Journal of the Senate

THURSDAY, MAY 1, 2014

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 59

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. 892. An act relating to approval of the adoption and the codification of the charter of the Central Vermont Public Safety Authority.

H. 893. An act relating to approval of the adoption and the codification of the charter of the North Branch Fire District No. 1.

H. 894. An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier.

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

The House has considered a bill originating in the Senate of the following title:

S. 234. An act relating to Medicaid coverage for home telemonitoring services.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 57. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The House has considered Senate proposals of amendment to the following House bills:

H. 260. An act relating to electronic insurance notices and credit for reinsurance.

H. 863. An act relating to a Public Records Act exemption for the identity of whistleblowers.

H. 874. An act relating to consent for admission to hospice care and for DNR/COLST orders.

H. 875. An act relating to fines for driving with license suspended.

And has severally concurred therein.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 483. An act relating to adopting revisions to Article 9 of the Uniform Commercial Code.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 86. An act relating to miscellaneous changes to election laws.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Martin of Wolcott
Rep. Hubert of Milton
Rep. Consejo of Sheldon.

Message from the House No. 60

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 considered bills originating in the Senate of the following titles:

S. 208. An act relating to solid waste management.

S. 220. An act relating to furthering economic development.

S. 239. An act relating to the regulation of toxic substances.

S. 241. An act relating to binding arbitration for State employees.

S. 291. An act relating to the establishment of transition units at State correctional facilities.

S. 293. An act relating to reporting on population-level outcomes and indicators and on program-level performance measures.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill entitled:

H. 699. An act relating to temporary housing.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Mrowicki of Putney
Rep. McFaun of Barre Town
Rep. Batchelor of Derby.

Recess

On motion of Senator Baruth the Senate recessed until eleven o'clock in the morning.

Called to Order

The Senate was called to order by the President.

Bills Referred to Committee on Finance

House bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

H. 590. An act relating to the safety and regulation of dams.

H. 876. An act relating to making miscellaneous amendments and technical corrections to education laws.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

H. 645. An act relating to workers' compensation.

H. 646. An act relating to unemployment insurance.

Bills Referred

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

H. 892.

An act relating to approval of the adoption and the codification of the charter of the Central Vermont Public Safety Authority.

To the Committee on Rules.

H. 893.

An act relating to approval of the adoption and the codification of the charter of the North Branch Fire District No. 1.

To the Committee on Rules.

H. 894.

An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier.

To the Committee on Rules.

House Proposal of Amendment Concurred In with Amendment

S. 211.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

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

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

§ 1979. HOLDING TANKS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * Municipal Water Connection Certification * * *

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

§ 1976. DELEGATION OF AUTHORITY TO MUNICIPALITIES

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

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

(B) has hired, appointed, or retained on contract, or will hire, appoint, or retain on contract, a licensed designer to perform technical work which must be done by a municipality under this section to grant permits;

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

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

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

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

* * *

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

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

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

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

Sec. 3. WASTEWATER RULES; AMENDMENT

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

Sec. 4. MUNICIPAL WATER CONNECTION PERMIT DELEGATION REPORT

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

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

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

(3) a recommendation for whether to continue to exempt municipalities from the requirements of 10 V.S.A. § 1964(a) when permitting authority is partially delegated under 10 V.S.A. § 1964(g).

* * * Effective Date * * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Rodgers moved that the Senate concur in the House proposal of amendment with further amendment thereto by striking out Secs. 2, 3, 4, and 5 and all reader's guides in their entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Which was agreed to.

Bill Passed in Concurrence with Proposal of Amendment

H. 88.

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

An act relating to parental rights and responsibilities involving a child conceived as a result of a sexual assault.

Bill Passed in Concurrence

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

H. 681. An act relating to the professional regulation for veterans, military service members, and military spouses .

House Proposal of Amendment Concurred In

S. 275.

House proposal of amendment to Senate bill entitled:

An act relating to the Court's jurisdiction over youthful offenders.

Was taken up.

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

Sec. 1. YOUTHFUL OFFENDERS; LEGISLATIVE INTENT

The maximum age at which a person may be treated as a youthful offender varies under two different statutes under 33 V.S.A. chapters 51 and 52. A person may be treated as a youthful offender until the person reaches 22 years of age under 33 V.S.A. § 5104(a); however, in some circumstances, a person may be treated as a youthful offender until the person reaches 23 years of age under 33 V.S.A. § 5204a(b)(2)(A). This distinction is intentional.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 823.

House bill entitled:

An act relating to encouraging growth in designated centers and protecting natural resources.

Was taken up.

Thereupon, pending third reading of the bill, Senators Snelling and Galbraith moved to amend the Senate proposal of amendment by in the *third* proposal of amendment in Sec. 2, 10 V.S.A. § 6086, in subdivision (a)(5), by

striking out subdivision (B) and inserting in lieu thereof a new subdivision (B) to read as follows:

(B) Will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services, unless the District Commission affirmatively finds that such a strategy, access, or connection does not constitute a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.

Which was disagreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Passed in Concurrence with Proposal of Amendment

H. 864.

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

An act relating to capital construction and State bonding budget adjustment.

Proposal of Amendment; Third Reading Ordered

H. 882.

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

An act relating to compensation for certain State employees.

Reported that the bill ought to pass in concurrence.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Pollina moved that the Senate propose to the House to amend the bill as follows:

First: In Sec. 9 (Pay Act appropriations), in subsection (a) (Executive Branch), at the end of the introductory paragraph following "; and salary increases for" by striking out the following: "classified employees not in a bargaining unit and exempt employees" and inserting in lieu thereof the

following: employees in the Executive Branch not covered by the bargaining agreements

Second: In Sec. 9, in subsection (b) (Judicial Branch), in subdivision (2), at the end of the introductory paragraph following "June 30, 2016 and salary increases for" by striking out the following: "exempt employees" and inserting in lieu thereof the following: employees in the Judicial Branch not covered by the bargaining agreements

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 612.

Senator Ashe, for the Committee on Finance, to which was referred House bill entitled:

An act relating to Gas Pipeline Safety Program penalties.

Reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 2 in its entirety and by inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. GAS PIPELINE SAFETY RULES; BEST PRACTICES

The Public Service Board shall review and consider amending Board Rule 6.100 (Enforcement of Safety Regulations Pertaining to Intrastate Gas Pipelines and Transportation Facilities) to include additional measures or best practices, if any, that exceed the minimum federal safety standards, provided the Board determines such measures or practices are appropriate for Vermont.

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, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered

H. 735.

Senator Ashe, for the Committee on Finance, to which was referred House bill entitled:

An act relating to Executive Branch and Judiciary fees.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, after the words "selling lottery tickets" by inserting the words at the time the person is first granted a license

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

Sec. 6. 22 V.S.A. § 724 is amended to read:

§ 724. HISTORIC PRESERVATION SPECIAL FUNDS

* * *

(b) Archeology ~~operations special fund~~ Operations Special Fund. The ~~archeology operations special fund~~ Archeology Operations Special Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of Title 32~~ to be used by the ~~division for historic preservation~~ Division for Historic Preservation for cost recovery related to activities undertaken by the ~~division~~ Division to carry out the provisions of sections 723, 761, and 762 of this title. Revenues to the ~~fund~~ Fund shall be from the following sources:

* * *

(2) A ~~$400.00~~ $500.00 one-time fee for each ~~standard banker box~~ archival box (standard banker box size) of archeological collection for the care and maintenance of such materials ~~for~~ at the Vermont Archeological Heritage Center in perpetuity paid by any person involved in a federally or State funded, licensed, ~~or~~ permitted, or approved project. This fee shall be paid on a pro rata basis for one-half and one-quarter boxes.

* * *

Third: In Sec. 9, in subsection (f), by striking out the following: "$50.00" and inserting in lieu thereof the following: $60.00

Fourth: In Sec. 9, in subsection (g), by striking out the following: "$10.00" both times it appears and inserting in lieu thereof the following $15.00 both times

Fifth: In Sec. 11, by striking out the following: "$100.00" and inserting in lieu thereof the following: $150.00

Sixth: In Sec. 14, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license $ 70.00

(2) Biennial renewal of license

(A) Funeral director	~~$ 300.00~~	$ 350.00
(B) Embalmer	~~$ 300.00~~	$ 350.00
(C) Funeral establishment	~~$ 540.00~~	$ 650.00
(D) Crematory establishment	~~$ 540.00~~	$ 650.00
(E) Crematory personnel		$ 85.00
(F) Removal personnel	~~$ 85.00~~	$ 125.00
(G) Limited services establishment license		$ 540.00

Seventh: In Sec. 18, subdivision (a)(3), after the word "Biennial" by inserting the words brokerage firm or branch office and striking out the words "of corporation or partnership"

Eighth: By adding a new section to be numbered Sec.18a to read as follows:

* * * Psychologists * * *

Sec. 18a. 26 V.S.A. § 3010 is amended to read:

§ 3010. FEES; LICENSES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license	$175.00
(2) Biennial renewal of license	$150.00
~~(3) Psychological trainee registration~~	~~$ 75.00~~
~~(4) Biennial renewal of trainee registration~~	~~$ 90.00~~

Ninth: By striking out Sec. 20 in its entirety and inserting in lieu thereof a new Sec. 20 to read as follows:

Sec. 20. 20 V.S.A. § 2307 is added to read:

§ 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM ABUSE ORDER; STORAGE; FEES; RETURN

(a) As used in this section:

(1) "Federally licensed firearms dealer" means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under 18 U.S.C. § 922(t).

(2) "Firearm" shall have the same meaning as in 18 U.S.C. § 921(a)(3).

(3) "Law enforcement agency" means the Vermont State Police, a municipal police department, or a sheriff's department.

(b)(1) A person who is required to relinquish firearms, ammunition, or other weapons in the person's possession by a court order issued under 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8) shall, unless the Court orders an alternative relinquishment pursuant to subdivision (2) of this subsection, upon service of the order immediately relinquish the firearms, ammunition, or weapons to a cooperating law enforcement agency or an approved federally licensed firearms dealer. As used in this subdivision, "person" means anyone who meets the definition of "intimate partner" under 18 U.S.C. § 921(a)(32) or who qualifies as a family or household member under 15 V.S.A. § 1101.

(2)(A) The Court may order that the person relinquish the firearms, ammunition, or other weapons to a person other than a cooperating law enforcement agency or an approved federally licensed firearms dealer unless the Court finds that relinquishment to the other person will not adequately protect the safety of the victim.

(B) A person to whom firearms, ammunition, or other weapons are relinquished pursuant to subdivision (2)(A) of this subsection (b) shall execute an affidavit on a form approved by the Court Administrator stating that the person:

(i) acknowledges receipt of the firearms, ammunition, or other weapons;

(ii) assumes responsibility for storage of the firearms, ammunition, or other weapons until further order of the Court;

(iii) is not prohibited from owning or possessing firearms under State or federal law; and

(iv) understands the obligations and requirements of the Court order, including the potential for the person to be subject to civil contempt proceedings pursuant to this subdivision (2)(A) of this subsection (b) if the person permits the firearms, ammunition, or other weapons to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(C) A person to whom firearms, ammunition, or other weapons are relinquished pursuant to this subdivision (2)(A) of this subsection (b) shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits the firearms, ammunition, or other weapons to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(c) A law enforcement agency or an approved federally licensed firearms dealer that takes possession of a firearm, ammunition, or other weapon pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant to subdivision (i)(3) of this section. A firearm, ammunition, or other weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.

(d) Fees.

(1) A law enforcement agency that stores firearms, ammunition, or weapons pursuant to subdivision (b)(1) of this section may charge the owner a reasonable storage fee, not to exceed:

(A) $200.00 for the first firearm or weapon, and $50.00 for each additional firearm or weapon for up to 15 months, prorated on the number of months the items are stored; and

(B) $50.00 per firearm or weapon per year for each year or part thereof thereafter.

(2) A federally licensed firearms dealer that stores firearms, ammunition, or weapons pursuant to subdivision (b)(1) of this section may charge the owner a storage fee that is reasonably related to the expenses it incurs in the administration of this section. Any federally licensed firearm dealer that certifies compliance under this section shall provide a copy of its fee schedule to the Court.

(3) Fees permitted by this subsection shall not begin to accrue until after the Court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

(e) Nothing in this section shall be construed to prohibit the lawful sale of firearms or other items.

(f) A final relief from abuse order issued pursuant to 15 V.S.A. § 1103 requiring a person to relinquish firearms, ammunition, or other weapons shall direct the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of the items under subsection (b) of this section to release them to the owner upon expiration of the order if all applicable fees have been paid.

(g)(1) A law enforcement agency, an approved federally licensed firearms dealer, or any other person that takes possession of firearms, ammunition, or weapons for storage purposes pursuant to this section shall not release the items to the owner without a court order unless the items are to be sold pursuant to subdivision (2)(A) of this subsection. If a court orders the release

of firearms, ammunition, or weapons stored under this section, the law enforcement agency or firearms dealer in possession of the items shall make them available to the owner within three business days of receipt of the order and in a manner consistent with federal law. The Supreme Court may promulgate rules under 12 V.S.A. § 1 for judicial proceedings under this subsection.

(2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or weapon and pay the applicable storage fee within 90 days of the court order releasing the items, the firearm, ammunition, or weapon may be sold for fair market value. Title to the items shall pass to the law enforcement agency or firearms dealer for the purpose of transferring ownership.

(ii) The law enforcement agency or approved firearms dealer shall make a reasonable effort to notify the owner of the sale before it occurs. In no event shall the sale occur until after the Court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

(iii) As used in this subdivision (2)(A), "reasonable effort" shall include providing notice to the owner at least 21 days prior to the date of the sale pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

(B) Proceeds from the sale of a firearm, ammunition, or weapon pursuant to subdivision (A) of this subdivision (2) shall be apportioned as follows:

(i) unpaid storage fees and associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or firearms dealer that incurred the cost; and

(ii) any proceeds remaining after payment is made to the law enforcement agency or firearms dealer pursuant to subdivision (i) of this subdivision (2)(B) shall be paid to the original owner.

(h) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms, ammunition, or weapons stored or transported pursuant to subsection (c) of this section. This subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(i) The Department of Public Safety shall be responsible for the implementation and establishment of standards and guidelines to carry out this section. To carry out this responsibility, the Department shall:

(1) Establish minimum standards to be a qualified storage location and maintain a list of qualified storage locations, including:

(A) federally licensed firearms dealers that annually certify compliance with the Department's standards to receive firearms, ammunition, or other weapons pursuant to subdivision (b)(2) of this section; and

(B) cooperating law enforcement agencies.

(2) Establish a fee schedule consistent with the fees established in this section for the storage of firearms and other weapons by law enforcement agencies pursuant to this section.

(3) Establish standards and guidelines to provide for the storage of firearms, ammunition, and other weapons pursuant to this section by law enforcement agencies. Such guidelines shall provide that:

(A) with the consent of the law enforcement agency taking possession of a firearm, ammunition, or weapon under this section, an owner may provide a storage container for the storage of such relinquished items;

(B) the law enforcement agency that takes possession of the firearm, ammunition, or weapon may provide a storage container for the relinquished item or items at an additional fee; and

(C) the law enforcement agency that takes possession of the firearm, ammunition, or weapon shall present the owner with a receipt at the time of relinquishment which includes the serial number and identifying characteristics of the firearm, ammunition, or weapon and record the receipt of the item or items in a log to be established by the Department.

(4) Report on January 15, 2015 and annually thereafter to the House and Senate Committees on Judiciary on the status of the program.

Tenth: By striking out Sec. 21 in its entirety and inserting in lieu thereof a new Sec. 212 to read as follows:

* * * Dispatch Fees * * *

Sec. 21. UNIFORM DISPATCH FEES

The Commissioner of Public Safety shall propose specific dispatch service fee schedules for use under 20 V.S.A. § 1871(i) and, on or before January 15, 2015, report on the same to the House Committee on Ways and Means and the Senate Committee on Finance. Based on the Commissioner's report, uniform statewide fees for dispatch services provided by or under the direction of the Department of Public Safety shall be set by the General Assembly under the provisions of 32 V.S.A. § 603 on or before July 1, 2016. Fees collected by the Commissioner shall be reported in accordance with 32 V.S.A. § 605, and credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 or to another budgeted fund other than the General

Fund, and shall be available to the Department to offset the costs of collecting the amount owed.

Eleventh: In Sec. 23, subdivision (b)(6), by striking out the following: "$30.00" and inserting in lieu thereof ~~$30.00~~ $35.00.

Twelfth: By striking out Secs. 26–29 in their entirety and inserting in lieu thereof seven new sections to be Secs. 26–32 to read as follows:

* * * Vermont Web Portal * * *

Sec. 26. WEB PORTAL FEES; DEPARTMENT OF TAXES AND DEPARTMENT OF MOTOR VEHICLES

In accordance with the provisions of 22 V.S.A. § 953, the General Assembly hereby approves the three percent credit card fees proposed by the Web Portal Board, which were approved by the Governor, and for which legislative action has been requested by a member of the Joint Fiscal Committee, as follows:

(1) Legislative approval is for the Vermont Web Portal to assess to the taxpayer a three percent fee on credit card payment of tax bills to the Vermont Department of Taxes;

(2) Legislative approval is for the Vermont Web Portal Board to assess to the credit card holder a three percent fee on over-the-counter credit card payment of Department of Motor Vehicle fees at Department branch offices.

Sec. 27. REVIEW OF WEB PORTAL FEE; DEPARTMENT OF TAXES

Prior to July 1, 2016, the Web Portal Board shall consider any changes to the three percent fee on credit card payment of tax bills to the Vermont Department of Taxes authorized in Sec. 26 of this act, and, consistent with the provisions of 22 V.S.A. § 953(c), shall recommend any such proposed changes to the Joint Fiscal Committee.

* * * Dispensaries * * *

Sec. 28. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

* * *

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:

* * *

(4) A registration fee of $20,000.00 for the first year of operation, and an annual fee of ~~$30,000.00~~ $25,000.00 in subsequent years that do not require a biennial audit and $20,000.00 in subsequent years that require a biennial audit.

* * * Universal Service Fund; Prepaid Wireless Providers; Provider Assessment * * *

Sec. 29. 30 V.S.A. § 7521 is amended to read:

§ 7521. CHARGE IMPOSED; WHOLESALE EXEMPTION

(a) A universal service charge is imposed on all retail telecommunications service provided to a Vermont address. Where the location of a service and the location receiving the bill differ, the location of the service shall be used to determine whether the charge applies. The charge is imposed on the person purchasing the service, but shall be collected by the telecommunications provider. Each telecommunications service provider shall include in its tariffs filed at the ~~public service board~~ Public Service Board a description of its billing procedures for the universal service fund charge.

(b) The universal service charge shall not apply to wholesale transactions between telecommunications service providers where the service is a component part of a service provided to an end user. This exemption includes~~, but is not limited to,~~ network access charges and interconnection charges paid to a local exchange carrier.

(c) In the case of mobile telecommunications service, the universal service charge is imposed when the customer's place of primary use is in Vermont. The terms "customer," "place of primary use," and "mobile telecommunications service" have the meanings given in 4 U.S.C. § 124. All provisions of 32 V.S.A. § 9782 shall apply to the imposition of the universal service charge under this section.

(d)(1) Notwithstanding any other provision of law to the contrary, in the case of prepaid wireless telecommunications services, the universal service charge shall be imposed on the provider in the manner determined by the Public Service Board pursuant to subdivision (3) of this section.

(2) As used in this subsection, "prepaid wireless telecommunications service" means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use.

(3) The Public Service Board shall establish a formula to ensure the universal service charge imposed on prepaid wireless telecommunications

service providers reflects two percent of retail prepaid wireless telecommunications service in Vermont beginning on September 1, 2014.

Sec. 30. 30 V.S.A. § 7524 is amended to read:

§ 7524. PAYMENT TO FISCAL AGENT

(a) Telecommunications service providers shall pay to the fiscal agent all universal service charge receipts collected from customers. A report in a form approved by ~~the public service board~~ Public Service Board shall be included with each payment.

(b) Payments shall be made monthly, by the 15th day of the month, and shall be based upon amounts collected in the preceding month. If the amount is small, the ~~board~~ Board may allow payment to be made less frequently, and may permit payment on an accrual basis.

(c) Telecommunications service providers shall maintain records adequate to demonstrate compliance with the requirements of this chapter. The ~~board~~ Board or the fiscal agent may examine those records in a reasonable manner.

(d) When a payment is due under this section by a telecommunications service provider who has provided customer credits under the ~~lifeline~~ Lifeline program, the amount due may be reduced by the amount of credit granted.

(e) The fiscal agent shall examine the records of telecommunications service providers to determine whether their receipts reflect application of the universal service charge on all assessable telecommunications services under this chapter, including the federal subscriber line charge, directory assistance, enhanced services unless they are billed as separate line items, and toll-related services.

* * * Agency of Agriculture, Food and Markets * * *

Sec. 31. 6 V.S.A. § 3022 is amended to read:

§ 3022. ENFORCEMENT; INSPECTION

(a) The ~~secretary~~ Secretary shall enforce the provisions of this chapter. The ~~secretary~~ Secretary may~~, with the approval of the governor,~~ appoint or contract with one or more inspectors who shall also be authorized to inspect all apiaries and otherwise enforce the provisions of this chapter.

(b) ~~The secretary shall pay any such inspectors their salary and necessary expenses incurred in the performance of their duties from the moneys annually available to the agency~~ Any person who is the owner of any bees, apiary, colony, or hive shall pay a $10.00 annual registration fee for each location of hives. The fee revenue, together with any other funds appropriated to the Agency for this purpose, shall be collected by the Secretary and credited to the

Weights and Measures Testing fund to be used to offset the costs of inspection services and to provide educational services and technical assistance to beekeepers in the State.

* * * Effective Dates * * *

Sec. 32. EFFECTIVE DATES

(a) This section and Sec. 28 (dispensaries) shall take effect on passage.

(b) Sec. 31 (apiaries) shall take effect on July 1, 2015.

(c) All remaining sections shall take effect on July 1, 2014.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered on a roll call Yeas 23, Nays 6.

Senator Benning 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, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, McAllister, Mullin, Nitka, Westman.

The Senator absent and not voting was: White.

Proposal of Amendment; Consideration Interrupted by Adjournment

H. 884.

Senator Ashe, for the Committee on Finance, to which was referred House bill entitled:

An act relating to miscellaneous tax changes.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Technical and Administrative Provisions * * *

* * * Personal and Corporate Income Taxes * * *

Sec. 1. 32 V.S.A. § 5862d is amended to read:

§ 5862d. FILING OF FEDERAL FORM 1099

(a) Any individual or business required to file a federal form 1099 with respect to a nonresident who performed services within the State during the taxable year shall file a copy of the form with the Department. The Commissioner may authorize electronic filing of the form.

(b) Any individual or business required to file information returns pursuant to 26 U.S.C. § 6050W shall within 30 days of the date the filing is due to the Internal Revenue Service file with the Commissioner a duplicate of such information returns on which the recipient has a Vermont address. The Commissioner may authorize electronic filing of the form.

Sec. 2. 32 V.S.A. § 5862(c) is amended to read:

(c) Taxable corporations which received any income allocated or apportioned to this State under the provisions of section 5833 of this title for the taxable year and which under the laws of the United States constitute an affiliated group of corporations may elect to file a consolidated return in lieu of separate returns if such corporations qualify and elect to file a consolidated federal income tax return for that taxable year. Such an election to file a Vermont consolidated return shall continue for five years, including the year the election is made.

Sec. 3. 32 V.S.A. § 5862f is added to read:

§ 5862f. VERMONT GREEN UP CHECKOFF

(a) Returns filed by individuals shall include, on a form prescribed by the Commissioner of Taxes, an opportunity for the taxpayer to designate funds to Vermont Green Up, Inc.

(b) Amounts so designated shall be deducted from refunds due to, or overpayments made by, the designating taxpayers. All amounts so designated and deducted shall be deposited in an account by the Commissioner of Taxes for payment to Vermont Green Up, Inc. If at any time after the payment of amounts so designated to the account it is determined that the taxpayer was not entitled to all or any part of the amount so designated, the Commissioner may assess, and the account shall then pay to the Commissioner, the amount received, together with interest at the rate prescribed by section 3108 of this title, from the date the payment was made until the date of repayment.

(c) The Commissioner of Taxes shall explain to taxpayers the purposes of the account and how to contribute to it. The Commissioner shall make available to taxpayers the annual income and expense report of Vermont Green Up, Inc., and shall provide notice in the instructions for the State individual income tax return that the report is available at the Department of Taxes.

(d) If amounts paid with respect to a return are insufficient to cover both the amount owed on the return under this chapter and the amount designated by the taxpayer as a contribution to Vermont Green Up, Inc., the payment shall first be applied to the amount owed on the return under this chapter and the balance, if any, shall be deposited in the account.

(e) Nothing in this section shall be construed to require the Commissioner to collect any amount designated as a contribution to Vermont Green Up, Inc.

Sec. 4. 32 V.S.A. § 5930b(c)(9) is amended to read:

(9) Incentive claims must be filed annually no later than the last day of April of ~~each~~ the current year ~~of the~~ for the prior year's utilization period. For a claim to be considered a timely filing and eligible for an incentive payment, all forms and workbooks must be complete and all underlying documentation, such as that required pursuant to subsection 5842(c) of this title, must be filed with the Department of Taxes. Incomplete claims may be considered to have been timely filed if a complete claim is filed within the time prescribed by the Department of Taxes. If a claim is not filed each year of the utilization period, any incentive installment previously paid shall be recaptured in accordance with subsection (d) of this section and upon notice from the Department of Taxes that the business failed to file a complete timely claim, the Vermont Economic Progress Council shall revoke all authority for the business to earn and claim incentives under this subchapter. The incentive return shall be subject to all provisions of this chapter governing the filing of tax returns. No interest shall be paid by the Department of Taxes for any reason with respect to incentives allowed under this section.

Sec. 5. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2012~~ 2013, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 6. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States relating to federal estate and gift taxes as in effect on December 31, ~~2012~~ 2013, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) the credit for State death taxes shall remain as provided for under 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;

(2) the applicable credit amount shall under 26 U.S.C. § 2010 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were $2,750,000.00; and

(3) the deduction for State death taxes under 26 U.S.C. § 2058 shall not apply.

* * * Tax Increment Financing Districts * * *

Sec. 7. 2011 Acts and Resolves No. 45, Sec. 16 is amended to read:

Sec. 16. BURLINGTON TAX INCREMENT FINANCING

(a) Pursuant to ~~Sec. 83 of No. 54 of the Acts of the 2009 Adj. Sess. (2010)~~ 2010 Acts and Resolves No. 54, Sec. 83, the ~~joint fiscal committee~~ Joint Fiscal Committee approved a formula for the implementation of a payment to the ~~education fund~~ Education Fund in lieu of tax increment payments.

(b) The terms of the formula approved by the ~~joint fiscal committee~~ Joint Fiscal Committee are as follows:

(1) Beginning in the fiscal year in which there is the incurrence of new TIF debt, the ~~city~~ City will calculate and make an annual payment on December 10th to the ~~education fund~~ Education Fund each year until 2025. The April 1, 2010 grand list for the area encompassing the existing Waterfront TIF – excluding two parcels at 25 Cherry Street or the Marriott Hotel (SPAN#114-035-20755) and 41 Cherry Street – is the baseline to be used as the starting point for calculating the tax increment that will be divided 25 percent to the ~~state education fund~~ State Education Fund and 75 percent to the ~~city~~ City of Burlington. At the conclusion of the TIF in FY2025, any surplus tax increment funds will be returned to the ~~city~~ City of Burlington and ~~state education fund~~ State Education Fund in proportion to the relative municipal and education tax rates as clarified in a letter from Mayor Bob Kiss to the ~~chair of the joint fiscal committee~~ Chair of the Joint Fiscal Committee dated September 9, 2009.

(2) The formula for calculating the payment in lieu of tax increment is as follows: first, the difference between the grand list for the Waterfront TIF excluding the two hotel parcels from the fiscal year in which the payment is due and the April 1, 2010 grand list is calculated. Next, that amount is multiplied by the current education property tax rates to determine the increment subject to payment. Finally, this new increment is multiplied by 25 percent to derive the payment amount.

~~(3) The city of Burlington will prepare a report annually, beginning July 1, 2010, for both the joint fiscal committee and the department of taxes, which will contain:~~

~~(A) the calculation set out in subdivision (2) of this subsection;~~

~~(B) a listing of each parcel within the Waterfront TIF District and the 1996 original taxable value, 2010 extended base value, and the most recent values for all homestead and nonresidential property;~~

~~(C) a history of all of the TIF revenue and debt service payments; and~~

~~(D) details of new debt authorized, including repayment schedules.~~ [Repealed.]

Sec. 8. 24 V.S.A. § 1894(b) and (c) are amended to read:

(b) Use of the education property tax increment. For only debt ~~and related costs~~ incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, up to 75 percent of the education tax increment may be retained for up to 20 years, beginning with the education tax increment generated the year in which the first debt incurred for improvements financed in whole or in part with incremental education property tax revenue. Upon incurring the first debt, a municipality shall notify the Department of Taxes and the Vermont Economic Progress Council of the beginning of the 20-year retention period of education tax increment.

(c) Use of the municipal property tax increment. For only debt ~~and related costs~~ incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, not less than an equal share of the municipal tax increment pursuant to subsection (f) of this section shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

Sec. 9. 24 V.S.A. § 1894(e) is amended to read:

(e) Proportionality. The municipal legislative body may ~~pledge and appropriate~~ commit the State education and municipal tax increments received from properties contained within the tax increment financing district for the financing of improvements and for related costs only in the same proportion by which the improvement or related costs serve the district, as determined by the Council when approved in accordance with 32 V.S.A. § 5404a(h), and in the case of an improvement that does not reasonably lend itself to a proportionality formula, the Council shall apply a rough proportionality and rational nexus test.

Sec. 10. 24 V.S.A. § 1895 is amended to read:

§ 1895. ORIGINAL TAXABLE VALUE

As of the date the district is created, the lister or assessor for the municipality shall certify the original taxable value and shall certify to the legislative body in each year thereafter during the life of the district the amount by which the ~~original taxable value has increased or decreased and the proportion which any such increase bears to the total assessed valuation of the real property for that year or the proportion which any such decrease bears to the original taxable value~~ total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district has increased or decreased relative to the original taxable value.

Sec. 11. 24 V.S.A. § 1896(a) is amended to read:

(a) In each year following the creation of the district, the listers or assessor shall include no more than the original taxable value of the real property in the assessed valuation upon which the ~~listers or assessor~~ treasurer computes the rates of all taxes levied by the municipality~~, the school district,~~ and every other taxing district in which the tax increment financing district is situated; but the ~~listers or assessor~~ treasurer shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the municipality shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property in the district which the excess valuation bears to the total assessed valuation. The amount held apart each year is the "tax increment" for that year. No more than the percentages established pursuant to section 1894 of this subchapter of the municipal and ~~state~~ State education tax increments received with respect to the district and committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing account and in its official books and records until all capital indebtedness of the district has been fully paid. The final payment shall be reported to the ~~lister or assessor~~ treasurer, who shall thereafter include the entire assessed valuation of the district in the assessed valuations upon which municipal and other tax rates are computed and extended and ~~taxes are remitted to all taxing districts~~ thereafter no taxes from the district shall be deposited in the district's tax increment financing account.

Sec. 12. 24 V.S.A. § 1901(3) is amended to read:

(3) Annually:

(A) ~~include in the municipal audit cycle prescribed in section 1681 of this title a report of finances of~~ ensure that the tax increment financing district~~,~~ ~~including~~ account required by section 1896 of this subchapter is subject to the annual audit prescribed in section 1681 of this title. Procedures must include verification of the original taxable value and annual and total municipal and education tax increments generated, ~~annual and total expenditures on improvements and related costs, all indebtedness of the district, including the initial debt, interest rate, terms, and annual and total principal and interest payments, an accounting of revenue sources other than property tax revenue by type and dollar amount, and an accounting of the special account required by section 1896 of this subchapter, including revenue,~~ expenditures for debt and related costs, and current balance;

(B) on or before January 15 of each year, on a form prescribed by the Council, submit an annual report to the Vermont Economic Progress Council and the Department of Taxes, including the information required by subdivision (2) of this section if not already submitted during the year, all information required by subdivision (A) of this subdivision (3), and the information required by 32 V.S.A. § 5404a(i), including performance indicators and any other information required by the Council or the Department of Taxes.

Sec. 13. 32 V.S.A. § 5404a(j) is amended to read:

(j) Tax increment financing district rulemaking, oversight, and enforcement.

* * *

(2) Authority to issue decisions.

(A) The Secretary of Commerce and Community Development, after reasonable notice to a municipality and an opportunity for a hearing, is authorized to issue decisions to a municipality ~~regarding~~ on questions and inquiries ~~about~~ concerning the administration of tax increment financing districts, statutes, rules, noncompliance with 24 V.S.A. chapter 53, subchapter 5, and any instances of noncompliance identified in audit reports conducted pursuant to subsection (l) of this section.

(B) The Vermont Economic Progress Council shall prepare recommendations for the Secretary prior to the issuance of a decision. As appropriate, the Council may prepare such recommendations in consultation with the Commissioner of Taxes, the Attorney General, and the State Treasurer. In preparing recommendations, the Council shall provide a municipality with a reasonable opportunity to submit written information in support of its position. The Secretary shall review the recommendations of the

Council and issue a final written decision on each matter within 60 days of the ~~recommendation~~ receipt of the recommendations. However, pursuant to subdivision (5) of this subsection (j), the Secretary may permit an appeal to be taken by any party to a Superior Court for determination of questions of law in the same manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court before issuing a final decision.

* * *

Sec. 14. 32 V.S.A. § 5404a(l) is amended to read:

(l) The State Auditor of Accounts shall conduct performance audits of all tax increment financing districts according to a schedule, which will be arrived at in consultation with the Vermont Economic Progress Council. The cost of conducting each audit shall be considered a "related cost" as defined in 24 V.S.A. § 1891(6) and shall be billed back to the municipality. Audits conducted pursuant to this subsection shall include a review of a municipality's adherence to relevant statutes and rules adopted by the Vermont Economic Progress Council pursuant to subsection (j) of this section, an assessment of record keeping related to revenues and expenditures, and a validation of the portion of the tax increment retained by the municipality and used for debt repayment and the portion directed to the Education Fund.

(1) For municipalities with a district created prior to January 1, 2006 and a debt repayment schedule that anticipates retention of education increment beyond fiscal year 2016, an audit shall be conducted when approximately three-quarters of the period for retention of education increment has elapsed, and at the end of that same period, an audit shall be conducted for the final one-quarter period for retention of education increment, except that for the Milton Catamount/Husky district and the Burlington Waterfront district only a final audit shall be conducted to cover the period from the effective date of the rules pursuant to subdivision (j)(1) of this section to the end of the retention period.

(2) For municipalities with a district created after January 1, 2006 and approved by the Vermont Economic Progress Council, an audit shall be conducted ~~at the end of the 10-year period in which debt can be incurred and again approximately halfway through the 20-year period for retention of education increment; provided, however, that an audit shall occur no more than one time in a five-year period~~ five years after the first debt is incurred and a second audit seven years after completion of the first audit. A final audit will be conducted at the end of the period for retention of education increment.

* * * Property Taxes * * *

Sec. 15. 32 V.S.A. § 3436(b) is amended to read:

(b) The ~~director~~ Director shall ~~determine~~ establish designations recognizing levels of achievement and the necessary course work or evaluation of equivalent experience required ~~for~~ to attain each designation ~~as Vermont lister/assessor, Vermont property evaluator, and Vermont municipal assessor~~. Designation for any one level shall be for a period of three years.

Sec. 16. 32 V.S.A. § 5408(a) is amended to read:

(a) Not later than ~~30~~ 35 days after ~~the receipt by its clerk~~ mailing of a notice under section 5406 of this title, a municipality may petition the Director of the Division of Property Valuation and Review for a redetermination of the municipality's equalized education property value and coefficient of dispersion. Such petition shall be in writing and shall be signed by the chair of the legislative body of the municipality or its designee.

Sec. 17. 32 V.S.A. § 5410(g) is amended to read:

(g) If the property identified in a declaration under subsection (b) of this section is not the taxpayer's homestead, or if the owner of a homestead fails to declare a homestead as required under this section, the Commissioner shall notify the municipality, and the municipality shall issue a corrected tax bill that may, as determined by the governing body of the municipality, include a penalty of up to three percent of the education tax on the property. ~~If~~ However, if the property incorrectly declared as a homestead is located in a municipality that has a lower homestead tax rate than the nonresidential tax rate, ~~the penalty shall be an amount equal to eight percent of the education tax on the property, but if the homestead tax rate is higher than the nonresidential tax rate, the penalty shall be in an amount equal to three percent of the education tax on the property. If an undeclared homestead is located in a municipality that has a lower nonresidential tax rate than the homestead tax rate, the penalty shall be eight percent of the education tax liability on the property, but if the nonresidential tax rate is higher than the homestead tax rate, then the penalty shall be in an amount equal to three percent of the education tax on the property~~ or if an undeclared homestead is located in a municipality that has a lower nonresidential tax rate than the homestead tax rate, then the governing body of the municipality may include a penalty of up to eight percent of the education tax liability on the property. If the Commissioner determines that the declaration or failure to declare was with fraudulent intent, then the municipality shall assess the taxpayer a penalty in an amount equal to 100 percent of the education tax on the property; plus any interest and late-payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee

or commission shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title. Notwithstanding section 4772 of this title, issuance of a corrected bill issued under this section does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid current year interest or penalties and no past year delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

Sec. 18. 32 V.S.A. § 5410(i) is amended to read:

(i) An owner filing a new or corrected declaration, or rescinding an erroneous declaration, after ~~September 1~~ October 15 shall not be entitled to a refund resulting from the correct property classification; and any additional property tax and interest which would result from the correct classification shall not be assessed as tax and interest, but shall instead constitute an additional penalty, to be assessed and collected in the same manner as penalties under subsection (g) of this section. Any change in property classification under this subsection shall not be entered on the grand list.

Sec. 19. 32 V.S.A. § 6066a(f) is amended to read:

(f) Property tax bills.

(1) For taxpayers and amounts stated in the notice to towns on July 1, municipalities shall create and send to taxpayers a homestead property tax bill, instead of the bill required under subdivision 5402(b)(1) of this title, providing the total amount allocated to payment of homestead education property tax liabilities and notice of the balance due. Municipalities shall apply the amount allocated under this chapter to current-year property taxes in equal amounts to each of the taxpayers' property tax installments that include education taxes. Notwithstanding section 4772 of this title, if a town issues a corrected bill as a result of the November 1 notice sent by the Commissioner under subsection (a) of this section, issuance of such corrected new bill does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid current year interest or penalties and no past year delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

(2) For property tax adjustment amounts for which municipalities receive notice ~~on or~~ after November 1, municipalities shall issue a new homestead property tax bill with notice to the taxpayer of the total amount allocated to payment of homestead property tax liabilities and notice of the balance due.

(3) The property tax adjustment amount determined for the taxpayer shall be allocated first to current-year property tax on the homestead parcel, next to current-year homestead parcel penalties and interest, next to any prior year homestead parcel penalties and interest, and last to any prior year property tax on the homestead parcel. No adjustment shall be allocated to a property tax liability for any year after the year for which the claim or refund allocation was filed. No municipal tax-reduction incentive for early payment of taxes shall apply to any amount allocated to the property tax bill under this chapter.

(4) If the property tax adjustment amount as described in subsection (e) of this section exceeds the property tax, penalties, and interest, due for the current and all prior years, the municipality shall refund the excess to the taxpayer, without interest, within 20 days of the first date upon which taxes become due and payable or 20 days after notification of the adjustment amount by the Commissioner of Taxes, whichever is later.

* * * Meals and Rooms Tax * * *

Sec. 20. 32 V.S.A. § 9202(10)(D)(ii)(X) is amended to read:

(X) purchased ~~with food stamps~~ under the U.S.D.A. Supplemental Nutrition Assistance Program (SNAP);

* * * Property Transfer Tax * * *

Sec. 21. 32 V.S.A. § 9608(a) is amended to read:

(a) Except as to transfers which are exempt pursuant to subdivision 9603(17) of this title, no town clerk shall record, or receive for recording, any deed to which is not attached a properly executed transfer tax return, complete and regular on its face, and a certificate in the form prescribed by the Natural Resources Board and the Commissioner of Taxes ~~signed under oath by the seller or the seller~~'s ~~legal representative,~~ that the conveyance of the real property and any development thereon by the seller is in compliance with or exempt from the provisions of 10 V.S.A. chapter 151. The certificate shall indicate whether or not the conveyance creates the partition or division of land. If the conveyance creates a partition or division of land, there shall be appended the current "Act 250 Disclosure Statement," required by 10 V.S.A. § 6007. A town clerk who violates this section shall be fined $50.00 for the first such offense and $100.00 for each subsequent offense. A person who purposely or knowingly falsifies any statement contained in the certificate required is punishable by fine of not more than $500.00 or imprisonment for not more than one year, or both.

* * * Non-Education Financing Policy and Revenue Provisions * * *

* * * Tax on Distilled Spirits * * *

Sec. 22. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

(a) A tax is assessed on the gross revenue on the retail sale of spirituous liquor in the State of Vermont, including fortified wine, sold by the Liquor Control Board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the current year:

(1) if the gross revenue of the seller is ~~$150,000.00~~ $500,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between ~~$150,000.00 and $250,000.00, the rate of tax is $7,500.00 plus 15 percent of gross revenues over $150,000.00~~ $500,000.00 and $750,000.00, the rate of the tax is $25,000.00 plus 10 percent of the gross revenues over $500,000.00;

(3) if the gross revenue of the seller is over ~~$250,000.00~~ $750,000.00, the rate of tax is 25 percent.

(b) The retail sales of spirituous liquor made by a manufacturer or rectifier at a fourth class or farmers' market license location shall be included in the gross revenue of a seller under this section, but only to the extent that the sales are of the manufacturer's or rectifier's own products, and not products purchased from other manufacturers and rectifiers.

* * * Employer Assessment * * *

Sec. 23. 21 V.S.A. § 2001 is amended to read:

§ 2001. PURPOSE

For the purpose of more equitably distributing the costs of health care to uninsured residents of this ~~state~~ State, an employers' health care fund contribution is established to provide a fair and reasonable method for sharing health care costs with employers who do not offer their employees health care coverage and employers who offer insurance but whose employees enroll in Medicaid.

Sec. 24. 21 V.S.A. § 2002 is amended to read:

§ 2002. DEFINITIONS

As used in this chapter:

* * *

(5) "Uncovered employee" means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and ~~either~~:

(i) is enrolled in Medicaid;

(ii) has no other health care coverage under either a private or public plan except Medicaid; or

~~(ii)~~(iii) has purchased health insurance coverage as an individual through the Vermont Health Benefit Exchange.

* * *

Sec. 25. 21 V.S.A. § 2003 is amended to read:

§ 2003. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

(a) The Commissioner of Labor shall assess and an employer shall pay a quarterly Health Care Fund contribution for each full-time equivalent uncovered employee employed during that quarter ~~in excess of:~~

~~(1) eight full-time equivalent employees in fiscal years 2007 and 2008;~~

~~(2) six full-time equivalent employees in fiscal year 2009; and~~

~~(3) four full-time equivalent employees in fiscal years 2010 and thereafter~~.

(b) ~~For any quarter in fiscal years 2007 and 2008, the amount of the Health Care Fund contribution shall be $ 91.25 for each full-time equivalent employee in excess of eight. For each fiscal year after fiscal year 2008, the number of excluded full-time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and the amount of the Health Care Fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest cost silver level plan in the Vermont Health Benefit Exchange.~~

(1) For any quarter in fiscal year 2015, the amount of the Health Care Fund contribution shall be calculated as follows:

(A) for employers with at least one but no more than 49 full-time equivalent employees, the amount of the Health Care Fund contribution shall

be $119.12 for each uncovered full-time equivalent employee in excess of four;

(B) for employers with between 50 and 249 full-time equivalent employees, the amount of the Health Care Fund Contribution shall be

$182.50 for each uncovered full-time equivalent employee in excess of four; and

(C) for employers with more than 250 full-time equivalent employees, the amount of the Health Care Fund Contribution shall be $273.75 for each uncovered full-time equivalent employee in excess of four.

(2) For each fiscal year after fiscal year 2015, the Health Care Fund contribution amounts described in subdivision (1) of this subsection shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

* * *

* * * Solar Capacity Tax * * *

Sec. 26. 32 V.S.A. § 3802(17) is amended to read:

(17) Real and personal property, except land, composing a renewable energy plant generating electricity from solar power~~, to the extent the plant is exempt from taxation under chapter 215 of this title~~ which has a plant capacity of less than 50 kW and is either:

(A) operated on a net-metered system; or

(B) not connected to the electric grid and provides power only on the property on which the plant is located.

Sec. 27. 32 V.S.A. § 3481(1)(D) is added to read:

(D)(i) For real and personal property comprising a renewable energy plant generating electricity from solar power, except land and property that is exempt under subdivision 3802(17) of this title, the appraisal value shall be determined by an income capitalization or discounted cash flow approach that includes the following:

(I) an appraisal model identified and published by the Director employing appraisal industry standards and inputs;

(II) a discount rate determined and published annually by the Director;

(III) the appraisal value shall be 70 percent of the value calculated using the model published by the Director based on an expected 25-year project life and shall be set in the grand list next lodged after the plant

is commissioned and each subsequent grand list for the lesser of the remaining life of the project or 25 years;

(IV) for the purposes of calculating appraisal value for net metered systems receiving a credit specified in 30 V.S.A. § 219a (h)(1)(k), the model used to calculate value will not incorporate a factor for electricity rate escalation; and

(V) for plants operating as a net-metered system as described in 30 V.S.A. § 219a with a capacity of 50 kW or greater, the plant capacity used to determine value in the model shall be reduced by 50 kW and the appraisal value shall be calculated only on additional capacity in excess of 50 kW.

(ii) The owner of a project shall respond to a request for information from the municipal assessing officials by returning the information sheet describing the project in the form specified by the Director not later than 45 days after the request for information is sent to the owner. If the owner does not provide a complete and timely response, the municipality shall determine the appraisal value using the published model and the best estimates of the inputs to the model available to the municipality at the time, and the provisions of section 4006 of this title shall apply to the information form in the same manner as if the information form were an inventory as described in that section. Nothing in this subdivision (1) shall affect the availability of the exemption set forth in the provisions of section 3845 of this title or availability of a contract under the provisions of 24 V.S.A. § 2741.

Sec. 28. 32 V.S.A. § 3845 is amended to read:

§ 3845. ~~ALTERNATE~~ RENEWABLE ENERGY SOURCES

(a) At an annual or special meeting warned for that purpose, a town may, by a majority vote of those present and voting, exempt ~~alternate~~ renewable energy sources, as defined herein, from real and personal property taxation. Such exemption shall first be applicable against the grand list of the year in which the vote is taken and shall continue until voted otherwise, in the same manner, by the town.

(b) ~~For the purposes of~~ As used in this section, ~~alternate~~ renewable energy ~~sources includes any plant, structure or facility used for the generation of electricity or production of~~ shall have the same meaning as in 30 V.S.A. § 8002(17) for energy used on the premises for private, domestic, or agricultural purposes, no part of which may be for sale or exchange to the public. The term shall include~~, but not be limited to~~ grist mills, windmills, facilities for the collection of solar energy or the conversion of organic matter to methane, ~~net metering~~ net-metering systems regulated by the Public Service Board under 30 V.S.A. § 219a, and all component parts thereof ~~including,~~ but excluding land upon which the facility is located~~, not to exceed one-half acre~~.

Sec. 29. 32 V.S.A. § 8701(c) is amended to read:

(c) A renewable energy plant that generates electricity from solar power shall be exempt from taxation under this section if it has a plant capacity ~~equal to or less than 10 kW~~ less than 50kW.

* * * Valuation of Natural Gas and Petroleum Infrastructure * * *

Sec. 30. 32 V.S.A. § 3621 is added to read:

§ 3621. PETROLEUM AND NATURAL GAS INFRASTRUCTURE

For purposes of the statewide education property tax in chapter 135 of this title, the Director shall determine the appraised value of all property and fixtures composing and underlying a petroleum or natural gas facility, petroleum or natural gas transmission line, or petroleum or natural gas distribution line located entirely within this State. The Director shall value such property at its fair market value, an assessment it shall reach by the cost approach to value by employing an actual cost-based methodology, adjusting that actual cost using a cost factor from industry-specific inflation indexes, and depreciating the resulting present cost using a depreciation schedule based on the property's estimated remaining life; provided, however, that after the property has been depreciated to 30 percent of its present cost or less, exclusive of salvage value, the property shall be appraised at 30 percent of its cost. The Director shall inform the local assessing officials of his or her appraised value under this section on or before May 1 of each year, and the local assessing officials shall use the Director's appraised value for purposes of assessing and collecting the statewide education property tax under chapter 135 of this title.

* * * Income Taxes * * *

Sec. 31. 32 V.S.A. § 5870 is amended to read:

§ 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX RETURNS

The Commissioner of Taxes shall provide that individuals report use tax on their State individual income tax returns. Taxpayers are required to attest to the amount of their use tax liability under chapter 233 of this title for the period of the tax return. Alternatively, they may elect to report an amount that is ~~0.08~~ 0.10 percent of their Vermont adjusted gross income, as shown on a table published by the Commissioner of Taxes; and use tax liability arising from the purchase of each item with a purchase price in excess of $1,000.00 shall be added to the table amount.

Sec. 32. 32 V.S.A. § 5830e is added to read:

§ 5830e. ALTERNATE CALCULATION

For the purposes of calculating the taxes under section 5822 or 5832 of this chapter, dispensaries, established under 18 V.S.A. chapter 86, are permitted to recalculate their State tax liability with an allowance for any expense that was denied at the federal level due to 26 U.S.C. § 280E.

* * * Downtown and Village Center Tax Credits * * *

Sec. 33. 32 V.S.A. § 5930ee(1) is amended to read:

(1) The total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$1,700,000.00~~ $2,200,000.00.

Sec. 34. 32 V.S.A. § 9741(39) is amended to read:

(39) Sales of building materials within any three consecutive years~~:~~

~~(i)~~ in excess of one million dollars in purchase value, which may be reduced to $250,000.00 in purchase value upon approval of the Vermont Economic Progress Council pursuant to section 5930a of this title, used in the construction, renovation, or expansion of facilities which are used exclusively, except for isolated or occasional uses, for the manufacture of tangible personal property for sale~~; or~~

~~(ii) in excess of $250,000.00 in purchase value incorporated into a downtown redevelopment project as defined by rule by the Commissioner of Housing and Community Affairs; provided that the municipality is not receiving an allocation of sales tax receipts pursuant to section 9819 of this title~~.

* * * Estate Taxes * * *

Sec. 35. 32 V.S.A. § 7402(13) is amended to read:

(13) "Vermont gross estate" means for any decedent:

(A) the value of the federal gross estate under the laws of the United States, with the addition of federal adjusted taxable gifts of the decedent, but with no deduction under 26 U.S.C. § 2058 that is in excess of the basic exclusion amount under 26 U.S.C. § 2010(c)(3) with no provision for any amount under § 2010(c)(4); but excluding

(B) the value of real or tangible personal property which has an actual situs outside Vermont at the time of death of the decedent~~,~~; and

(C) ~~also excluding~~ in the case of a nonresident of Vermont, the value of intangible personal property owned by the decedent.

Sec. 36. 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF TAX

(a) A tax of 18 percent is hereby imposed on the transfer of the Vermont estate of every decedent ~~dying on or after January 1, 2002, who, at the time of death, was a resident of this State. The base amount of this tax shall be a sum equal to the amount of the credit for State death taxes allowable to a decedent's estate under 26 U.S.C. § 2011 as in effect on January 1, 2001. This base amount shall be reduced by the lesser of the following:~~

~~(1) The total amount of all constitutionally valid State death taxes actually paid to other states; or~~

~~(2) A sum equal to the proportion of the credit which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.~~

~~(b) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this State. The amount of this tax shall be a sum equal to the proportion of the base amount of tax under subsection (a) of this section which the value of Vermont real and tangible personal property taxed in this State bears to the value of the decedent's total gross estate for federal estate tax purposes.~~

~~(c) The Vermont estate tax shall not exceed the amount of the tax imposed by 26 U.S.C. § 2001 calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were $2,750,000.00, and with no deduction under 26 U.S.C. § 2058.~~

~~(d)~~(b) All values shall be as finally determined for federal estate tax purposes.

Sec. 37. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on December 31, 2013, are hereby adopted for the purpose of computing the tax liability under this chapter, except~~:~~

~~(1) the credit for state death taxes shall remain as provided for under 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;~~

~~(2) the applicable credit amount under 26 U.S.C. § 2010 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were $2,750.000.00; and~~

~~(3) the deduction for state death taxes under 26 U.S.C. § 2058 shall not apply~~ to the extent such laws conflict with any provision of this chapter.

Sec. 38. TAXABLE GIFTS

Notwithstanding the changes in this act, decedents dying after December 31, 2014, but who made taxable gifts as defined in 26 U.S.C. § 2503 between January 1, 2008 and December 31, 2014 may elect to have their Vermont estate taxed under the law in effect on December 31, 2014. The Department of Taxes is authorized to adopt rules, procedures, and forms necessary to implement this alternate calculation.

* * * Tobacco * * *

Sec. 39. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the Armed Forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~$1.87~~ $2.18 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~$1.87~~ $2.18 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~$2.24~~ $2.62 per package, and cigars with a wholesale price greater than $2.17, which shall be taxed at the rate of $2.00 per cigar if the wholesale price of the cigar is greater than $2.17 and less than $10.00, and at the rate of $4.00 per cigar if the wholesale price of the cigar is $10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that

any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 40. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every ~~retailer~~ retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the ~~retailer~~ retail dealer at 12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2014, but shall not apply to ~~retailers~~ retail dealers who hold less than $500.00 in wholesale value of such snuff. Each ~~retailer~~ retail dealer subject to the tax shall, on or before July 25, ~~2006~~ 2014, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2014, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2006~~ 2014, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the ~~retailer~~ retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

* * *

* * * Sales and Use Tax – Contractors * * *

Sec. 41. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(5) Retail sale or sold at retail: means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent, including sales to contractors, subcontractors, or repair persons of materials and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property.

Sec. 42. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this State. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

(1) Tangible personal property, including property used to improve, alter or repair the real property of others by a manufacturer or any person who is primarily engaged in the business of making retail sales of tangible personal property.

* * *

Sec. 43. 32 V.S.A. § 9745 is amended to read:

§ 9745. CERTIFICATE OR AFFIDAVIT OF EXEMPTION; DIRECT PAYMENT PERMIT

(a) Certificate or affidavit of exemption. The Commissioner may require that a vendor obtain an exemption certificate, which may be an electronic filing, with respect to the following sales: sales for resale; sales to organizations that are exempt under section 9743 of this title; and sales that qualify for a use-based exemption under section 9741 of this title. Acceptance of an exemption certificate containing such information as the Commissioner may prescribe shall satisfy the vendor's burden under subsection 9813(a) of this title of proving that the transaction is not taxable. A vendor's failure to possess an exemption certificate at the time of sale shall be presumptive evidence that the sale is taxable.

(b) Direct payment permit. The Commissioner may, in his or her discretion, authorize a purchaser, who acquires tangible personal property or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property or services will be used, to pay the tax directly to the Commissioner and waive the collection of the tax by the vendor through the issuance of a direct payment permit. ~~The Commissioner shall authorize any~~ Any contractor, subcontractor, or repairman who acquires tangible personal property consisting of materials and supplies for use by him or her in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others, may apply for a direct payment permit to pay the tax directly to the Commissioner and waive the collection of the tax by the vendor. No such authority shall be granted or exercised except upon application to the Commissioner and the issuance by the Commissioner of a direct payment permit. If a direct payment permit is granted, its use shall be subject to conditions specified by the

Commissioner and the payment of tax on all acquisitions pursuant to the permit shall be made directly to the Commissioner by the permit holder.

* * * Sales and Use Tax – Compost * * *

Sec. 44. 32 V.S.A. § 9701(48)–(52) are added to read:

(48) Compost: means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but does not mean sewage, septage, or materials derived from sewage or septage.

(49) Manipulated animal manure: means manure that is ground, pelletized, mechanically dried, or consists of separated solids.

(50) Perlite: means a lightweight granular material made of volcanic material expanded by heat treatment for use in growing media.

(51) Planting mix: means material that is:

(A) used in the production of plants; and

(B) made substantially from compost, peat moss, or coir and other ingredients that contribute to fertility and porosity, including perlite, vermiculite, and other similar materials.

(52) Vermiculite: means a lightweight mica product expanded by heat treatment for use in growing media.

Sec. 45. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(3) Agriculture feeds, seed, plants, baler twine, silage bags, agricultural wrap, sheets of plastic for bunker covers, liming materials, breeding and other livestock, semen breeding fees, baby chicks, turkey poults, agriculture chemicals other than pesticides, veterinary supplies, and bedding; clean high carbon bulking agents, as that term is used in the Agency of Natural Resources Solid Waste Management Rules, used for composting; food residuals used for composting or on-farm energy production; and fertilizers and pesticides for use and consumption directly in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and truck farms, orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale.

* * *

(49) Sales of compost, animal manure, manipulated animal manure, and planting mix when sold in aggregate volumes of one cubic yard or greater, or when sold unpackaged.

* * * Use Tax – Telecommunication Services * * *

Sec. 46. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property or telecommunications service has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this State, except as otherwise exempted under this chapter:

(1) ~~Of~~ of any tangible personal property purchased at retail;

(2) ~~Of~~ of any tangible personal property manufactured, processed, or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him or her in the regular course of business, but the mere storage, keeping, retention, or withdrawal from storage of tangible personal property or the use for demonstrational or instructional purposes of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him or her; and for purposes of this section only, the sale of electrical power generated by the taxpayer shall not be considered a sale by him or her in the regular course of business if at least 60 percent of the electrical power generated annually by the taxpayer is used by the taxpayer in his or her trade or business;

(3) ~~Of~~ of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subdivision 9771(3) of this title have been performed; ~~and~~

(4) ~~Specified~~ specified digital products transferred electronically to an end user; and

(5) telecommunications service except coin-operated telephone service, private telephone service, paging service, private communications service, or value-added non-voice data service.

* * * Propane Canisters * * *

Sec. 47. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel:

(1) heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) ~~propane;~~

~~(3)~~ natural gas;

~~(4)~~(3) electricity;

~~(5)~~(4) coal.

* * *

Sec. 48. 32 V.S.A. § 9741(26) is amended to read:

(26) Sales of electricity, oil, gas, and other fuels used in a residence for all domestic use, including heating, but not including fuel sold at retail in free-standing containers, or sold as part of a transaction where a free-standing container is exchanged without a separate charge. The Commissioner shall by rule determine that portion of the sales attributable to domestic use where fuels are used for purposes in addition to domestic use.

* * * Education Financing and Property Tax Revenue and Policy Provisions * * *

* * * Statewide Education Property Tax Rates, Base Education Amount, and Applicable Percentage * * *

Sec. 49. FINDINGS AND PURPOSE

(a) The General Assembly makes the following findings with respect to Secs. 49a and 50 of this act:

(1) The Commissioner of Taxes recommended the following rates under 32 V.S.A. § 5402b for fiscal year 2015:

(A) a nonresidential property tax rate of $1.51 per $100.00 of equalized education property value.;

(B) a homestead property tax rate of $1.01 per $100.00 of equalized education property value;

(C) an applicable percentage of 1.84; and

(D) a base education amount of $9,382.00.

(2) The Commissioner's recommendations were based in part on the following factors:

(A) The use of one-time money, such as $19.3 million in Education Fund surplus in fiscal year 2014, which is not available in fiscal year 2015. Using one-time money leaves a deficit that must be filled in the following year.

(B) Statewide education spending has increased by more than three percent for fiscal year 2015.

(C) Nonproperty tax revenues in the Education Fund have grown more slowly than projected.

(D) The statewide education grand list is projected to decline for the fourth consecutive year; consequently, taxes must be raised from a smaller base.

(E) The base education amount will increase which has the effect of creating upward pressure on the base property tax rates.

(3) Assuming no other changes, and an increase in education spending in excess of three percent, property tax base rates are projected to rise between $0.06 and $0.08 for fiscal year 2016. The use of additional one-time money in fiscal year 2015 will increase the amount of revenue that would need to be raised in fiscal year 2016.

(b) A balance needs to be struck between the ability of Vermonters to pay additional taxes now and invest in system-changing improvements for the future. It is the intent of the General Assembly to limit the use of one-time money in order to reserve the maximum amount possible to support school districts and supervisory unions to organize more economically their structure and activities to produce recurring savings year after year.

Sec. 50. FISCAL YEAR 2015 EDUCATION PROPERTY TAX RATES AND APPLICABLE PERCENTAGE

(a) For fiscal year 2015 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rates of $1.59 and $1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be $1.51 per $100.00; and

(2) the tax rate for homestead property shall be $1.00 multiplied by the district spending adjustment for the municipality per $100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2014 only, "applicable percentage" in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.84 percent multiplied by the fiscal year 2015 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.84 percent.

Sec. 51. FISCAL YEAR 2015 BASE EDUCATION AMOUNT

As provided in 16 V.S.A. § 4011(b), the base education amount for fiscal year 2015 shall be $9,382.00.

* * * Form of Budget Vote * * *

Sec. 52. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE IF BUDGET EXCEEDS BENCHMARK AND DISTRICT SPENDING IS ABOVE AVERAGE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(11)(A) Shall prepare and distribute annually a proposed budget for the next school year according to such major categories as may from time to time be prescribed by the ~~commissioner~~ Secretary.

* * *

(D) The board shall present the budget to the voters by means of a question in the form of a vote provided as follows:

"Article #1 (School Budget):

The total proposed budget of $_____ is recommended by the school board to fund the school district's educational program. The school district's education spending in the total school budget to be raised by taxes is $_____. The education spending in the budget, if approved, will result in spending of $____ per (equalized) pupil. This projected spending per (equalized) pupil is ____% higher/lower than spending for the current year. Shall the voters of the school district approve the school board to expend $_____, which is the amount the school board has determined to be necessary for the ensuing fiscal year?"

* * *

* * * Increase in Average Daily Membership * * *

Sec. 53. 16 V.S.A. § 4010(b) is amended to read:

(b) The ~~commissioner~~ Secretary shall determine the long-term membership for each school district for each student group described in subsection (a) of this section. The ~~commissioner~~ Secretary shall use the actual average daily membership over two consecutive years, the latter of which is the current school year. ~~If, however, in one year, the actual average daily membership of kindergarten through 12th grade increases by at least 20 students over the~~

~~previous year, the commissioner shall compute the long-term membership by adding 80 percent of the actual increase, to a maximum increase of 45 equalized pupils.~~

* * * Shared Equity * * *

Sec. 54. 32 V.S.A. § 3481 is amended to read:

§ 3481. DEFINITIONS

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

(1)(A) "Appraisal value" shall mean, with respect to property enrolled in a use value appraisal program, the use value appraisal as defined in subdivision 3752(12) of this title, multiplied by the common level of appraisal, and with respect to all other property, except for owner-occupied housing identified in subdivision (C) of this subdivision (1), the estimated fair market value. The estimated fair market value of a property is the price ~~which~~ that the property will bring in the market when offered for sale and purchased by another, taking into consideration all the elements of the availability of the property, its use both potential and prospective, any functional deficiencies, and all other elements such as age and condition which combine to give property a market value. Those elements shall include ~~a consideration of a decrease in value in nonrental residential property due to a housing subsidy covenant as defined in 27 V.S.A. § 610, or~~ the effect of any ~~state~~ State or local law or regulation affecting the use of land, including 10 V.S.A. chapter 151 or any land capability plan established in furtherance or implementation thereof, rules adopted by the State Board of Health and any local or regional zoning ordinances or development plans. In determining estimated fair market value, the sale price of the property in question is one element to consider, but is not solely determinative.

* * *

(C) For owner-occupied housing that is subject to a housing subsidy covenant, as defined in 27 V.S.A. § 610, imposed by a governmental, quasi-governmental, or public purpose entity, that limits the price for which the property may be sold, the housing subsidy covenant shall be deemed to cause a material decrease in the value of the owner-occupied housing, and the appraisal value means not less than 60 and not more than 70 percent of what the fair market value of the property would be if it were not subject to the housing subsidy covenant. Every five years, starting in 2019, the Commissioner of Taxes, in consultation with the Vermont Housing Conservation Board, shall report to the General Assembly on whether the percentage of appraised valued used in this subdivision should be altered, and the reasons for his or her determination.

(2) "Listed value" shall be an amount equal to 100 percent of the appraisal value. The ratio shall be the same for both real and personal property.

* * * Property Tax Exemptions * * *

Sec. 55. 32 V.S.A. § 3832(7) is amended to read:

(7) Real and personal property of an organization when the property is used primarily for health or recreational purposes, unless the town or municipality in which the property is located so votes at any regular or special meeting duly warned therefor, and except for the following types of property;

(A) Buildings and land owned and occupied by a health, recreation, and fitness organization which is:

(i) exempt from taxation under 26 U.S.C. § 501(c)(3),

(ii) used its income entirely for its exempt purpose, and

(iii) promotes exercise and healthy lifestyles for the community and serve citizens of all income levels;

(B) real and personal property operated as a skating rink, owned and operated on a nonprofit basis, but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association.

Sec. 56. 32 V.S.A. § 3839 is added to read:

§ 3839. MUNICIPALLY OWNED LAKESHORE PROPERTY

(a) Notwithstanding section 3659 of this title, a town may vote to exempt from its municipal taxes, in whole or in part, any parcel of land, but not buildings, that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(1) owned by the Town of Hardwick, and located in Greensboro, Vermont; or

(2) owned by the Town of Thetford, and located in Fairlee and West Fairlee, Vermont.

(b) An exemption voted by a town under subsection (a) of this section shall be for up to ten years. Upon the expiration of the exemption, a town may vote additional periods of exemption not exceeding five years each.

Sec. 57. 32 V.S.A. § 5401(10)(K) is added to read:

(K) Any parcel of land, but not buildings, that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(i) owned by the Town of Hardwick, and located in Greensboro, Vermont; or

(ii) owned by the Town of Thetford, and located in Fairlee and West Fairlee, Vermont.

Sec. 58. 32 V.S.A. § 5401(10)(F) is amended to read:

(F) Property owned by a municipality which is located within that municipality and which is used for municipal purposes including the provision of utility services, and including off-street parking garages built, owned, and managed by a municipality in a Designated Downtown as determined in accordance with 24 V.S.A. § 2793. For the purpose of this section, public use of a municipal parking garage may include the leasing of the garage to multiple commercial tenants for part of the day, provided the garage is open to the general public during evenings and weekends.

* * * Occupancy of a Homestead * * *

Sec. 59. 32 V.S.A. § 5401(7) is amended to read:

(7) "Homestead":

(A) "Homestead" means the principal dwelling and parcel of land surrounding the dwelling, owned ~~and occupied~~ by a resident individual on April 1 and occupied as the individual's domicile for a minimum of 183 days out of the calendar year, or for purposes of the renter property tax adjustment under subsection 6066(b) of this title, rented and occupied by a resident individual as the individual's domicile.

* * *

(H) A homestead does not include any portion of a dwelling that is rented and a dwelling is not a homestead for any portion of the year in which it is rented.

* * *

* * * Excess Spending Anchor * * *

Sec. 60. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) the per-equalized-pupil amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b);

(B) in excess of 123 percent of the statewide average district education spending per equalized pupil ~~in the prior fiscal year~~ increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date. As used in this subdivision, "increased by inflation" means increasing the statewide average district education spending per equalized pupil for fiscal year 2014 by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services, from fiscal year 2014 through the fiscal year for which the amount is being determined.

Sec. 61. 2013 Acts and Resolves No. 60, Sec. 2 is amended to read:

Sec. 2. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) the per-equalized-pupil amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b)~~;~~.

(B) in excess of ~~123~~ 121 percent of the statewide average district education spending per equalized pupil increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date. As used in this subdivision, "increased by inflation" means increasing the statewide average district education spending per equalized pupil for fiscal year 2014 by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services, from fiscal year 2014 through the fiscal year for which the amount is being determined.

* * * Electrical Generating Plants * * *

Sec. 62. 32 V.S.A. § 5402(d) is amended to read:

(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under ~~section 5402a of this chapter~~ chapter 213 of this title shall be subject to the nonresidential education property tax at three-quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three-quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its district spending adjustment.

Sec. 63. EDUCATION TAXES IN VERNON

Notwithstanding any other provision of law, for the purposes of 32 V.S.A. § 5402(d), the town of Vernon shall continue to be treated as if its grand list included an operating electric generating plant subject to the tax under 32 V.S.A. chapter 213 until the end of fiscal year 2017, and shall be taxed as follows:

(1) for fiscal year 2017, the town of Vernon shall be subject to the nonresidential education property tax and the homestead education property tax at 83 percent of the rate as calculated under 32 V.S.A. § 5402(a);

(2) for fiscal year 2018, the town of Vernon shall be subject to the nonresidential education property tax and the homestead education property tax at 91 percent of the rate as calculated under 32 V.S.A. § 5402(a); and

(3) for fiscal year 2019 and after, the town of Vernon shall be subject to the nonresidential education property tax and the homestead education property tax at 100 percent of the rate as calculated under 32 V.S.A. § 5402(a).

* * * Repeal * * *

Sec. 64. REPEAL

32 V.S.A. § 3802(18) (municipally owned lakeshore property) is repealed on January 1, 2015.

* * * Effective Dates * * *

Sec. 65. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Secs. 1 (1099K filing requirement), 2 (consolidated returns), and 4 (VEGI) shall take effect retroactively to January 1, 2014 and apply for tax year 2014 and after.

(2) Sec. 3 (Vermont Green Up) shall take effect on January 1, 2015 and apply to returns filed after that date.

(3) Sec. 5 (annual income tax update) shall take effect retroactively to January 1, 2014 and apply to taxable years beginning on and after January 1, 2013.

(4) Sec. 6 (annual estate tax update) shall take effect retroactively to January 1, 2014 and apply to decedents dying on or after January 1, 2013.

(5) Secs. 17 (corrected tax bills due to late filing of declaration), 18 (last date for filing declaration), and 19 (corrected tax bills due to late filing of property tax adjustment claim) shall take effect on July 1, 2014 and apply to property appearing on grand lists lodged in 2014 and after.

(6) Sec. 22 (distilled spirits) shall take effect on July 1, 2014.

(7) Secs. 23–25 (employer assessment) shall take effect on September 1, 2014 and shall apply beginning with the calculation of the Health Care Fund contributions payable in the second quarter of fiscal year 2015, which shall be based on the number of an employer's uncovered employees in the first quarter of fiscal year 2015.

(8) Secs. 26–29 (solar plant exemptions and valuation) and Sec. 30 (valuation of natural gas and petroleum infrastructure) shall take effect on January 1, 2015 and apply to property appearing on grand lists lodged in 2015 and after.

(9) Secs. 31 (use tax reporting) and 32 (marijuana dispensaries) shall take effect on January 1, 2015 and apply to tax year 2015 and after.

(10) Sec. 33 (downtown credits) shall apply to fiscal year 2015 and after.

(11) Secs. 34 (repeal of sales tax exemption), 39 (snuff), 40 (floor tax), 41 (definition of sales), 42 (contractors), 43 (certificates of exemption), 44 (definitions), 45 (compost), 46 (telecommunications use tax), 47 (fuel gross receipts tax), and 48 (propane canisters) shall take effect on July 1, 2014.

(12) Secs. 35–38 (estate taxes) shall take effect on January 1, 2015 and apply to decedents dying on or after that date.

(13) Secs. 50 (statewide education tax base rates) and 51 (base education amount) shall take effect on passage and apply to education property tax rates and the base education amount for fiscal year 2015.

(14) Sec. 52 (form of budget vote) shall take effect on January 1, 2015 and apply to budgets voted for fiscal year 2016.

(15) Sec. 53 (increased average daily membership) shall take effect on July 1, 2014 and shall apply to long-term membership calculations for fiscal year 2016 and after.

(16) Secs. 54 (shared equity housing), 55 (health and recreation property), 56 (town voted exemption), 57 (education property tax exemption), and Sec. 58 (parking garages) shall take effect on January 1, 2015 and apply to property appearing on grand lists lodged in 2015 and after.

(17) Sec. 59 (occupancy of a homestead) shall take effect on January 1, 2015 and apply to homestead declarations for 2015 and after.

(18) Secs. 60 and 61 (anchoring excess spending) shall take effect on July 1, 2014 and apply to property tax calculations for fiscal year 2016 and after.

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, thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, on motion of Senator Campbell consideration was interrupted by adjournment.

Called to Order

The Senate was called to order by the President.

Committee of Conference Appointed

H. 699.

An act relating to temporary housing.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Lyons
Senator Cummings
Senator Pollina

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Action Reconsidered; Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 217.

Assuring the Chair that he voted with the majority whereby the bill was passed in concurrence with proposal of amendment by the Senate, Senator Campbell moved that the Senate reconsider its action on House bill entitled:

An act relating to smoking in lodging establishments, hospitals, and child care facilities, and on State lands.

Which was agreed to.

Thereupon, upon reconsideration, the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Campbell moved to amend the Senate proposal of amendment by striking out Sec. 8, effective date, and inserting in lieu thereof two new sections to be Secs. 8 and 9 to read as follows:

Sec. 8. 7 V.S.A. § 1012 is added to read:

§ 1012. LIQUID NICOTINE; PACKAGING

(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont:

(1) any liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or

(2) any nicotine liquid container unless that container constitutes child-resistant packaging.

(b) As used in this section:

(1) "Child-resistant packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

(2) "Nicotine liquid container" means a bottle or other container of a nicotine liquid or other substance containing nicotine which is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

Sec. 9. EFFECTIVE DATES

(a) Secs. 1–7 and this section shall take effect on July 1, 2014.

(b) Sec. 8 (liquid nicotine; packaging) shall take effect on January 1, 2015.

Thereupon, the question, Shall the bill pass in concurrence with proposal of amendment?, was agreed to.

Action Reconsidered; Consideration Postponed

H. 864.

Assuring the Chair that she voted with the majority whereby the bill was passed in concurrence by the Senate, Senator Flory moved that the rules be suspended and that the Senate reconsider its action on Senate bill entitled:

An act relating to capital construction and State bonding budget adjustment.

Which was agreed to.

Thereupon, pending the recurring question, upon reconsideration, Shall the bill pass in concurrence with proposal of amendment?, on motion of Senator Flory, action on the bill was postponed until Tuesday, May 6, 2014.

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment

S. 220.

Pending entry on the Calendar for notice, on motion of Senator Mullin, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to furthering economic development.

Was taken up for immediate consideration.

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

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

Sec. 1. ONE-STOP SHOP WEB PORTAL

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 136. VERMONT ENTERPRISE ~~INVESTMENT~~ FUND

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

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

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

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

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

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

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

(1) adequately demonstrates:

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

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

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

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

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

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

(D) is considering Vermont for relocation or expansion.

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

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

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

(A) information on the company;

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

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

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

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

(F) employment, investment, and economic impact of Fund support on the employer, including a fiscal cost-benefit analysis; and

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

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

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

(iii) disallowance and recapture provisions.

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

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

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

(1) the name of the recipient;

(2) the amount and type of the resources;

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

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

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

Sec. 1b. CONTINGENT FISCAL YEAR 2014 APPROPRIATION

Prior to any transfer pursuant to 2013 Acts and Resolves No. 50, Sec. B 1104, of the first $5,000,000.00 of fiscal year 2014 funds that would otherwise be transferred to the General Fund Balance Reserve as specified by 32 V.S.A. § 308c:

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

(2) up to $4,500,000.00 of any additional funds after satisfaction of subdivision (1) of this subsection shall be appropriated to the Vermont Enterprise Fund for the purposes specified in 32 V.S.A. § 136.

Sec. 1c. REPEAL; VERMONT ENTERPRISE FUND

32 V.S.A. § 136 shall be repealed on July 1, 2015, and any balance remaining in the Vermont Enterprise Fund as of that date shall revert to the General Fund.

* * * Vermont Economic Development Authority * * *

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

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

* * *

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

§ 280aa. FINDINGS AND PURPOSE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

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

CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT PROGRAM

* * *

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

§ 374b. DEFINITIONS

As used in this chapter:

(1) "Agricultural facility" means land and rights in land, buildings, structures, machinery, and equipment which is used for, or will be used for producing, processing, preparing, packaging, storing, distributing, marketing, or transporting agricultural products which have been primarily produced in this ~~state~~ State, and working capital reasonably required to operate an agricultural facility.

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

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

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

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

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

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

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

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

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

(8) "Farm operation" shall mean the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. Farm operation also includes the

storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land.

* * *

* * * Connecting Capital Providers and Entrepreneurs * * *

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

(a) The Agency of Commerce and Community Development shall support networking events offered by one or more regional economic development providers designed to connect capital providers with one another or with Vermont entrepreneurs, or both, and shall take steps to facilitate outreach and matchmaking opportunities between investors and entrepreneurs.

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

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

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

Sec. 6. 32 V.S.A. § 5930aa(3) is amended to read:

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

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

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

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

(C) ~~To~~ to redevelop a contaminated property in a designated downtown or village center under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

Sec. 6a. 32 V.S.A. § 5930aa(7) is amended to read:

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

Sec. 6b. 32 V.S.A. § 5930bb is amended to read:

§ 5930bb. ELIGIBILITY AND ADMINISTRATION

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

* * *

Sec. 6c. 32 V.S.A. § 5930cc(c) is amended to read:

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

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

§ 218e. IMPLEMENTING STATE ENERGY POLICY; MANUFACTURING

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

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

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

Sec. 7a. INVESTIGATION; ELECTRICITY COSTS; MANUFACTURING

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

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

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

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

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

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

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

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

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

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

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

(1) consumer and business advocacy groups;

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

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

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

* * * Domestic Export Program * * *

Sec. 8. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT AGRICULTURE AND FOREST PRODUCTS

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

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

(2) provide technical and marketing assistance to Vermont producers to convert these connections into increased sales and sustainable commercial relationships; and

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

(b) The Secretary shall collect data on the activities and outcomes of the pilot project authorized under this section and shall report his or her findings

and recommendations for further action on or before January 15, 2015, to the House Committees on Agriculture and on Commerce and Economic Development and to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs.

* * * Criminal Penalties for Computer Crimes * * *

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

CHAPTER 87. COMPUTER CRIMES

* * *

§ 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

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

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

§ 4105. THEFT OR DESTRUCTION

(a)(1) A person shall not intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of, or intentionally and without lawful authority, destroy any computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

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

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

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

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

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

§ 4106. CIVIL LIABILITY

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

* * *

* * * Statute of Limitations to Commence Action

for Misappropriation of Trade Secrets * * *

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

§ 523. TRADE SECRETS

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

* * * Protection of Trade Secrets * * *

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

CHAPTER 143. TRADE SECRETS

§ 4601. DEFINITIONS

As used in this chapter:

(1) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

(2) "Misappropriation" means:

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

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

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

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

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

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

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

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

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

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

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

§ 4602. INJUNCTIVE RELIEF

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

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

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

§ 4603. DAMAGES

(a)(1) Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a

monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation.

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

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

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

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

§ 4605. PRESERVATION OF SECRECY

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

§ 4607. EFFECT ON OTHER LAW

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

(b) This chapter does not affect:

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

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

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

* * *

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

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

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

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

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

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

* * * Department of Financial Regulation * * *

Sec. 13. SMALL BUSINESS ACCESS TO CAPITAL

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

(b) Small business issuer education and outreach. On or before January 15, 2015, the Department of Financial Regulation shall conduct at least two educational events to inform the legal, small business, and investor communities and other interested parties, of opportunities for small businesses to access capital in Vermont, including, the Vermont Small Business Offering Exemption regulation and other securities registration exemptions.

(c) Vermont Small Business Offering Exemption. The Commissioner of Financial Regulation shall exercise his or her rulemaking authority under 9 V.S.A. chapter 150 to review and revise the Vermont Small Business Offering Exemption and any other state securities exemptions, specifically including those designed to complement exemptions from federal registration requirements available under Regulation D, in order to recognize and reflect

the evolution of capital markets and to ensure that Vermont remains current and competitive in its securities regulations, particularly with respect to access to capital for small businesses.

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

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

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

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

2201. LICENSES REQUIRED

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

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

(2) act as a mortgage broker;

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

(4) act as a sales finance company.

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

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

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

(3) an employee engaged in loan modifications employed at a licensed location of, and supervised and sponsored by, only one third-party loan servicer licensed to operate in this ~~state~~ State pursuant to chapter 85 of this title. ~~For purposes of~~ As used in this subsection, "loan modification" means an

adjustment or compromise of an existing residential mortgage loan. The term "loan modification" does not include a refinancing transaction.

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

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

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

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

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

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

(5) a pawnbroker;

(6) an insurance company;

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

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

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

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

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

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

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

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

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

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

(14) any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(15) a housing finance agency;

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

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

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

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

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

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

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

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

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

(C) the attorney carries them out in compliance with all applicable laws, rules, ethics, and standards.

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

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

(g) Independent contractor loan processors or underwriters. A loan processor or underwriter who is an independent contractor may not engage in

the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a mortgage loan originator license. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

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

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

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

Sec. 8. INVESTMENT OF STATE MONIES

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

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

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

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

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

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

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

(2) address other mechanisms to increase local investment.

(b) Membership.

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

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

(B) the Commissioner of Financial Regulation or designee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Meetings.

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

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

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

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

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

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

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

Sec. 18a. SUNSET

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

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

§ 2481W. UNLICENSED LOAN TRANSACTIONS

(a) In this subchapter:

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

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

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

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

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

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

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

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

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

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

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

* * *

(4) "Telecommunications facility" means a communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes and any

associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

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

* * *

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

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

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

(B) ~~A~~ a telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the Department of Environmental Conservation, regardless of any provisions in that handbook that limit its applicability.

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal

and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

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

* * *

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

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

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

* * *

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

* * *

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

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

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

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

Sec. 20a. PUBLIC SERVICE BOARD; ORDER REVISION

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

(1) Within 30 days of the effective date of this section, the Board shall provide direct notice to each municipal legislative body and planning commission, the Vermont League of Cities and Towns, the Department of Public Service, and such other persons as the Board considers appropriate, that

it will be amending its procedures order issued under 30 V.S.A. § 248a(1) to include definitions of these terms. The notice shall provide an opportunity for submission of comments and recommendations and include the date and time of the workshop to be held.

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

Sec. 20b. REPORT; TELECOMMUNICATIONS FACILITY REVIEW PROCESS

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

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

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

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

(2) The Secretary shall issue a decision on the application within 60 days of the date the Secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.

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

§ 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the ~~secretary~~ Secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the

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

* * *

Sec. 20e. REPEAL

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

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

§ 2809. REIMBURSEMENT OF AGENCY COSTS

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

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

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

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

(3) In addition to the authority set forth under 10 V.S.A. chapters 59 and 159 and ~~§~~ section 1283, the Secretary may require a person who caused the

~~agency~~ Agency to incur expenditures or a person in violation of a permit, license, certification, or order issued by the Secretary to pay for the time of ~~agency~~ Agency personnel or the cost of other research, scientific, or engineering services incurred by the ~~agency~~ Agency in response to a threat to public health or the environment presented by an emergency or exigent circumstance.

* * *

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

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

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

Sec. 21. JFO ACCD DEMOGRAPHIC STUDY

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

* * * Tourism Funding; Study * * *

Sec. 22. TOURISM FUNDING; PILOT PROJECT STUDY

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

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

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

CHAPTER 12: VERMONT ECONOMIC DEVELOPMENT AUTHORITY

* * *

§ 212. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

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

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

* * *

§ 261. ADDITIONAL POWERS

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

* * *

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

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

(35) "Industrial park" means an area of land permitted under this chapter that is planned, designed, and zoned as a location for one or more industrial buildings, that includes adequate access roads, utilities, water, sewer, and other services necessary for the uses of the industrial buildings, and includes no retail use except that which is incidental to an industrial use, and no office use except that which is incidental or secondary to an industrial use.

Sec. 25. REVIEW OF MASTER PLAN POLICY

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

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

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

(4) Industrial parks.

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

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

* * * Affordable Housing * * *

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

§ 6001. DEFINITIONS

In this chapter:

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

* * *

(B)~~(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists~~

~~exclusively of mixed income housing or mixed use, or any combination thereof, and is located entirely within a growth center designated pursuant to 24 V.S.A. 2793c or, entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, "development" means:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) ~~Five-Year, Five-Mile Radius Jurisdiction Analysis. Within any continuous period of five years, housing units constructed by a person entirely within a designated downtown district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area shall be counted together with housing units constructed by that person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated~~

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

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

* * *

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

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

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

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

(B) ~~Affordable~~ Rental Housing. At least 20 percent of the housing units that ~~is~~ are rented ~~by the occupants whose gross annual household income does not exceed 60 percent of the county median income, or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development for use with the Housing Credit Program under Section 42(g) of the Internal Revenue Code, and the total annual cost of the housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the gross annual household income as defined at Section 42(g)(2)(C), and with~~ constitute affordable housing and have a duration of affordability of no less than ~~30~~ 20 years.

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

(29) "Affordable housing" means either of the following:

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

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

* * *

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

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

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

* * *

* * * Workforce Education and Training * * *

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

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and

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

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

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

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

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

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

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

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

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

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

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

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description;

(E) employment status of trainees

(F) future needs for resources.

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

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

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

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

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

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

~~required under the federal law, the Governor shall decide who shall be the member of the Council.~~

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

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

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

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

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

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

~~(h) [Repealed.]~~

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

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

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

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

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

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

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

§ 541a. STATE WORKFORCE INVESTMENT BOARD

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

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

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

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

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

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

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

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

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

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

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

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

(8) a director of a regional technical center;

(9) a principal of a Vermont high school;

(10) two representatives of labor organizations who have been nominated by State labor federations;

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

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

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

(14) the Commissioner of Economic Development;

(15) the Commissioner of Labor;

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

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

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

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

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

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

(d) Operation of Board.

(1) Member representation.

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

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

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

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

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

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

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

(5) Quorum; meetings; voting.

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

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

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

(6) Reimbursement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

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

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

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

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

(3) apprenticeship-related instruction.

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

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

times, provided that new students participate.

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

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

(1) Training Programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) [Repealed.]

§ 544. VERMONT CAREER INTERNSHIP PROGRAM

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

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

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

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) dental assistance;

(C) paid vacation ~~and~~;

(D) paid holidays;

~~(D)~~(E) child care;

~~(E)~~(F) other extraordinary employee benefits;

~~(F)~~(G) retirement benefits; ~~and~~

(H) other paid time off, including paid sick days;

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

(4) compensation for each trainee at the completion of the training program equals or exceeds the livable wage as defined in 2 V.S.A. § 505, provided that the Secretary shall have the authority to modify this requirement if he or she determines that the employer offers compensation or benefits, the value of which exceeds the compensation and benefit assumptions in the basic needs budget and livable wage calculated pursuant to 2 V.S.A. § 505.

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

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

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

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

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

~~(B) dental assistance;~~

~~(C) paid vacation and holidays;~~

~~(D) child care;~~

~~(E) other extraordinary employee benefits; and~~

~~(F) retirement benefits.~~

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

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

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

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

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

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

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

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

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

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

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

(i) ~~Program Outcomes.~~

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

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

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

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

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

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

(1) all active and completed contracts and grants~~,~~;

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

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

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

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

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

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

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

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

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

(6) any waivers granted;

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

(8) the identity of each training provider; and

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

Sec. 30. REPEAL

2007 Acts and Resolves No. 46, Sec. 6(a), as amended by 2009 Acts and Resolves No. 54, Sec. 8 (workforce education and training leader) and 2013 Acts and Resolves No. 81, Sec. 2, is repealed.

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

On or before November 1, 2014:

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

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

Sec. 32. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

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

* * * Vermont Strong Scholars Program * * *

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

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

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

§ 2888. VERMONT STRONG SCHOLARS AND INTERNSHIP INITIATIVE

(a) Creation.

(1) There is created a postsecondary loan forgiveness and internship initiative designed to forgive a portion of Vermont Student Assistance Corporation loans of students employed in economic sectors identified as important to Vermont's economy and to build internship opportunities for students to gain work experience with Vermont employers.

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

(A) encourage students to:

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

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

(iii) live in Vermont upon graduation;

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

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

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

(b) Vermont Strong Loan Forgiveness Program.

(1) Economic sectors; projections.

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

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

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

(A) was a Vermont resident, as defined in 16 V.S.A. § 2822(7), at the time he or she was graduated;

(B) enrolled in a postsecondary institution on or after July 1, 2015 and completed an associate's degree within three years, or a bachelor's degree within six years;

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

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

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

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

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

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

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

(4) Management.

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

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

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

(c) Vermont Strong Internship Program.

(1) Internship program management.

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

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

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

(D) The Program Intermediary shall:

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

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

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

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

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

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

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

(2) Qualifying internships.

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

(i) be with a Vermont employer as approved by the Intermediary in consultation with the Commissioner and Secretary;

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

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

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

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

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

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

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

(d) Funding.

(1) Loan forgiveness program.

(A) Loan forgiveness; State funding.

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

(ii) 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.

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

(iv) The availability and payment of loan forgiveness awards under this subdivision is subject to State funding available for the awards.

(B) Loan forgiveness; Vermont Student Assistance Corporation. The Vermont Student Assistance Corporation shall have the authority to grant loan forgiveness pursuant to this section by using the private loan forgiveness

capacity associated with bonds issued by the Corporation to raise funds for private loans that are eligible for forgiveness under this section, if available.

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

Sec. 35. VERMONT STRONG INTERIM REPORT

On or before November 1, 2014, the Secretary of Commerce and Community Development shall report to the Joint Fiscal Committee on the organizational and economic details of the Vermont Strong Scholars Initiative, including:

(1) the economic sectors selected for loan forgiveness;

(2) the projected annual cost of the Initiative,

(3) the proposed funding sources;

(4) programmatic proposals and economic projections on the feasibility and impacts of expanding eligibility for the loan forgiveness program to include Vermont residents who attend postsecondary institutions outside of Vermont and out-of-state residents who attend Vermont postsecondary institutions; and

(5) the projected balance of the Vermont Strong Scholars Fund for each fiscal year through fiscal year 2018.

Sec. 36. VERMONT PRODUCTS PROGRAM; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, the Secretary of Agriculture, Food and Markets, and the Vermont Attorney General, shall collaborate to identify the issues, stakeholders, and processes necessary to consider whether and how to:

(1) provide Vermont businesses with a means of promoting and marketing products and services that are manufactured, designed, engineered, or formulated in Vermont and to avoid confusion by consumers when the Vermont brand is used in marketing products or services; and

(2) harmonize the Vermont origin rule, the Made in Vermont initiative, the proposed Vermont Products Program or similar initiative, and any other programs or initiatives the Secretaries and the Attorney General determine would be appropriate for such consideration.

(b) On or before September 1, 2015, the Secretaries and the Attorney General shall submit a report on their findings and recommendations to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development.

* * * Effective Dates * * *

Sec. 37. EFFECTIVE DATES

(a) This section and Sec. 20a (Public Service Board; rulemaking) shall take effect on passage.

(b) The remainder of this act shall take effect on July 1, 2014, except that 16 V.S.A. § 2888(b)(3) (Vermont Strong loan forgiveness) shall take effect on July 1, 2015.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Mullin moved that the Senate concur in the House proposal of amendment with an amendment as follows:

* * * 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

(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.

* * * Electricity Rates for Businesses * * *

Sec. 4. 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.

(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 regarding regulatory or statutory changes that would reduce electric 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. 5. 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.

* * * Criminal Penalties for Computer Crimes * * *

Sec. 6. 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. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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. 12. 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 improvement of industrial parks under this subchapter.

Sec. 13. 10 V.S.A. § 6001(35) is added to read:

(35) "Industrial park" means an area of land permitted under this chapter that is planned, designed, and zoned as a location for one or more industrial buildings, that includes adequate access roads, utilities, water, sewer, and other services necessary for the uses of the industrial buildings, and includes no retail use except that which is incidental to an industrial use, and no office use except that which is incidental or secondary to an industrial use.

Sec. 14. 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. 15. 10 V.S.A. § 6093(a)(4) is amended to read:

(4) Industrial parks.

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

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

* * * Affordable Housing * * *

Sec. 16. 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 (3)(A)(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 (3)(A)(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 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~~ 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~~.~~; or

(B) ~~Housing~~ 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. 17. 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. 18. 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~~ 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~~ An individual sole proprietor who is also a licensed lender or licensed mortgage broker~~; or~~.

(3) ~~an~~ 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~~ A State agency, political subdivision, or other public instrumentality of the ~~state;~~ State.

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

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

(5) ~~a~~ A pawnbroker~~;~~.

(6) ~~an~~ An insurance company~~;~~.

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

(8) ~~any~~ 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~~ 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~~ 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~~ 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~~ 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~~ 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~~ 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~~ 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. 19. 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 designate one existing full-time position within the Department as "Workforce Education and Training Leader."

(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. 20. 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. 21. 16 V.S.A. chapter 90 is redesignated to read:

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

Sec. 22. 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. 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.

Sec. 23. 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.

* * * Vermont Products Program * * *

Sec. 24. 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.

* * * 10 Percent for Vermont * * *

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.

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.

* * * Vermont Enterprise Fund * * *

Sec. 27. VERMONT ENTERPRISE FUND

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

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

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

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

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

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

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

(1) adequately demonstrates:

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

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

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

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

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

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

(D) is considering Vermont for relocation or expansion.

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

(2) The Board shall invite the Chair of the Senate Committee on Economic Development, Housing and General Affairs and the Chair of the House Committee on Commerce and Economic Development to participate in Board deliberations under this section in an advisory capacity.

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

(A) information on the company;

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

(C) a summary of the economic activity proposed or that would be forgone:

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

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

(F) employment, investment, and economic impact of Fund support on the employer, including a fiscal cost-benefit analysis; and

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

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

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

(iii) disallowance and recapture provisions.

(4) The Emergency Board shall have the authority to approve, disapprove, or modify an offer of economic and financial resources in its discretion, including consideration of the following:

(A) whether the business has presented sufficient documentation to demonstrate compliance with subsection (d) of this section;

(B) whether the Governor has presented sufficient information to the Board under subdivision (3) of this subsection (e);

(C) whether the business has received other State resources and incentives, and if so, the type and amount; and

(D) whether the business and the Governor have made available to the Board sufficient information and documentation for the Auditor of Accounts to perform an adequate performance audit of the program, including

the extent to which necessary information or documentation is or will be withheld under a claim that it is confidential, proprietary, or subject to executive privilege.

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

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

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

(1) the name of the recipient;

(2) the amount and type of the resources;

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

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

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

(h) This section shall sunset on June 30, 2016 and any remaining balance in the Fund shall be transferred to the General Fund.

Sec. 28. CONTINGENT FISCAL YEAR 2014 APPROPRIATION

(a) After satisfying the requirements of 32 V.S.A. § 308, and after other reserve requirements have been met and prior to any funds reserved pursuant to 32 V.S.A. § 308c, any remaining unreserved and undesignated end of fiscal year General Fund surplus up to $5,000,000 shall be appropriated to the extent available, in the following order:

(1) $500,000 to the Vermont Economic Development Authority for loan loss reserves within the Vermont Entrepreneurial Lending Program for the purposes specified in 10 V.S.A. § 280bb as amended by S.220 of 2014;

(2) $4,500,000 to the Vermont Enterprise Fund for the purposes specified in Sec. E.100.5 of this act.

* * * Telecommunications; Legislative Purpose; Intent * * *

Sec. 29. LEGISLATIVE PURPOSE; FINDINGS

It is the intent of the General Assembly to maintain a robust and modern telecommunications network in Vermont by making strategic investments in improved technology for all Vermonters. To achieve that goal, it is the purpose of this act to upgrade the State's telecommunications objectives and reorganize government functions in a manner that results in more coordinated and efficient State programs and policies, and, ultimately, produces operational savings that may be invested in further deployment of broadband and mobile telecommunications services for the benefit of all Vermonters. In addition, it is the intent of the General Assembly to update and provide for a more equitable application of the Universal Service Fund (USF) surcharge. Together, these operational savings and additional USF monies will raise at least $1.45 million annually, as follows:

(1) $650,000.00 from an increase in the USF charge to a flat two percent;

(2) $500,000.00 from application of the USF charge to prepaid wireless telecommunications service providers; and

(3) $300,000.00 in operational savings from the transfer and consolidation of State telecommunications functions.

* * * USF; Connectivity Fund; Prepaid Wireless; Rate of Charge * * *

Sec. 30. 30 V.S.A. § 7511 is amended to read:

§ 7511. DISTRIBUTION GENERALLY

(a) As directed by the ~~public service board,~~ Public Service Board funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

(1) ~~To~~ to pay costs payable to the fiscal agent under its contract with the ~~public service board.~~ Board;

(2) ~~To~~ to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title~~.~~;

(3) ~~To~~ to support the Vermont ~~lifeline~~ Lifeline program in the manner provided by section 7513 of this title~~.~~;

(4) ~~To~~ to support ~~enhanced-911~~ Enhanced-911 services in the manner provided by section 7514 of this title~~.~~; and

(5) ~~To reduce the cost to customers of basic telecommunications service in high-cost areas, in the manner provided by section 7515 of this title~~ to support the Connectivity Fund established in section 7516 of this chapter.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the ~~public service board~~ Board shall conduct an expedited proceeding to allocate the available funds, giving priority in the order listed in subsection (a).

Sec. 31. 30 V.S.A. § 7516 is added to read:

§ 7516. CONNECTIVITY FUND

(a) There is created a Connectivity Fund for the purpose of providing access to Internet service that is capable of speeds of at least 4 Mbps download and 1 Mbps upload to every E-911 business and residential location in Vermont, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of unserved Vermonters, priority shall be given to locations having access to only satellite or dial-up Internet service. Any new services funded in whole or in part by monies in this Fund shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The fiscal agent shall determine annually, on or before September 1, the amount of funds available to the Connectivity Fund. The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department's most recent broadband mapping data. The Department annually shall solicit proposals from service providers, the Vermont Telecommunications Authority, and the Division for Connectivity to deploy broadband to eligible census blocks. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved locations; however, the Department also shall consider:

(1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;

(2) the price to consumers of services;

(3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;

(4) whether the proposal would use the best available technology that is economically feasible;

(5) the availability of service of comparable quality and speed; and

(6) the objectives of the State's Telecommunications Plan.

Sec. 32. 30 V.S.A. § 7521 is amended to read:

§ 7521. CHARGE IMPOSED; WHOLESALE EXEMPTION

(a) A universal service charge is imposed on all retail telecommunications service provided to a Vermont address. Where the location of a service and the location receiving the bill differ, the location of the service shall be used to determine whether the charge applies. The charge is imposed on the person purchasing the service, but shall be collected by the telecommunications provider. Each telecommunications service provider shall include in its tariffs filed at the ~~public service board~~ Public Service Board a description of its billing procedures for the universal service fund charge.

(b) The universal service charge shall not apply to wholesale transactions between telecommunications service providers where the service is a component part of a service provided to an end user. This exemption includes~~, but is not limited to,~~ network access charges and interconnection charges paid to a local exchange carrier.

(c) In the case of mobile telecommunications service, the universal service charge is imposed when the customer's place of primary use is in Vermont. The terms "customer," "place of primary use," and "mobile telecommunications service" have the meanings given in 4 U.S.C. § 124. All provisions of 32 V.S.A. § 9782 shall apply to the imposition of the universal service charge under this section.

(d)(1) Notwithstanding any other provision of law to the contrary, in the case of prepaid wireless telecommunications services, the universal service charge shall be imposed on the provider in the manner determined by the Public Service Board pursuant to subdivision (3) of this subsection.

(2) As used in this subsection, "prepaid wireless telecommunications service" means a telecommunications service as defined in section 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use.

(3) The Public Service Board shall establish a formula to ensure the universal service charge imposed on prepaid wireless telecommunications service providers reflects two percent of retail prepaid wireless telecommunications service in Vermont beginning on September 1, 2014.

Sec. 33. 30 V.S.A. § 7523 is amended to read:

§ 7523. RATE ~~ADJUSTED ANNUALLY~~ OF CHARGE

(a) ~~Annually, after considering the probable expenditures for programs funded pursuant to this chapter, the probable service revenues of the industry and seeking recommendations from the department, the public service board shall establish a rate of charge to apply during the 12 months beginning on the following September 1. However, the rate so established shall not at any time exceed two percent of retail telecommunications service. The board's decision shall be entered and announced each year before July 15. However, if the general assembly does not enact an authorization amount for E-911 before July 15, the board may defer decision until 30 days after the E-911 authorization is established, and the existing charge rate shall remain in effect until the board establishes a new rate~~ Beginning on July 1, 2014, the annual rate of charge shall be two percent of retail telecommunications service.

(b) Universal service charges imposed and collected by the fiscal agent under this subchapter shall not be transferred to any other fund or used to support the cost of any activity other than in the manner authorized by section 7511 of this title.

Sec. 34. 30 V.S.A. § 7524 is amended to read:

§ 7524. PAYMENT TO FISCAL AGENT

(a) Telecommunications service providers shall pay to the fiscal agent all universal service charge receipts collected from customers. A report in a form approved by ~~the public service board~~ Public Service Board shall be included with each payment.

(b) Payments shall be made monthly, by the 15th day of the month, and shall be based upon amounts collected in the preceding month. If the amount is small, the ~~board~~ Board may allow payment to be made less frequently, and may permit payment on an accrual basis.

(c) Telecommunications service providers shall maintain records adequate to demonstrate compliance with the requirements of this chapter. The ~~board~~ Board or the fiscal agent may examine those records in a reasonable manner.

(d) When a payment is due under this section by a telecommunications service provider who has provided customer credits under the ~~lifeline~~ Lifeline program, the amount due may be reduced by the amount of credit granted.

(e) The fiscal agent shall examine the records of telecommunications service providers to determine whether their receipts reflect application of the universal service charge on all assessable telecommunications services under this chapter, including the federal subscriber line charge, directory assistance, enhanced services unless they are billed as separate line items, and toll-related services.

* * * State Telecommunications Plan; Division for Connectivity; VTA * * *

Sec. 35. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The General Assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the State communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

(1) ~~Strengthen~~ strengthen the State's role in telecommunications planning~~.~~;

(2) ~~Support~~ support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data~~.~~;

(3) ~~Support~~ support the availability of modern mobile wireless telecommunications services along the State's travel corridors and in the State's communities~~.~~;

(4) ~~Provide~~ provide for high-quality, reliable telecommunications services for Vermont businesses and residents~~.~~;

(5) ~~Provide~~ provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses~~.~~;

(6) ~~Support~~ support competitive choice for consumers among telecommunications service providers and promote open access among competitive service providers on nondiscriminatory terms to networks over which broadband and telecommunications services are delivered~~.~~;

(7) ~~Support, to the extent practical and cost effective,~~ support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the State~~.~~;

(8) ~~Support~~ support deployment of broadband infrastructure that:

(A) ~~Uses~~ uses the best commercially available technology~~.~~; and

(B) ~~Does~~ does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation~~.~~; and

(9) ~~In~~ in the deployment of broadband infrastructure, encourage the use of existing facilities, such as existing utility poles and corridors and other structures, in preference to the construction of new facilities or the replacement of existing structures with taller structures.

(10) support measures designed to ensure that by the end of the year 2024 every E-911 business and residential location in Vermont has infrastructure capable of delivering Internet access with service that has a minimum download speed of 100 Mbps and is symmetrical.

Sec. 36. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The ~~department of public service~~ Department of Public Service shall constitute the responsible planning agency of the ~~state~~ State for the purpose of obtaining for all consumers in the ~~state~~ State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the ~~state~~ State. The ~~department of public service~~ Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The ~~department of public service~~ Department shall prepare a ~~telecommunications plan~~ Telecommunications Plan for the ~~state~~ State. The ~~department of innovation and information~~ Department of Innovation and Information, the Division for Connectivity and the ~~agency of commerce and community development~~ Agency of Commerce and Community Development shall assist the ~~department of public service~~ Department of Public Service in preparing the ~~plan~~ Plan. The ~~plan~~ Plan shall be for a ~~seven-year~~ ten-year period and shall serve as a basis for ~~state~~ State telecommunications policy. Prior to preparing the ~~plan~~ Plan, the ~~department of public service~~ Department shall prepare:

(1) an overview, looking ~~seven~~ ten years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the ~~department of public service~~ Department of Public Service, will significantly affect ~~state~~ State telecommunications policy and programs;

(2) a survey of Vermont residents and businesses, conducted in cooperation with the ~~agency of commerce and community development~~ Agency of Commerce and Community Development and the Division for Connectivity, to determine what telecommunications services are needed now and in the succeeding ~~seven~~ ten years;

(3) an assessment of the current state of telecommunications infrastructure;

(4) an assessment, conducted in cooperation with the ~~department of innovation and information~~ Department of Innovation and Information and the Division for Connectivity, of the current ~~state~~ State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; and

(5) an assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the ~~plan~~ Plan, the ~~department~~ Department shall take into account the policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the ~~department of public service~~ Department shall consult with members of the public, representatives of telecommunications utilities, other providers, and other interested ~~state~~ State agencies, particularly the ~~agency of commerce and community development~~ Agency of Commerce and Community Development, the Division for Connectivity, and the ~~department of innovation and information~~ Department of Innovation and Information, whose views shall be considered in preparation of the ~~plan~~ Plan. To the extent necessary, the ~~department of public service~~ Department shall include in the ~~plan~~ Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the ~~department of public service~~ Department may require the submission of data by each company subject to supervision by the ~~public service board~~ Public Service Board.

(e) Before adopting a ~~plan~~ Plan, the ~~department~~ Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final ~~plan~~ Plan. At least one hearing shall be held jointly with ~~committees~~ Committees of the ~~general assembly~~ General Assembly designated by the ~~general assembly~~ General Assembly for this purpose. The ~~plan~~ Plan shall be adopted by ~~September 1, 2004~~ September 1, 2014.

(f) The ~~department~~ Department, from time to time, but in no event less than every three years, institute proceedings to review a ~~plan~~ Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the ~~plan~~ Plan. For good cause or upon request by a ~~joint resolution~~ Joint Resolution passed by the ~~general assembly~~ General Assembly, an interim review and revision of any section of the ~~plan~~ Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with ~~committees~~ Committees of the ~~general assembly~~ General Assembly designated by the ~~general assembly~~ General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 37. 3 V.S.A. § 2225 is added to read:

§ 2225. DIVISION FOR CONNECTIVITY

(a) Creation. The Division for Connectivity is created within the Agency of Administration as the successor in interest to and the continuation of the Vermont Telecommunications Authority. A Director for Connectivity shall be appointed by the Secretary of Administration. The Division shall receive administrative support from the Agency.

(b) Purposes. The purposes of the Division are to promote:

(1) access to affordable broadband service to all residences and businesses in all regions of the State, to be achieved in a manner that is consistent with the State Telecommunications Plan;

(2) universal availability of mobile telecommunication services, including voice and high-speed data along roadways, and near universal availability statewide;

(3) investment in telecommunications infrastructure in the State that creates or completes the network for service providers to create last-mile connection to the home or business and supports the best available and economically feasible service capabilities;

(4) the continuous upgrading of telecommunications and broadband infrastructure in all areas of the State is to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the State; and

(5) the most efficient use of both public and private resources through State policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

(c) Duties. To achieve its purposes, the Division shall:

(1) provide resources to local, regional, public, and private entities in the form of grants, technical assistance, coordination, and other incentives;

(2) prioritize the use of existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

(3) inventory and assess the potential to use federal radio frequency licenses held by instrumentalities of the State to enable broadband service in unserved areas of the State; take steps to promote the use of those licensed radio frequencies for that purpose; and recommend to the General Assembly any further legislative measures with respect to ownership, management, and use of these licenses as would promote the general good of the State.

(4) coordinate telecommunications initiatives among Executive Branch agencies, departments, and offices.

(5) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, develop and maintain an inventory of locations at which mobile telecommunications and broadband services are not available within the State, develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support the provision of services to unserved areas, and develop and maintain an inventory of infrastructure necessary for the provision of these services to the unserved areas;

(6) identify the types and locations of infrastructure and services needed to carry out the purposes stated in subsection (b) of this section;

(7) formulate an action plan that conforms with the State Telecommunications Plan and carries out the purposes stated in subsection (b) of this section;

(8) coordinate the agencies of the State to make public resources available to support the extension of mobile telecommunications and broadband infrastructure and services to all unserved areas;

(9) support and facilitate initiatives to extend the availability of mobile telecommunications and broadband services, and promote development of the infrastructure that enables the provision of these services;

(10) through the Department of Innovation and Information, aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and waive or reduce State fees for access to State-owned rights-of-way in exchange for comparable value to the State, unless payment for use is otherwise required by federal law; and

(11) receive all technical and administrative assistance as deemed necessary by the Director for Connectivity.

(d)(1) Deployment. The Director may request voluntary disclosure of information regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. Such information may include data identifying projected coverage areas, projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities.

(2) The Director may enter into a nondisclosure agreement with respect to any voluntary disclosures under this subsection and the information disclosed pursuant thereto shall remain confidential. Alternatively, entities that voluntarily provide information requested under this subsection may select a third party to be the recipient of such information. The third party may aggregate information provided by the entities, but shall not disclose the information it has received to any person, including the Director. The third party shall only disclose the aggregated information to the Director. The Director may publicly disclose aggregated information based upon the information provided under this subsection. The confidentiality requirements of this subsection shall not affect whether information provided to any agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

(e) Minimum technical service characteristics. The Division only shall promote the expansion of broadband services that offer actual speeds that meet

or exceed the minimum technical service characteristic objectives contained in the State's Telecommunications Plan.

(f) Annual Report. Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Director shall submit a report of its activities for the preceding fiscal year to the General Assembly. Each report shall include an operating and financial statement covering the Division's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Division, as well as the action plan required under subdivision (c)(7) of this section. In addition, the report shall include an accurate map and narrative description of each of the following:

(1) the areas served and the areas not served by wireless communications service, as identified by the Department of Public Service, and cost estimates for providing such service to unserved areas;

(2) the areas served and the areas not served by broadband that has a download speed of at least 0.768 Mbps and an upload speed of at least 0.2 Mbps, as identified by the Department of Public Service, and cost estimates for providing such service to unserved areas;

(3) the areas served and the areas not served by broadband that has a combined download and upload speed of at least 5 Mbps, as identified by the Department of Public Service, and the costs for providing such service to unserved areas; and

(4) the areas served and the areas not served by broadband that has a download speed of at least 100 Mbps and is symmetrical, as identified by the Department of Public Service, and the costs for providing such service to unserved areas.

Sec. 38. REPEAL

3 V.S.A. § 2222b (Secretary of Administration responsible for coordination and planning); 3 V.S.A. § 2222c (Secretary of Administration to prepare deployment report); 30 V.S.A. § 8077 (minimum technical service characteristics); and 30 V.S.A. § 8079 (broadband infrastructure investment) are repealed.

Sec. 39. CREATION OF POSITIONS; TRANSFER OF VACANT POSITIONS; REEMPLOYMENT RIGHTS

(a) The following exempt positions are created within the Division for Connectivity: one full-time Director and up to six additional full-time employees as deemed necessary by the Secretary of Administration.

(b) The positions created under subsection (a) of this section shall only be filled to the extent there are existing vacant positions in the Executive Branch

available to be transferred and converted to the new positions in the Division for Connectivity, as determined by the Secretary of Administration and the Commissioner of Human Resources, so that the total number of authorized positions in the State shall not be increased by this act.

(c) All full-time personnel of the Vermont Telecommunications Authority employed by the Authority on the day immediately preceding the effective date of this act, who do not obtain a position in the Division for Connectivity pursuant to subsection (a) of this section, shall be entitled to the same reemployment or recall rights available to nonmanagement State employees under the existing collective bargaining agreement entered into between the State and the Vermont State Employees' Association.

Sec. 40. TRANSITIONAL PROVISIONS

(a) Personnel. The Secretary of Administration shall determine where the offices of the Division for Connectivity shall be housed.

(b) Assets and liabilities. The assets and liabilities of the Vermont Telecommunications Authority (VTA) shall become the assets and liabilities of the Agency of Administration.

(c) Legal and contractual obligations. The Executive Director of the VTA, in consultation with the Secretary of Administration, shall identify all grants and contracts of the VTA and create a plan to redesignate the Agency of Administration as the responsible entity. The plan shall ensure that all existing grantors, grantees, and contractors are notified of the redesignation.

* * * Conduit Standards; Public Highways * * *

Sec. 41. 3 V.S.A. § 2226 is added to read:

§ 2226. PUBLIC HIGHWAYS; CONDUIT STANDARDS

(a) Intent. The intent of this section is to provide for the construction of infrastructure sufficient to allow telecommunications service providers seeking to deploy communication lines in the future to do so by pulling the lines through the conduit and appurtenances installed pursuant to this section. This section is intended to require those constructing public highways, including State, municipal, and private developers, to provide and install such conduit and appurtenances as may be necessary to accommodate future telecommunications needs within public highways and rights-of-way without further excavation or disturbance.

(b) Rules; standards. On or before January 1, 2015, the Secretary of Administration, in consultation with the Commissioner of Public Service, the Secretary of Transportation, and the Vermont League of Cities and Towns, shall adopt rules requiring the installation of conduit and such vaults and other

appurtenances as may be necessary to accommodate installation and connection of telecommunications lines within the conduit during highway construction projects. The rules shall specify construction standards with due consideration given to existing and anticipated technologies and industry standards. The standards shall specify the minimum diameter of the conduit and interducts to meet the requirements of this section. All conduit and appurtenances installed by private parties under this section shall be conveyed and dedicated to the State or the municipality, as the case may be, with the dedication and conveyance of the public highway or right-of-way. Any and all installation costs shall be the responsibility of the party constructing the public highway.

* * * Extension of 248a; Automatic Party Status * * *

Sec. 42. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

(a) Certificate. Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the Public Service Board under this section, which the Board may grant if it finds that the facilities will promote the general good of the State consistent with ~~subsection 202c(b) of this title~~ the State Telecommunications Plan. A single application may seek approval of one or more telecommunications facilities. An application under this section shall include a copy of each other State and local permit, certificate, or approval that has been issued for the facility under a statute, ordinance, or bylaw pertaining to the environment or land use.

* * *

(i) Sunset of Board authority. Effective July 1, ~~2014~~ 2016, no new applications for certificates of public good under this section may be considered by the Board.

* * *

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

Sec. 43. 10 V.S.A. § 1264(j) is amended to read:

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2016 and the discharge will be to a water that is not principally impaired by stormwater runoff:

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

(2) The Secretary shall issue a decision on the application within 60 days of the date the Secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.

Sec. 44. 10 V.S.A. § 8506 is amended to read:

§ 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the ~~secretary~~ Secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the ~~public service board~~ Public Service Board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248 or a telecommunications facility for which the applicant has applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for approval under 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title. This section shall not apply to an appeal of an act or decision of the ~~secretary~~ Secretary regarding a telecommunications facility made on or after July 1, ~~2014~~ 2016.

* * *

Sec. 45. 2011 Acts and Resolves No. 53, Sec. 14d is amended to read:

Sec. 14d. PROSPECTIVE REPEALS; EXEMPTIONS FROM MUNICIPAL BYLAWS AND ORDINANCES

Effective July 1, ~~2014~~ 2016:

(1) 24 V.S.A. § 4413(h) (limitations on municipal bylaws) shall be repealed; and

(2) 24 V.S.A. § 2291(19) (municipal ordinances; wireless telecommunications facilities) is amended to read:

* * *

Sec. 46. 3 V.S.A. § 2809 is amended to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

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

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

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

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

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

* * *

(g) Concerning an application for a permit to discharge stormwater runoff from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed before July 1, ~~2014~~ 2016:

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

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

* * * Administration Report; E-911; Vermont USF Fiscal Agent; Vermont Communications Board; FirstNet * * *

Sec. 47. ADMINISTRATION REPORT; TRANSFERS AND CONSOLIDATION; VERMONT USF FISCAL AGENT

(a) On January 1, 2015, after receiving input from State and local agencies potentially impacted, the Secretary of Administration shall submit a report to the General Assembly proposing a plan for transferring the responsibilities and powers of the Enhanced 911 Board, including necessary positions, to the Division for Connectivity, the Department of Public Service, or the Department of Public Safety, as he or she deems appropriate. The plan shall include budgetary recommendations and shall strive to achieve annual operational savings of at least $300,000.00, as well as enhanced coordination and efficiency, and reductions in operational redundancies. The report shall include draft legislation implementing the Secretary's plan. In addition, the report shall include findings and recommendations on whether it would be cost effective to select an existing State agency to serve as fiscal agent to the Vermont Universal Service Fund.

(b) As part of the report required in subsection (a) of this section, the Secretary shall also make findings and recommendations regarding the status of the Vermont Communications Board, Department of Public Safety, and the Vermont Public Safety Broadband Network Commission (Vermont FirstNet). If not prohibited by federal law, the Secretary shall propose draft legislation creating an advisory board within the Division for Connectivity or the Department of Public Safety comprised of 15 members appointed by the Governor to assume functions of the current Enhanced 911 Board, the Vermont Communications Board, and Vermont FirstNet, as the Secretary deems appropriate. Upon establishment of the new advisory board and not later than July 1, 2015, the E-911 Board and the Vermont Communications Board shall cease to exist.

* * * DPS Deployment Report * * *

Sec. 48. DEPARTMENT OF PUBLIC SERVICE; DEPLOYMENT REPORT

On July 15, 2015, the Commissioner of Public Service shall submit to the General Assembly a report, including maps, indicating the service type and average speed of service of mobile telecommunications and broadband services available within the State by census block as of June 30, 2015.

* * * VTA; Dormant Status * * *

Sec. 49. 30 V.S.A. § 8060a is added to read:

§ 8060a. PERIOD OF DORMANCY

On July 1, 2015, the Division for Connectivity established under 3 V.S.A. § 2225 shall become the successor in interest to and the continuation of the Vermont Telecommunications Authority, and the Authority shall cease all operations and shall not resume its duties as specified under this chapter or under any other Vermont law unless directed to do so by enactment of the General Assembly or, if the General Assembly is not in session, by order of the Joint Fiscal Committee. The Joint Fiscal Committee shall issue such order only upon finding that, due to an unforeseen change in circumstances, implementation of the Authority's capacity to issue revenue bonds would be the most effective means of furthering the State's telecommunications goals and policies. Upon the effective date of such enactment or order, the duties of the Executive Director and the Board of Directors of the Authority shall resume in accordance with 30 V.S.A. chapter 91 and the Director for Connectivity shall be the acting Executive Director of the Authority, until the position is filled pursuant to 30 V.S.A. § 8061(e).

* * * Telecommunications; CPGs; Annual Renewals; Retransmission Fees * * *

Sec. 50. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association, which desires to own or operate a business over which the ~~public service board~~ Public Service Board has jurisdiction under the provisions of this chapter shall first petition the ~~board~~ Board to determine whether the operation of such business will promote the general good of the ~~state,~~ State and conforms with the State Telecommunications Plan, if applicable, and shall at that time file a copy of any such petition with the ~~department~~ Department. The ~~department~~ Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the ~~department~~ Department requests a hearing on the petition, or, if the ~~board~~ Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, and shall make an order for the publication of the

substance thereof and the time and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing. The ~~director for public advocacy~~ Director for Public Advocacy shall represent the public at such hearing. If the ~~board~~ Board finds that the operation of such business will promote the general good of the ~~state,~~ State and will conform with the State Telecommunications Plan, if applicable, it shall give such person, partnership, unincorporated association or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the ~~board~~ Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the ~~board~~ Board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

(b) A company subject to the general supervision of the ~~public service board~~ Public Service Board under section 203 of this title may not abandon or curtail any service subject to the jurisdiction of the ~~board~~ Board or abandon all or any part of its facilities if it would in doing so effect the abandonment, curtailment or impairment of the service, without first obtaining approval of the ~~public service board~~ Board, after notice and opportunity for hearing, and upon finding by the ~~board~~ Board that the abandonment or curtailment is consistent with the public interest and the State Telecommunications Plan, if applicable; provided, however, this section shall not apply to disconnection of service pursuant to valid tariffs or to rules adopted under ~~section~~ subsections 209(b) and (c) of this title.

Sec. 51. 30 V.S.A. § 504 is amended to read:

§ 504. CERTIFICATES OF PUBLIC GOOD

(a) Certificates of public good granted under this chapter shall be for a period of 11 years.

(b) Issuance of a certificate shall be after opportunity for hearing and findings by the ~~board~~ Board that the applicant has complied or will comply with requirements adopted by the ~~board~~ Board to ensure that the system provides:

(1) designation of adequate channel capacity and appropriate facilities for public, educational, or governmental use;

(2) adequate and technically sound facilities and equipment, and signal quality;

(3) a reasonably broad range of public, educational, and governmental programming;

(4) the prohibition of discrimination among customers of basic service; ~~and~~

(5) basic service in a competitive market, and if a competitive market does not exist, that the system provides basic service at reasonable rates determined in accordance with section 218 of this title; and

(6) service that conforms with the relevant provisions of the State Telecommunications Plan.

(c) In addition to the requirements set forth in subsection (b) of this section, the ~~board~~ Board shall ~~insure~~ ensure that the system provides or utilizes:

(1) a reasonable quality of service for basic, premium or otherwise, having regard to available technology, subscriber interest, and cost;

(2) construction, including installation, which conforms to all applicable ~~state~~ State and federal laws and regulations and the National Electric Safety Code;

(3) a competent staff sufficient to provide adequate and prompt service and to respond quickly and comprehensively to customer and ~~department~~ Department complaints and problems;

(4) unless waived by the ~~board~~ Board, an office which shall be open during usual business hours, have a listed toll-free telephone so that complaints and requests for repairs or adjustments may be received; and

(5) reasonable rules and policies for line extensions, disconnections, customer deposits, and billing practices.

(d) A certificate granted to a company shall represent nonexclusive authority of that company to build and operate a cable television system to serve customers only within specified geographical boundaries. Extension of service beyond those boundaries may be made pursuant to the criteria in ~~section 504 of this title~~ this section, and the procedures in section 231 of this title.

(e) Subdivision (b)(6) of this section (regarding conformity with the State Telecommunications Plan) shall apply only to certificates that expire or new applications that are filed after the year 2014.

Sec. 52. 30 V.S.A. § 518 is added to read:

§ 518. DISCLOSURE OF RETRANSMISSION FEES

A retransmission agreement entered into between a commercial broadcasting station and a cable company pursuant to 47 U.S.C. § 325 shall not include terms prohibiting the company from disclosing to its subscribers any fees incurred for program content retransmitted on the cable network under the retransmission agreement.

* * * Statutory Revision Authority * * *

Sec. 53. LEGISLATIVE COUNCIL STATUTORY REVISION AUTHORITY; LEGISLATIVE INTENT

(a) The staff of the Office of the Legislative Council in its statutory revision capacity is authorized and directed to amend the Vermont Statutes Annotated as follows:

(1) deleting all references to "by the end of the year 2013" in 30 V.S.A. chapter 91; and

(2) during the interim of the 2015 biennium of the General Assembly, in 30 V.S.A. § 227e, replacing every instance of the words "Secretary of Administration" and "Secretary" with the words "Director for Connectivity" and "Director," respectively.

(b) Any duties and responsibilities that arise by reference to the Division for Connectivity in the Vermont Statutes Annotated shall not be operative until the Division is established pursuant to 3 V.S.A. § 2225.

* * * Effective Dates * * *

Sec. 54. EFFECTIVE DATES

This act shall take effect on July 1, 2014, except that 16 V.S.A. § 2888(d) in Sec. 22 and Secs. 37, 38, and 39 (regarding the Division for Connectivity) shall take effect on July 1, 2015.

Which was agreed to.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 884.

Consideration was resumed on House bill entitled:

An act relating to miscellaneous tax changes.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Finance?, Senator Benning moved to amend the bill in Sec. 50, in subsection (a), by striking out the

following "$1.51" and inserting in lieu thereof the following $1.44, and by striking out the following "$1.00" and inserting in lieu thereof the following: $0.94

Thereupon, Senator Benning requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Finance?, Senator Benning moved to amend the proposal of amendment of the Committee on Finance by striking out Sec. 50 in its entirety.

Thereupon, Senator Benning requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Finance?, was agreed to.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Pollina moved that the Senate proposal of amendment be amended by adding three new sections to be numbered Secs. 22a, 22b, and 22c to read as follows:

* * * Beverage Container Redemption; Weatherization * * *

Sec. 22a. 10 V.S.A. § 1521 is amended to read:

§ 1521. DEFINITIONS

~~For the purpose of~~ As used in this chapter:

(1) "Beverage" means beer or other malt beverages and mineral waters, mixed wine drink, soda water, and carbonated soft drinks in liquid form and intended for human consumption. As of January 1, 1990, "beverage" also shall mean liquor.

* * *

(3) "Container" means the individual, separate, bottle, can, jar, or carton composed of glass, metal, paper, plastic, or any combination of those materials containing a consumer product. This definition shall not include containers made of biodegradable material.

(4) "Distributor" means every person who engages in the sale of consumer products in containers to a dealer in this state including any manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor, shall be a distributor.

(5) "Manufacturer" means every person bottling, canning, packing, or otherwise filling containers for sale to distributors or dealers.

* * *

(8) "Secretary" means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources.

(9) "Mixed wine drink" means a beverage containing wine and more than 15 percent added plain, carbonated, or sparkling water; and which contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring, or preservatives; which contains not more than 16 percent alcohol by volume; or other similar product marketed as a wine cooler.

(10) "Liquor" means spirits as defined in 7 V.S.A. § 2.

(11) "Deposit initiator" means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State, except that "deposit initiator" shall not mean the Commissioner of Liquor Control for the purposes of beverage containers which contain liquor.

Sec. 22b. 10 V.S.A. §§ 1530 is added to read:

§ 1530. ABANDONED DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND

(a) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(b) Beginning July 1, 2015, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. All refunds on returned beverage containers shall be paid from the deposit transaction account by the deposit initiator.

(c) Beginning on August 10, 2015 and by the tenth day of each month thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding month. The report shall be submitted on a form provided by the Commissioner of Taxes and shall include:

(1) the balance of the account at the beginning of the preceding month;

(2) the number of nonreusable beverage containers sold in the preceding month and the number of nonreusable beverage containers returned in the preceding month;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding month;

(5) any income earned on the deposit transaction account in the preceding month;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding month; and

(7) any additional information required by the Commissioner of Taxes.

(d) On or before August 10, 2015 and on the tenth day of each month thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding month. The amount of abandoned beverage container deposits for a month is the amount equal to the amount of deposits that should be in the fund less the sum of:

(1) income earned on amounts on the account during that month; and

(2) the total amount of refund value received by the deposit initiator for nonrefillable containers during that month.

(e) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

(f) The abandoned beverage container deposits remitted to the Commissioner of Taxes under subsection (d) of this section shall be deposited in the Home Weatherization Assistance Fund under 33 V.S.A. § 2501 for the purposes of that fund.

Sec. 22c. 33 V.S.A. § 2501 is amended to read:

§ 2501. HOME WEATHERIZATION ASSISTANCE FUND

(a) There is created in the State Treasury a fund to be known as the Home Weatherization Assistance Fund to be expended by the Director of the State Office of Economic Opportunity in accordance with federal law and this chapter.

(b) The Fund shall be composed of the receipts from the gross receipts tax on retail sales of fuel imposed by section 2503 of this title, such funds as may be allocated from the oil overcharge fund, such funds as may be allocated from the federal Low Income Energy Assistance Program, all abandoned beverage container deposits remitted to the State under 10 V.S.A. § 1530, and such other funds as may be appropriated by the General Assembly.

(c) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the fund shall be deposited into the Fund. Disbursements from the Fund shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management. Disbursements may be made from the Fund only to support the programs established by this chapter or otherwise as authorized by this chapter.

Which was disagreed to on a roll call, Yeas 6, Nays 23.

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

Roll Call

Those Senators who voted in the affirmative were: Baruth, Galbraith, McCormack, Pollina, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, *Ayer, Benning, Bray, Collins, Cummings, Doyle, Flory, French, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, Mullin, Nitka, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman.

The Senator absent and not voting was: Campbell.

*Senator Ayer explained her vote as follows:

"This is the second time in 12 years that I have risen to explain a vote and I apologize.

"I voted against the amendment out of respect for the Senate tradition of committee of jurisdiction process in which testimony, inquiry and analysis is the basis for recommendations. Legislating from the floor is never good process. This is not the first time this worthy concept has been brought up in the Senate. I look forward to a fully vetted investigation early next session."

Senator Pollina, moved that the Senate proposal of amendment be amended as follows:

First: By adding a new section to be numbered Sec. 32a to read as follows:

Sec. 32a. INCOME TAX RATES

(a) For tax years 2014 and 2015, the tax rates for the two highest income tax brackets in 32 V.S.A. § 5822(a)(1)–(5) are raised from tax year 2013 rates of 8.80 percent and 8.95 percent to 8.90 percent and 9.20 percent, respectively. The tax rates for the three lowest brackets shall remain the same as they were in tax year 2013: 3.55 percent, 6.80 percent, and 7.80 percent. The Office of Legislative Council is authorized to alter the statutory chart in 32 V.S.A. § 5822(a)(1)–(5) to reflect these changes.

(b) For tax year 2016 and after, the tax rates for all five income tax brackets in 32 V.S.A. § 5822(a)(1)–(5) shall return to the same as they were in tax year 2013, in order from lowest bracket to highest bracket: 3.55 percent, 6.80 percent, 7.80 percent, 8.80 percent, and 8.95 percent. The Office of Legislative Council is authorized to alter the statutory chart in 32 V.S.A. § 5822(a)(1)–(5) to reflect these changes.

(c) Notwithstanding 1 V.S.A. § 214, 2009 Spec. Sess. Acts and Resolves No. 2, Sec. 20 is repealed on January 1, 2014.

Second: By adding a new section to be numbered Sec. 32b to read as follows:

Sec. 32b. WEATHERIZATION TRANSFER

Notwithstanding any other provision of law, for fiscal year 2015, the sum of $2,000,000.00 shall be transferred from the General Fund to the Home Weatherization Assistance Fund at 33 V.S.A. § 2501, and the sum of $2,000,000.00 shall be appropriated from the Weatherization Assistance Fund at 33 V.S.A. § 2501 to support grants made under 33 V.S.A. chapter 25.

Which was disagreed to.

Senator Pollina, moved that the Senate proposal of amendment be amended by striking out Sec. 47 in its entirety and inserting in lieu thereof a new Sec. 47 to read as follows:

Sec. 47. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of ~~0.5~~ 0.75 percent on the retail sale of the following types of fuel:

(1) heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) ~~propane;~~

~~(3)~~ natural gas;

~~(4)~~(3) electricity;

~~(5)~~(4) coal.

(b) The tax shall be levied upon and collected quarterly from the seller. Fuel sellers may include the following message on their bills to customers:

"The amount of this bill includes a ~~0.5%~~ 0.75% gross receipts tax~~, enacted in 1990,~~ for support of Vermont's Low Income Home Weatherization Program."

* * *

Which was disagreed to on a roll call, Yeas 3, Nays 27.

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

Roll Call

Those Senators who voted in the affirmative were: Lyons, McCormack, Pollina.

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

Thereupon, third reading of the bill was ordered.

House Proposal of Amendment Concurred In

S. 70.

House proposal of amendment to Senate bill entitled:

An act relating to the delivery of raw milk at farmers' markets.

Was taken up.

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

Sec. 1. 6 V.S.A. § 2776 is amended to read:

§ 2776. DEFINITIONS

In this chapter:

(1) "Consumer" means a customer who purchases, barters for, receives delivery of, or otherwise acquires unpasteurized milk ~~from the farm or delivered from the farm~~ according to the requirements of this chapter.

* * *

Sec. 2. 6 V.S.A. § 2777 is amended to read:

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

(a) Unpasteurized milk shall be sold directly from the producer to the consumer for personal consumption only and shall not be resold.

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when delivery is arranged in conformance with section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1) Unpasteurized milk shall be derived from healthy animals which are subject to appropriate veterinary care, including tuberculosis and brucellosis testing and rabies vaccination, according to accepted testing and vaccinations standards as established by the agency. Test results and verification of vaccinations shall be posted on the farm in a prominent place and be easily visible to customers.

(2) The animal's udders and teats shall be cleaned and sanitized prior to milking.

(3) The animals shall be housed in a clean, dry environment.

(4) Milking equipment shall be of sanitary construction, cleaned after each milking, and sanitized prior to the next milking.

(5) Milking shall be conducted in a clean environment appropriate for maintaining cleanliness.

(6) The farm shall have a potable water supply which is sampled for bacteriological examination according to agency standards every three years and whenever any alteration or repair of the water supply has been made.

(7) If an animal is treated with antibiotics, that animal's milk shall be tested for and found free of antibiotics before its milk is offered for sale.

(d) Unpasteurized milk shall conform to the following production and marketing standards:

(1) Record keeping and reporting.

(A) A producer shall collect one composite sample of unpasteurized milk each day and keep the previous 14 days' samples frozen. The producer shall provide samples to the ~~agency~~ Agency if requested.

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and ~~email~~, when available, e-mail addresses ~~when available~~.

(C) The producer shall maintain a list of transactions for at least one year which shall include customer names, the date of each purchase, and the amount purchased.

(2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the label shall contain:

(A) The date the milk was obtained from the animal.

(B) The name, address, zip code, and telephone number of the producer.

(C) The common name of the type of animal producing the milk ~~(e.g.,~~ such as cattle, goat, sheep~~)~~ or an image of the animal.

(D) The words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." on the container's principal display panel, and these words shall be clearly readable in letters at least one-eighth inch in height and prominently displayed.

(E) The words "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn." on the container's principal display panel and clearly readable in letters at least one-sixteenth inch in height.

(3) Temperature. Unpasteurized milk shall be cooled to 40 degrees Fahrenheit or lower within two hours of the finish of milking and so maintained until it is obtained by the consumer. All farms shall be able to demonstrate to the Agency's inspector that they have the capacity to keep the amount of milk sold on the highest volume day stored and kept at 40 degrees Fahrenheit or lower in a sanitary and effective manner.

(4) Storage. An unpasteurized milk bulk storage container shall be cleaned and sanitized after each emptying. Each container shall be emptied within 24 hours of the first removal of milk for packaging. Milk may be stored for up to 72 hours, but all storage containers must be emptied and cleaned at least every 72 hours. Unless milk storage containers are cleaned and sanitized daily, a written log of dates and times when milking, cleaning, and sanitizing occur shall be posted in a prominent place and be easily visible to customers.

(5) Shelf life. Unpasteurized milk shall not be transferred to a consumer after four days from the date on the label.

~~(4)~~(6) Customer inspection and notification.

(A) Prior to selling milk to a new customer, the new customer shall visit the farm and the producer shall provide the customer with ~~a~~ the opportunity to tour ~~of~~ the farm and any area associated with the milking operation. ~~Customers are encouraged and shall be permitted~~ The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to ~~re-inspect~~ reinspect any areas associated with the milking operation.

(B) A sign with the words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." and "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn." shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

(e) Producers selling ~~12.5~~ 87.5 or fewer gallons (~~50~~ 350 quarts) of unpasteurized milk per ~~day~~ week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk only from the farm on which it was produced. A producer selling ~~12.5~~ 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver in accordance with section 2778 of this ~~chapter~~ title.

(f) Producers selling ~~12.6~~ more than 87.5 gallons to ~~40~~ 280 gallons (~~50.4~~ more than 350 to ~~160~~ 1120 quarts) of unpasteurized milk per ~~day~~ week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

(1) Inspection. The ~~agency~~ Agency shall annually inspect the producer's facility and determine that the producer is in compliance with the sanitary standards listed in subsection (c) of this section.

(2) Bottling. Unpasteurized milk shall be sold in containers which have been filled by the producer. Containers shall be cleaned by the producer except that the producer may allow customers to clean their own containers only if each customer's container is labeled with the customer's name and address and the customers use their own containers. Producers shall ensure that only clean bottles are filled and distributed.

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory. Milk shall be tested for the following and the results shall be below these limits:

(i) ~~Total~~ total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);

(ii) ~~Total~~ total coliform count: 10 cfu/ml (cattle and goats);

(iii) ~~Somatic~~ somatic cell count: 225,000/ml (cattle); 500,000/ml (goats).

(B) The producer shall assure that all test results are forwarded to the ~~agency~~ Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

(C) The producer shall keep test results on file for one year and shall post results on the farm in a prominent place that is easily visible to customers. The producer shall provide test results to the farm's customers if requested.

(4) Registration. Each producer operating under this subsection shall register with the ~~agency~~ Agency.

(5) Reporting. On or before March 1 of each year, each producer shall submit to the ~~agency~~ Agency a statement of the total gallons of unpasteurized milk sold in the previous 12 months.

(6) Prearranged delivery. Prearranged delivery of unpasteurized milk is permitted and shall be in compliance with section 2778 of this ~~chapter~~ title.

(g) The sale of more than ~~40~~ 280 gallons (~~160~~ 1120 quarts) of unpasteurized milk in any one ~~day~~ week is prohibited.

Sec. 3. 6 V.S.A. § 2778 is amended to read:

§ 2778. DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Delivery of unpasteurized milk is permitted only within the ~~state~~ State of Vermont and only of milk produced by those producers meeting the requirements of subsection 2777(f) of this chapter.

(b) Delivery shall conform to the following requirements:

(1) Delivery shall be to customers who have:

(A) visited the farm as required under subdivision 2777(d)(4) of this title; and

(B) purchased milk in advance either by a one-time payment or through a subscription.

(2) Delivery shall be directly to the customer:

(A) at the customer's home or into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit until obtained by the customer;

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor.

(3) During delivery, milk shall be protected from exposure to direct sunlight.

(4) During delivery, milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the milk in accordance with this section.

(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets, on a form provided by the Agency, notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and proof of registration;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day or days of the week on which delivery will be made at a farmers' market.

(e) A producer delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 123.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to Lyme disease and other tick-borne illnesses.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment in Sec. 3, by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall provide information to assist patients' understanding of the available Lyme disease tests, the meaning of a diagnostic Lyme disease test result, and any limitations to that test result;

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Rules Suspended; Proposals of Amendment; Third Reading Ordered

H. 270.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to providing access to publicly funded prekindergarten education .

Was taken up for immediate consideration.

Senator Collins, for the Committee on Education, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by inserting a new section to be Sec. 3b to read as follows:

Sec. 3b. PREKINDERGARTEN REGIONS; PROCESS AND CRITERIA

The Agencies of Education and of Human Services, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont-NEA, and the Vermont Early Childhood Alliance, shall develop a detailed proposal outlining the process and criteria by which the Agencies will determine the prekindergarten region of a school district if requested to do so pursuant to Sec. 1, 16 V.S.A. § 829(h)(2), of this act. The Agencies shall present the proposal to the House and Senate Committees on Education on or before January 15, 2014. The Agencies shall also present any recommendations for amendments to statute, including repeal of or amendments to subsection (h).

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

Senator Mullin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Education with the following amendments thereto:

First: In Sec. 1, 16 V.S.A. § 829, subsection (e), subdivision (10), in the first sentence, after the word "monitor" by inserting the words and evaluate and in the third sentence, by striking out the word "assess" and inserting in lieu thereof the word evaluate

Second: In Sec. 3, subsection (a), in the first sentence, by striking out the year "2015" and inserting in lieu thereof the year 2016

and in subsection (b), by striking out the following: "2015, 2016, and 2017" and inserting in lieu thereof the following: 2016, 2017, and 2018

Third: By striking out Sec. 3b (prekindergarten regions) in its entirety and inserting in lieu thereof a new Sec. 3b to read:

Sec. 3b. PREKINDERGARTEN REGIONS; PROCESS AND CRITERIA

The Agencies of Education and of Human Services, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont-NEA, and the Building Bright Futures Council created in 33 V.S.A. chapter 46, shall develop a detailed proposal outlining the process and criteria by which the Agencies will determine the prekindergarten region of a school district if requested to do so pursuant to Sec. 1, 16 V.S.A. § 829(h)(2), of this act. The Agencies shall present the proposal to the House and Senate Committees on Education on or before January 15, 2015. The Agencies shall also present any recommendations for amendments to statute, including repeal of or amendments to subsection (h).

Fourth: By striking out Sec. 5 (effective date) in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage and shall apply to enrollments on July 1, 2015 (fiscal year 2016) and after; provided, however, that if statewide average education spending per equalized pupil for fiscal year 2015 increases above the statewide average education spending per equalized pupil for fiscal year 2014 by more than the most recent projection of the New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services for that fiscal year, plus an additional one-tenth of one percent, then this act shall not apply to enrollments beginning July 1, 2015 but instead shall apply to enrollments on the first day of

the fiscal year next following the fiscal year in which education spending per equalized pupil did not increase by more than the corresponding index amount.

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.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Education, be amended as proposed by the Committee on Appropriations?, Senator Mullin moved that the proposal of amendment of the Committee on Appropriations be amended by striking out the *Fourth* proposal of amendment of the Committee on Appropriations in its entirety and inserting in lieu thereof the following:

Fourth: By striking out Sec. 5 (effective date) in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage and shall apply to enrollments on July 1, 2015 and after.

Which was agreed to on a roll call, Yeas 17, Nays 13.

Senator McCormack 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, Collins, Doyle, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Mullin, Pollina, Sirotkin, White, Zuckerman.

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

*Senator Galbraith explained his vote as follows:

"In the end, I could not bring myself to vote to short change the youngest Vermonters for our poor choices."

Thereupon, the question, Shall the report of the Committee on Education, be amended as recommended by the Committee on Appropriations, as amended?, was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Education, as amended?, was agreed to.

Thereupon, pending the question, Shall the bill be read the third time?, Senators McCormack and Mullin moved to amend the Senate proposal of amendment in Sec. 1, 16 V.S.A. § 829, in subsection (e), by striking out subdivision (12) (Head Start) in its entirety

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 29, Nays 1.

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, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sirotkin, Snelling, *Starr, Westman, White, Zuckerman.

The Senator who voted in the negative was: *Sears.

*Senator Sears explained his vote as follows:

"My 'no' vote is a no to raising property taxes."

*Senator Starr explained his vote as follows:

"I voted 'yes' but have very grave concerns over our future spending needs."

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 211, S. 220, H. 88, H. 123, H. 217, H. 681, H. 823.

Rules Suspended; Action Messaged

On motion of Senator Campbell, the rules were suspended, and the action on the following bills was ordered messaged to the House forthwith:

S. 70, S. 275.

Adjournment

On motion of Senator Campbell, the Senate adjourned until nine o'clock and thirty minutes in the morning.