, the Commissioner of Health 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 toxic chemical identification requirements of 18 V.S.A. chapter 38A. The report shall include:

(1) any updates to the list of chemicals of high concern required under 18 V.S.A. § 1773;

(2) the number of manufacturers providing notice under 18 V.S.A. § 1775 regarding whether a consumer product includes a chemical of high concern;

(3) the number of priority chemicals in consumer products identified or regulated by the Department of Health under 18 V.S.A. § 1776;

(4) an estimate of the annual cost to the Department of Health to implement the toxic chemical identification program;

(5) the number of Department of Health employees needed to implement the toxic chemical identification program;

(6) an estimate of additional funding that the Department may require to implement the toxic chemical identification program; and

(7) a recommendation of how the State should collaborate with other states in implementing the requirements of the toxic chemical identification program.

(b) As part of the report submitted on or before January 15, 2015, the Commissioner of Health shall recommend a process or method of informing consumers in the State of the presence of a priority chemical in a consumer product. A recommendation under this subsection may include recommended legislative changes, rulemaking, public notice requirements, or reference to other publicly available resources that identify priority chemicals in consumer products.

Sec. 4. 18 V.S.A. § 1775(e) is amended to read

(e)(1) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be ~~exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:~~

~~(1) the Department may share submitted or acquired information with other states under a reciprocal data-sharing agreement; and~~

~~(2) the Commissioner shall publish on the Department website submitted or acquired information in a summary or aggregate form that does not directly or indirectly identify individual manufacturers~~ available for public inspection and copying, provided that:

(A) Information protected under the Uniform Trade Secrets Act, as codified under 9 V.S.A. chapter 143, or under the trade secret exemption under 1 V.S.A. § 317(c)(9) shall be exempt from public inspection and copying under the Public Records Act;

(B) The Commissioner may publish confidential information collected under this section provided that the information is not trade secret

information or is not otherwise designated confidential by law. It shall be the burden of the manufacturer to assert that information submitted under this section is a trade secret or is otherwise designated confidential by law.

(2) The Commissioner may require, as a part of a report or notice submitted under this chapter, that a manufacturer submit a notice or report that does not contain trade secret information and is available for public inspection and review.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (toxic chemical identification program), and 3 (Department of Health report) shall take effect on passage.

(b) Sec. 4 (trade secret information) shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Finance.

The Committee recommends that the bill be amended by striking out 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) A growing body of scientific evidence demonstrates that these chemical exposures are taking a toll on public health and are playing a role in the incidence and prevalence of many diseases and disorders, including leukemia, breast cancer, asthma, reproductive difficulties, birth defects, and autism.

(6) The societal and health care costs attributed to toxic exposures are extraordinary. More than $2.3 billion are spent every year just on the medical costs of cancer, asthma, and neurobehaviorial disorders associated with toxic chemicals.

(7) 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.

(8) 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.

(9) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

(10) 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. TOXIC CHEMICAL IDENTIFICATION

§ 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 be defined 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" means a chemical identified by the Department pursuant to section 1773 of this title.

(4) "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 federal Food and Drug Administration, or the packaging of a drug or biologic that is regulated by the federal Food and Drug Administration;

(F) an item sold for outdoor residential use that consists of a composite material made from polyester resins; or

(G) ammunition or components thereof, firearms, air rifles, hunting or fishing equipment or components thereof.

(5) "Contaminant" means a chemical that is not an intentionally added ingredient in a product, and the source or sources of the chemical in the product are one or more of the following:

(A) a naturally occurring contaminant commonly found in raw materials that are frequently used to manufacture the product;

(B) air or water frequently used as a processing agent or an ingredient to manufacture the product;

(C) a contaminant commonly found in recycled materials that are frequently used to manufacture the product; or

(D) a processing reagent, processing reactant, by-product, or intermediate frequently used to promote certain chemical or physical changes during manufacturing, and the incidental retention of a residue is not desired or intended.

(6) "Manufacturer" means:

(A) any person who manufactures a consumer product or whose name is affixed to a consumer product or its packaging or advertising, and the consumer product is sold or offered for sale in Vermont; or

(B) any person who sells a consumer product to a retailer in Vermont when the person who manufactures the consumer product or whose name is affixed to the consumer 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.

(7) "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.

(8) "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.

(9) "Priority chemical" means a chemical that:

(A) is on the list of chemicals published by the Department as required under section 1773 of this title; and

(B) is found in a consumer product.

(10) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

§ 1773. CHEMICALS OF HIGH CONCERN

(a) List of chemicals. On or before July 1, 2016, the Commissioner of Health, in consultation with the Secretary of Natural Resources, shall adopt and publish a list of chemicals of high concern to human health or the environment. Beginning on July 1, 2018, and biennially thereafter, the Commissioner of Health shall review, revise, and reissue the list of chemicals of high concern to human health or the environment.

(b) Criteria. The Commissioner of Health shall designate a chemical as a chemical of high concern if it is a chemical that meets, on the basis of credible scientific evidence, both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The chemical has been demonstrated to:

(A) harm the normal development of a fetus or child or cause other developmental toxicity;

(B) cause cancer, genetic damage, or reproductive harm;

(C) disrupt the endocrine system;

(D) damage the nervous system, immune system, or organs or cause other systemic toxicity; or

(E) be persistent and bioaccumulative.

(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) Resources for consideration. In determining the list of chemicals of concern, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(d) Publication of list. On or before July 1, 2016, the list of chemicals of concern shall be posted on the Department of Health website.

(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 WORKING GROUP

(a) Creation. A Chemicals of High Concern Working Group (Working Group) is created for the purpose of advising the Commissioner of Health 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; and

(G) a scientist with expertise in the toxicity of chemicals.

(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 for purposes of:

(i) reviewing whether a specific chemical should be listed as a chemical of high concern; or

(ii) recommending the regulation of the sale or distribution of a consumer product containing a priority chemical.

(B) An adjunct member appointed under this subdivision (2) shall have expertise or knowledge of the chemical or consumer 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), provided that such authority and power is limited to review of the specific chemical or consumer product for which the adjunct member has expertise.

(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 under section 1773 of this title; and

(2) recommend whether the Department of Health should adopt a rule under section 1776 of this title to regulate the sale or distribution of a consumer product containing a priority chemical.

(d) Commissioner of Health recommendation; assistance.

(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall recommend at least two priority chemicals in consumer 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 priority chemical.

(2) The Working Group shall have the administrative, technical, and legal assistance of the Department of Health.

(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) No later than one year after a chemical is placed on the list of chemicals of high concern under section 1773 of this title, and biennially thereafter, a manufacturer of a consumer product shall submit to the Department the notice described in subsection (b) of this section if a chemical of high concern is:

(1) added to a consumer product at a level above the PQL produced by the manufacturer; or

(2) present in a consumer product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) 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 used in each unit of the product or product component;

(4) the name and address of the manufacturer of the consumer 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)(1) 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 consumer products is also required to disclose information related to chemicals of concern in consumer 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.

(2) The Commissioner may waive reporting requirements under this section if a manufacturer submitted the information required by this section to a state with which the Department has entered a reciprocal data-sharing agreement.

(d) 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 has been removed from the manufacturer's consumer product or that the manufacturer no longer sells, offers for sale, or distributes in the State the consumer product containing the chemical of high concern.

(e) A manufacturer required under this section to provide information on its use of a chemical of high concern shall, within 30 days of receipt of an invoice from the Department, pay a fee not to exceed $2,000.00 per chemical included on the list of chemicals of high concern. A fee submitted under this subsection shall be submitted 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.

§ 1776. PRIORITY CHEMICALS; PROHIBITION OF SALE; DEPARTMENT OF HEALTH RULEMAKING

(a)(1) Upon receipt of a recommendation from the Chemicals of High Concern Working Group under subdivision 1774(c)(2) of this title, the Commissioner may adopt a rule to regulate the sale or distribution of a consumer product containing a priority chemical when, based on the weight of available, scientific studies, the toxicity of the priority chemical in the consumer product and its potential exposure pathways in the product pose a public health risk as that term is defined in 18 V.S.A. § 2(12).

(2) A rule adopted under this section may:

(A) prohibit the consumer product containing the priority chemical from sale, offer for sale, or distribution in the State; or

(B) require that the consumer product containing the priority chemical be labeled prior to sale, offer for sale, or distribution in the State.

(b) In adopting a rule under this section that prohibits the sale, offer for sale, or distribution in the State of a consumer product that contains a priority chemical, the Commissioner may:

(1) consider whether a safer alternative to the priority chemical exists; or

(2) exempt from regulation a consumer product containing a priority chemical if the manufacturer of the consumer product is implementing a comprehensive chemical management strategy designed to eliminate harmful substances or chemicals from the manufacturing process.

(c)(1) In any rule adopted under this section, 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 consumer product in the State shall take effect sooner than two years after the adoption of a rule adopted under this subsection unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(2) 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 (a) of this section. The rule shall provide:

(A) criteria for evaluation of priority chemicals in a consumer product, including criteria for whether the consumer product should be prohibited from sale, subject to labeling, or subject to no regulation;

(B) requirements or time frames for phasing out the sale or distribution of a consumer product containing a priority chemical, including whether retailers selling the consumer product shall be afforded an inventory exception;

(C) requirements or time frames afforded to a manufacturer to replace a priority chemical in a consumer product; and

(D) other criteria, requirements, time frames, processes, or procedures that the Commissioner determines are necessary for implementation of rulemaking under subsection (a) of this section.

(d) 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 priority chemical. 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. EXEMPTIONS

The requirements and prohibitions of this chapter shall not apply to a consumer product:

(1) that is an electronic device, a motor vehicle, an aircraft, or a vessel;

(2) in which the chemical of high concern is present solely within the internal components of the device, motor vehicle, aircraft, or vessel; and

(3) the internal components of which are encased in a housing, compartment, or panel or are otherwise inaccessible to a consumer using the product as intended.

§ 1778. CHEMICALS OF HIGH CONCERN FUND

(a) The Chemicals of High Concern 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 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.

§ 1779. CONFIDENTIALITY

Information submitted to or acquired by the Department or the Chemicals of High Concern 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.

§ 1780. 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; TOXIC CHEMICAL IDENTIFICATION

(a) On or before January 15, 2015, and biennially thereafter, the Commissioner of Health 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 toxic chemical identification requirements of 18 V.S.A. chapter 38A. The report shall include:

(1) any updates to the list of chemicals of high concern required under 18 V.S.A. § 1773;

(2) the number of manufacturers providing notice under 18 V.S.A. § 1775 regarding whether a consumer product includes a chemical of high concern;

(3) the number of priority chemicals in consumer products identified or regulated by the Department of Health under 18 V.S.A. § 1776;

(4) an estimate of the annual cost to the Department of Health to implement the toxic chemical identification program;

(5) the number of Department of Health employees needed to implement the toxic chemical identification program;

(6) an estimate of additional funding that the Department may require to implement the toxic chemical identification program; and

(7) a recommendation of how the State should collaborate with other states in implementing the requirements of the toxic chemical identification program.

(b) As part of the report submitted on or before January 15, 2015, the Commissioner of Health shall recommend a process or method of informing consumers in the State of the presence of a priority chemical in a consumer product. A recommendation under this subsection may include recommended legislative changes, rulemaking, public notice requirements, or reference to other publicly available resources that identify priority chemicals in consumer products.

Sec. 4. 18 V.S.A. § 1779 is amended to read

§ 1779. CONFIDENTIALITY

Information submitted to or acquired by the Department or the Chemicals of High Concern Working Group under this chapter may be subject to public inspection or copying or may be published on the Department website, provided that:

(1) Information that is protected under the Uniform Trade Secrets Act, as codified under 9 V.S.A. chapter 143, 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.

(2) The Commissioner may publish information collected under this section provided that the information is not trade secret information, confidential business information, or is not otherwise designated confidential by law.

(3) The Commissioner may require, as a part of a report or notice submitted under this chapter, that a manufacturer submit a notice or report that does not contain trade secret information or confidential business information and is available for public inspection and review.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (toxic chemical identification program), and 3 (Department of Health report) shall take effect on passage.

(b) Sec. 4 (trade secret information) shall take effect on July 1, 2018.

(Committee vote: 7-0-0)

Reported without recommendation by Senator Cummings for the Committee on Appropriations.

(Committee voted: 4-1-2)

S. 241.

An act relating to binding arbitration for State employees.

Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. GRIEVANCE ARBITRATION; STUDY COMMITTEE; REPORT

(a) Creation. There is created a Grievance Arbitration Study Committee to study the issue of grievance arbitration for employees of the State.

(b) Membership. The Grievance Arbitration Study Committee shall be composed of the following four members:

(1) the Commissioner of Human Resources or designee;

(2) the Executive Director of the Vermont Bar Association or designee;

(3) one member appointed by the Vermont Troopers Association; and

(4) one member appointed by the Vermont State Employees' Association.

(c) Powers and duties. The Committee shall:

(1) study the issue of grievance arbitration for State employees; and

(2) assess the relative merits of various grievance protocols, including arbitration and use of the Vermont Labor Relations Board, addressing the ability of these protocols to provide resolution of grievances in a manner that is economical, timely, just, and provides for appropriate privacy protections for the parties.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before January 15, 2015, the Committee shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing and Military Affairs.

(f) Meetings.

(1) The Commissioner of Human Resources or designee shall be the Chair of the Committee.

(2) The Committee shall convene on or before September 1, 2014 at the call of the Chair, and the Chair shall call any subsequent meetings.

(3)(A) A majority of the members of the Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of the members physically present and voting.

(4) The Committee shall cease to exist on the date it submits its report under subsection (e) of this section.

(g) Reimbursement. Members of the Committee shall not be entitled to per diem compensation or reimbursement of expenses.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 4-1-0)

Reported favorably with recommendation of amendment by Senator Starr for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In Sec. 1, by striking out subsection (d) in its entirety

and by relettering the remaining subsections to be alphabetically correct.

(Committee vote: 7-0-0)

S. 252.

An act relating to financing for Green Mountain Care.

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It has been three years since the passage of 2011 Acts and Resolves No. 48 (Act 48). Several health care reform initiatives have been implemented or are preparing to launch, the Patient Protection and Affordable Care Act has been in effect for four years, and the Vermont Health Benefit Exchange is operational. In order to successfully implement the reforms envisioned by that act, it is appropriate to update the assumptions and cost estimates that formed the basis for Act 48, evaluate the success of existing health care reform efforts, and obtain information relating to key outstanding policy decisions. It is the intent of the General Assembly to obtain a greater understanding of the impact of health care reform efforts currently under way and to take steps toward implementation of the universal and unified health system envisioned by Act 48.

Sec. 2. PRINCIPLES FOR HEALTH CARE FINANCING

The General Assembly adopts the following principles to guide the financing of health care in Vermont:

(1) All Vermont residents have the right to high-quality health care.

(2) Vermont residents shall finance Green Mountain Care through taxes that are levied equitably, taking into account an individual's ability to pay and the value of the health benefits provided.

(3) As provided in 33 V.S.A. § 1827, Green Mountain Care shall be the secondary payer for Vermont residents who continue to receive health care through plans provided by an employer, by another state, by a foreign government, or as a retirement benefit.

(4) Vermont's system for financing health care shall raise revenue sufficient to provide medically necessary health care services to all enrolled Vermont residents, including maternity and newborn care, pediatric care, vision and dental care for children, surgery and hospital care, emergency care, outpatient care, treatment for mental health conditions, and prescription drugs.

* * * Vermont Health Benefit Exchange * * *

Sec. 3. 33 V.S.A. § 1803 is amended to read:

§ 1803. VERMONT HEALTH BENEFIT EXCHANGE

* * *

(b)(1)(A) The Vermont Health Benefit Exchange shall provide qualified individuals and qualified employers with qualified health benefit plans, including the multistate plans required by the Affordable Care Act, with effective dates beginning on or before January 1, 2014. The Vermont Health Benefit Exchange may contract with qualified entities or enter into intergovernmental agreements to facilitate the functions provided by the Vermont Health Benefit Exchange.

* * *

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

* * *

Sec. 4. 33 V.S.A. § 1811(b) is amended to read:

(b)(1) No person may provide a health benefit plan to an individual ~~or small employer~~ unless the plan is offered through the Vermont Health Benefit Exchange ~~and complies with the provisions of this subchapter~~.

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

Sec. 5. PURCHASE OF SMALL GROUP PLANS DIRECTLY FROM CARRIERS

To the extent permitted by the U.S. Department of Health and Human Services and notwithstanding any provision of State law to the contrary, the Department of Vermont Health Access shall permit employers purchasing qualified health benefit plans on the Vermont Health Benefit Exchange to purchase the plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

* * * Green Mountain Care * * *

Sec. 6. TREATMENT OF FEDERAL EMPLOYEES

The Health Care Reform Financing Plan submitted to the General Assembly by the Secretary of Administration and the Director of Health Care Reform on January 24, 2013 assumed that federal employees, including military, will not be integrated into Green Mountain Care for their primary coverage.

Sec. 7. 33 V.S.A. § 1824(f) is added to read:

(f)(1) Federal employees who participate in the Federal Employees Health Benefits Program (FEHBP) or TRICARE shall be deemed, by virtue of their participation in those plans, to be covered by Green Mountain Care. The Green Mountain Care benefit package for federal employees shall be the benefit package of their respective FEHBP or TRICARE plan. The premiums paid by federal employees for the FEHBP or TRICARE shall be deemed to be their share of contributions to the financing for Green Mountain Care.

(2) As used in this subsection, "federal employee" means a person employed by the U.S. government who is eligible for the FEHBP, a person retired from employment with the U.S. government who is eligible for the FEHBP, or an active or retired member of the U.S. Armed Forces who is eligible for a TRICARE plan.

Sec. 7a. SUPPLEMENTAL PLANS FOR TRICARE PARTICIPANTS

In the event that the Agency of Human Services identifies significant gaps between the coverage available to federal employees participating in TRICARE and the coverage available in Green Mountain Care, the Agency shall propose to the General Assembly a supplemental benefit plan for TRICARE participants and a mechanism for TRICARE participants to pay for the cost of the plan.

Sec. 8. 33 V.S.A. § 1825 is amended to read:

§ 1825. HEALTH BENEFITS

(a)(1) The benefits for Green Mountain Care shall include primary care, preventive care, chronic care, acute episodic care, and hospital services and shall ~~include at least the same covered services as those included in the benefit package in effect for the lowest cost Catamount Health plan offered on January 1, 2011~~ consist of the benefits available in the benchmark plan for the Vermont Health Benefit Exchange.

* * *

Sec. 9. CONTRACT FOR ADMINISTRATION OF CERTAIN ELEMENTS OF GREEN MOUNTAIN CARE

(a) On or before February 1, 2015, the Agency of Human Services shall identify the elements of Green Mountain Care, such as claims administration and provider relations, for which the Agency plans to solicit bids for administration pursuant to 33 V.S.A. § 1827(a). By the same date, the Agency shall also prepare a description of the job or jobs to be performed, design the bid qualifications, and develop the criteria by which bids will be evaluated.

(b) On or before July 1, 2015, the Agency of Human Services shall solicit bids for administration of the elements of Green Mountain Care identified pursuant to subsection (a) of this section.

(c) On or before December 15, 2015, the Agency of Human Services shall award one or more contracts to public or private entities for administration of elements of Green Mountain Care pursuant to 33 V.S.A. § 1827(a).

Sec. 10. CONCEPTUAL WAIVER APPLICATION

On or before October 1, 2014, the Secretary of Administration or designee shall submit to the federal Center for Consumer Information and Insurance Oversight a conceptual waiver application expressing the intent of the State of Vermont to pursue a Waiver for State Innovation pursuant to Sec. 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and the State's interest in commencing the application process.

* * * Employer Assessment * * *

Sec. 11. 21 V.S.A. § 2001 is amended to read:

§ 2001. PURPOSE

For the purpose of more equitably distributing the costs of health care to uninsured residents of this ~~state~~ State, an employers' health care fund

contribution is established to provide a fair and reasonable method for sharing health care costs with employers who do not offer their employees health care coverage and employers who offer insurance but whose employees enroll in Medicaid.

Sec. 12. 21 V.S.A. § 2002 is amended to read:

§ 2002. DEFINITIONS

As used in this chapter:

* * *

(5) "Uncovered employee" means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and either:

(i) has no other health care coverage under either Medicare or a private ~~or public~~ health plan; or

(ii) has purchased health insurance coverage as an individual through the Vermont Health Benefit Exchange.

* * *

Sec. 13. 21 V.S.A. § 2003(b) is amended to read:

(b) For any quarter in ~~fiscal years 2007 and 2008~~ calendar year 2014, the amount of the Health Care Fund contribution shall be ~~$ 91.25~~ $119.12 for each full-time equivalent employee in excess of ~~eight~~ four. For each ~~fiscal~~ calendar year after ~~fiscal year 2008, the number of excluded full-time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and~~ calendar year 2014, the amount of the Health Care Fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

* * * Reports * * *

Sec. 14. CHRONIC CARE MANAGEMENT; BLUEPRINT; REPORT

On or before October 1, 2014, the Secretary of Administration or designee shall report to the House Committees on Health Care and on Human Services, the Senate Committees on Health and Welfare and on Finance, and the Health

Care Oversight Committee regarding the efficacy of the chronic care management initiatives currently in effect in Vermont, including recommendations about whether and to what extent to increase payments to health care providers and community health teams for their participation in the Blueprint for Health and whether to expand the Blueprint to include additional chronic conditions such as obesity, mental conditions, and oral health.

Sec. 15. HEALTH INSURER SURPLUS; LEGAL CONSIDERATIONS; REPORT

The Department of Financial Regulation, in consultation with the Office of the Attorney General, shall identify the legal and financial considerations involved in the event that a private health insurer offering major medical insurance plans, whether for-profit or nonprofit, ceases doing business in this State, including appropriate disposition of the insurer's surplus funds. On or before July 15, 2014, the Department shall report its findings to the House Committees on Commerce and on Ways and Means, the Senate Committee on Finance, and the Health Care Oversight Committee.

Sec. 16. BENCHMARK-EQUIVALENT HEALTH CARE COVERAGE

On or before October 1, 2014, the Secretary of Administration or designee shall provide the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee with a recommendation regarding whether it should be the policy of the State of Vermont that all Vermont residents should have health care coverage in effect prior to implementation of Green Mountain Care that is substantially equivalent to coverage available under the benchmark plan for the Vermont Health Benefit Exchange. If the Secretary or designee reports that substantially equivalent coverage for all Vermonters should be the policy of the State, the Secretary or designee shall propose ways to achieve this goal.

Sec. 17. TRANSITION PLAN FOR PUBLIC EMPLOYEES

The Secretary of Education and the Commissioner of Human Resources, in consultation with the Vermont State Employees' Association, the Vermont League of Cities and Towns, Vermont–NEA, AFT Vermont, and other interested stakeholders, shall develop a plan for transitioning public employees from their existing health insurance plans to Green Mountain Care or another common risk pool, with the goal that all State employees, municipal employees, public school employees, and other persons employed by the State or an instrumentality of the State shall be enrolled in Green Mountain Care upon implementation, which is currently targeted for 2017, or in a common risk pool. The Secretary and Commissioner shall address the role of collective bargaining on the transition process and shall propose methods to mitigate the

impact of the transition on employees' health care coverage and on their total compensation.

Sec. 18. FINANCIAL IMPACT OF HEALTH CARE REFORM INITIATIVES

(a) The Secretary of Administration or designee shall consult with the Joint Fiscal Office in developing and selecting data, assumptions, analytic models, and other work related to the following:

(1) the cost of Green Mountain Care, the universal and unified health care system established in 33 V.S.A. chapter 18, subchapter 2;

(2) the distribution of health care spending by individuals, businesses, and municipalities, including comparing the distribution of spending by individuals by income class with the distribution of other taxes; and

(3) the costs of and savings from current health care reform initiatives.

(b) The Secretary or designee and the Joint Fiscal Committee shall explore ways to collaborate on the estimates required pursuant to subsection (a) of this section and may contract jointly, to the extent feasible, in order to utilize the same analytic models, data, or other resources.

(c) On or before December 1, 2014, the Secretary of Administration shall present his or her analysis to the General Assembly. On or before January 15, 2015, the Joint Fiscal Office shall evaluate the analysis and indicate areas of agreement and disagreement with the data, assumptions, and results.

Sec. 19. PHARMACY BENEFIT MANAGEMENT

On or before October 1, 2014, the Secretary of Administration or designee shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee regarding the feasibility and benefits to the State of Vermont of the State acting as its own pharmacy benefit manager for the State employees' health benefit plan, Vermont's Medicaid program, Green Mountain Care, and any other health care plan financed or administered in whole or in part by the State.

Sec. 20. INDEPENDENT PHYSICIAN PRACTICES; REPORT

On or before December 1, 2014, the Secretary of Administration or designee shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the policy of the State of Vermont with respect to independent physician practices, including whether the State wishes to encourage existing physician practices to remain independent and whether the State wishes to encourage new independent physician practices to open, and, if it is the policy of the State to encourage

these independent physician practices, recommending ways to increase the number of these practices in Vermont. The Secretary or designee shall also consider whether the State should prohibit health insurers from reimbursing physicians in independent practices at lower rates than those at which they reimburse physicians in hospital-owned practices for providing the same services.

Sec. 21. HEALTH INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY; REPORT

On or before October 1, 2014, the Office of the Attorney General, in consultation with the Vermont Information Technology Leaders, shall report to the House Committees on Health Care, on Commerce and Economic Development, and on Ways and Means and the Senate Committees on Health and Welfare, on Economic Development, Housing and General Affairs, and on Finance regarding the need for intellectual property protection with respect to Vermont's Health Information Exchange and other health information technology initiatives, including the potential for receiving patent, copyright, or trademark protection for health information technology functions, the estimated costs of obtaining intellectual property protection, and projected revenues to the State from protecting intellectual property assets or licensing protected interests to third parties.

* * * Effective Date * * *

Sec. 22. EFFECTIVE DATE

This act shall take effect on passage, except that the amendments in Sec. 12 to 21 V.S.A. § 2002 shall apply beginning in the first quarter of fiscal year 2015.

(Committee vote: 6-0-1)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Patti Pallito of Richmond – Member of the State Police Advisory Commission – By Sen. French for the Committee on Government Operations. (2/19/14)

Shirley A. Jefferson of South Royalton – Member of the State Police Advisory Commission – By Sen. McAllister for the Committee on Government Operations. (2/19/14)

Glenn Boyde of Colchester – Member of the State Police Advisory Commission – By Sen. Pollina for the Committee on Government Operations. (2/19/14)

Lisa Gosselin of Stowe – Commissioner of the Department of Economic Development – By Sen. Doyle for the Committee on Economic Development, Housing and General Affairs. (3/12/14)

Deborah Granquist of Weston – Member of the Board of Libraries – By Sen. McCormack for the Committee on Education. (3/18/14)

Brian Vachon of Montpelier – Member of the Community High School of Vermont Board – By Sen. Collins for the Committee on Education. (3/18/14)

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 14, 2014**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate** bills referred pursuant to Senate Rule 31 to the Committees on Appropriations and Finance must be reported out by the last of those committees on or before **Friday, March 21, 2014**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

These deadlines may be waived for any bill or committee only with the consent of the Committee on Rules.

Note: The deadlines were determined by the Joint Rules Committee. The Senate will not act on House bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations "Big Bill", Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).