Journal of the Senate

WEDNESDAY, MARCH 26, 2014

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mark Pitton of Montpelier.

Message from the House No. 36

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 728. An act relating to developmental services' system of care.

H. 791. An act relating to the Housing First Study Committee.

H. 869. An act relating to miscellaneous agricultural subjects.

H. 871. An act relating to miscellaneous pension changes.

H. 877. An act relating to repeal of report requirements that are at least five years old.

H. 879. An act relating to administrative hearing officers.

In the passage of which the concurrence of the Senate is requested.

Joint Senate Resolutions Adopted on the Part of the Senate

Joint Senate resolutions of the following titles were severally offered, read and adopted on the part of the Senate, and are as follows:

By Senator Campbell,

J.R.S. 51. Joint resolution providing for a Joint Assembly for the election of a successor legislative Trustee of the University of Vermont and State Agricultural College to fill the vacancy created by the resignation of Representative Sarah E. Buxton of Tunbridge.

Whereas, the recent resignation of Representative Sarah E. Buxton of Tunbridge has created a vacancy on the Trustees of the University of Vermont and State Agricultural College, and

Whereas, the term of office for this vacant position commenced on February 20, 2014 and will expire on February 28, 2019, and

Whereas, this General Assembly has an obligation to fill this vacant position as prescribed by statute, now therefore be it

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES:

That the two Houses meet in Joint Assembly on Thursday, April 10, 2014, at ten o'clock and thirty minutes in the forenoon to elect a successor legislative Trustee of the University of Vermont and State Agricultural College to fill the unexpired term of Representative Sarah E. Buxton, which term commenced on March 1, 2013 and will expire on February 28, 2019, such vacancy having resulted from the resignation of Representative Sarah E. Buxton. In case election of this successor Trustee shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election until this successor Trustee is elected.

By Senator Campbell,

J.R.S. 52. Joint resolution establishing a procedure for the conduct of the election of a UVM trustee by plurality vote by the General Assembly in 2014.

Whereas, in 2001 and subsequent bienniums the elections of one trustees of the University of Vermont and State Agricultural College were decided by plurality vote, each of which required one ballot only, and

Whereas, if an election for a vacancy is decided by a plurality vote, then a great savings of time may be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of a replacement trustee of the University of Vermont and State Agricultural College at a Joint Assembly to be held on April 10, 2014, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be one.

(2) The candidate receiving the most votes shall be declared elected to fill the vacancy.

(3) In the event that the first balloting for the Trustee vacancy results in a tie vote, then voting shall continue on successive ballots until the vacancy has been filled, again by election declared of the candidate receiving the most votes.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 728.

An act relating to developmental services' system of care.

To the Committee on Health and Welfare.

H. 791.

An act relating to the Housing First Study Committee.

To the Committee on Economic Development, Housing and General Affairs.

H. 869.

An act relating to miscellaneous agricultural subjects.

To the Committee on Agriculture.

H. 871.

An act relating to miscellaneous pension changes.

To the Committee on Government Operations.

H. 877.

An act relating to repeal of report requirements that are at least five years old.

To the Committee on Rules.

H. 879.

An act relating to administrative hearing officers.

To the Committee on Rules.

Bill Amended; Third Reading Ordered

H. 609.

Senator Bray, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to terminating propane service.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Bray moved that the bill be amended as follows:

First: In Sec. 1, 9 V.S.A. § 2461b (a)(1)(C)(i), by striking out the word "a" and inserting in lieu thereof the word its

Second: In Sec. 1, 9 V.S.A. § 2461b (a)(1)(C)(ii), after the semicolon, by inserting the word or

Third: In Sec. 1, 9 V.S.A. § 2461b, by striking out subdivision (a)(1)(C)(iii) in its entirety and by renumbering the remaining subdivision to be numerically correct.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 441.

Senator Nitka, for the Committee on Judiciary, to which was referred House bill entitled:

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

Reported recommending that the Senate propose to the House to amend the bill in Sec. 6, by striking out the following: "July 1, 2013" and inserting in lieu thereof the following: July 1, 2014

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

Bill Passed in Concurrence

H. 577.

House bill of the following title was read the third time and passed in concurrence:

An act relating to ski tramways.

Bill Amended; Third Reading Ordered

S. 208.

Senator Hartwell, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to solid waste management.

Reported recommending 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.

And that when so amended the bill ought to pass.

Senator Galbraith, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Senator Snelling, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Hartwell moved to amend the recommendation of the Committee on Natural Resources and Energy as follows:

First: In Sec. 6, 10 V.S.A. § 6618, in subsection (a), by striking out the following: "90" where it appears in the fifth sentence, and by inserting in lieu thereof the following: 86

Second: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. AGENCY OF NATURAL RESOURCES REPORT ON SOLID WASTE GOVERNANCE

(a) On or before December 15, 2014, the Secretary of Natural Resources shall submit to the Senate and House Committees on Natural Resources and Energy a report recommending the most efficient and cost-effective solid waste management governance system for the implementation of 2012 Acts and Resolves No. 148. The report shall include:

(1) a summary of the costs and benefits of requiring municipalities to join a solid waste management district; and

(2) whether or not consolidation of solid waste management districts is necessary to accomplish the objectives of 2012 Acts and Resolves No. 148.

(b) Before submitting the report required under subsection (a) of this section, the Secretary of Natural Resources shall convene at least two meetings of interested parties to collect input regarding the recommendation required under the report.

Third: In Sec. 11, 24 V.S.A. § 2202b, by striking out subsection (a) up to the first colon and inserting in lieu thereof the following to read:

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

and in subdivisions (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6), by striking out "solid waste district" each time it appears and inserting in lieu thereof municipality

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Natural Resources and Energy, as amended, was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 218.

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to temporary employees.

Reported recommending 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.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported 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.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 220.

Senator Mullin, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

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 recommending 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.

And that when so amended the bill ought to pass.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending 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 Secs. 4 and 7 in their entirety.

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

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

Fourth: In Sec. 14, in 10 V.S.A. § 238, by striking out the words "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 of the bill that 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.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending 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 as follows:

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, may 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 as follows:

(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: In Sec. 25, in 16 V.S.A. § 2888(f), in subdivision (1), by striking out the following: "The Secretary may draw warrants for disbursements from the Fund in anticipation of receipts."

Fourth: By striking out Sec. 26 in its entirety and inserting in lieu thereof two new sections to be numbered Secs. 26–27 to read as follows:

Sec. 26. VERMONT STRONG INTERIM REPORT

On or before November 1, 2014, the Secretary of Commerce and Community Development shall report to the Joint Fiscal Committee on the organizational and economic details of the Vermont Strong Scholars Program, and specifically on the majors selected for forgiveness and the projected annual cost, the proposed funding source, and the projected fund balance for each fiscal year through fiscal year 2018.

Sec. 27. EFFECTIVE DATES

This act shall take effect on July 1, 2014, except that 16 V.S.A. § 2888(d) in Sec. 25 shall take effect on July 1, 2015.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Finance.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and

General Affairs, as amended?, the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs, as amended was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, Senator Hartwell moved to amend the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs, as amended as follows:

First: By striking out Sec. 16 (definitions; industrial park) in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

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, and no office use except that which is incidental or secondary to an industrial use.

Second: In Sec. 18, 10 V.S.A. § 6093(a)(4) (primary agricultural soils; industrial parks), by striking out subdivision (B) in its entirety and inserting in lieu thereof a new subdivision (B) to read as follows:

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

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was decided in the affirmative.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Mullin moved to amend the bill by adding a new section to be numbered Sec. 25a to read as follows:

Sec. 25a. VERMONT PRODUCTS PROGRAM; STUDY; REPORT

(a) On or before September 1, 2015, the Agency of Commerce and Community Development, after consulting with appropriate stakeholders, shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development on creating a Vermont Products Program for the purpose of providing Vermont businesses with a means of promoting and marketing products and services that are manufactured, designed, engineered, or formulated in Vermont and avoiding confusion by consumers when the Vermont brand is used in marketing products or services.

(b) The report required by this section shall describe the method, feasibility, and cost of creating a Vermont Products Program that includes the following elements:

(1) The program shall include a licensing system that enables qualifying persons to make marketing claims concerning significant business activities occurring in Vermont, and to self-certify products and services that are manufactured, designed, engineered, or formulated in Vermont. Under this system, the Secretary shall identify and craft branding and marketing guidelines that concern whether and how qualifying products or services manufactured, designed, engineered, or formulated in Vermont can be properly claimed so as to be licensed. The licensing system shall permit an applicant to self-certify compliance with designated criteria and attest to the accuracy of claims authorized by the Secretary in order to obtain a license to advertise and promote a product or service using the licensed materials.

(2) The program may charge an annual fee for the issuance of the license.

(3) The program shall include an on-line application process that permits an applicant to obtain the license if he or she certifies compliance with criteria designated by the Secretary, attests to the accuracy of statements designated by the Secretary, and pays the required fee.

(4) Licenses issued under the program shall include a provision requiring that disputes regarding the license be resolved by alternative dispute resolution. A person who objects to the issuance of a license may file a complaint with the Secretary, who shall refer it for alternative dispute resolution as provided in the license.

(5) A special fund, comprising license fees and any monies appropriated by the General Assembly, may be created for the administration and advertising of the program.

(c) The report required by this section shall include a recommendation as to whether the Vermont Products Program should replace the rules regarding Vermont Origin adopted by the Attorney General.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Ashe, Bray, French, Lyons, MacDonald, Mullin, Pollina, and White move to amend the bill as follows:

First: By adding a new section to be numbered Sec. 25 to read as follows:

Sec. 25. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any other provision of law to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer for purposes established by the Treasurer's Local Investment Advisory Committee.

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

Second: By adding a new section to be numbered Sec. 26 to read as follows:

Sec. 26. TREASURER'S LOCAL INVESTMENT ADVISORY COMMITTEE; REPORT

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee (Advisory Committee) is established to advise the Treasurer on funding priorities and address other mechanisms to increase local investment.

(b) Membership.

(1) The Advisory Committee shall be composed of six members as follows:

(A) the State Treasurer or designee;

(B) the Chief Executive Officer of the Vermont Economic Development Authority or designee;

(C) the Chief Executive Officer of the Vermont Student Assistance Corporation or designee;

(D) the Executive Director of the Vermont Housing Finance Agency or designee;

(E) the Director of the Municipal Bond Bank or designee; and

(F) the Director of Efficiency Vermont or designee.

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

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

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

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

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

(d) Meetings. The Advisory Committee shall meet no more than six times per calendar year. The meetings shall be convened by the State Treasurer.

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

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

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

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

(f) It is the intent of the General Assembly that the Advisory Committee report described in subsection (e) of this section that is due on or before January 15, 2015 shall include a recommendation on whether to grant statutory authority to the Vermont Economic Development Authority to engage in banking activities.

And by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 28, Nays 2.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: McAllister, Snelling.

Bill Amended; Third Reading Ordered

S. 225.

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to early retirement allowance.

Reported recommending 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.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Appropriations, to which the bill was referred, reported 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 of the bill that 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."

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 239.

Senator Lyons, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to the regulation of toxic substances.

Reported recommending 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.

And that when so amended the bill ought to pass.

Senator Bray, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred, reported recommending 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.

And that when so amended the bill ought to pass.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending 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.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Appropriations, to which the bill was referred, reported the same without recommendation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the question, Shall the report of the Committee on Health and Welfare, as amended? be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Mullin requested and was granted leave to withdraw the report of the Committee on Economic Development, Housing and General Affairs.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended?, was agreed to on a roll call, Yeas 18, Nays 12.

Senator Lyons having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Bray, Campbell, Collins, Cummings, Doyle, French, Galbraith, Lyons, MacDonald, McCormack, Mullin, Pollina, Sirotkin, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, Hartwell, Kitchel, Mazza, McAllister, Nitka, Rodgers, Sears, Snelling, Starr, Westman.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 18, Nays 12.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Bray, Campbell, Collins, Cummings, Doyle, French, Galbraith, Lyons, MacDonald, McCormack, Mullin, Pollina, Sirotkin, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, Hartwell, Kitchel, Mazza, McAllister, Nitka, Rodgers, Sears, Snelling, Starr, Westman.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, March 27, 2014.