

# House Calendar

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Tuesday, May 03, 2016

120th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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## TABLE OF CONTENTS

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	<b>Page No.</b>
<b>Action Postponed Until May 3, 2016</b>	
<b>Senate Proposal of Amendment</b>	
<b>H. 858</b> Miscellaneous criminal procedure amendments .....	3005
Rep. Conquest, et al Amendment .....	3059
<b>H. 878</b> Capital construction and State bonding budget adjustment .....	3068

## ACTION CALENDAR

### Third Reading

<b>H. 888</b> Compensation for certain State employees .....	3087
<b>J.R.H. 27</b> Requesting federal action to alleviate the national student loan debt crisis.....	3089
<b>S. 14</b> An act relating to single dose, child-resistant packaging and labeling of marijuana-infused edible or potable products sold by a registered dispensary .....	3089
Rep. Pugh Amendment.....	3089
<b>S. 155</b> An act relating to privacy protection.....	3089
<b>S. 169</b> An act relating to the Rozo McLaughlin Farm-to-School Program.	3090
<b>S. 198</b> An act relating to the Government Accountability Committee and the annual report on the State's population-level outcomes.....	3090
<b>S. 245</b> An act relating to notice to patients of new health care provider affiliations.....	3090

## NOTICE CALENDAR

### Favorable with Amendment

**S. 62** An act relating to surrogate decision making for do-not-resuscitate orders and clinician orders for life-sustaining treatment ..... 3090  
Rep. Dame for Human Services

### Senate Proposal of Amendment

**H. 518** The membership of the Clean Water Fund Board..... 3090

**H. 571** Driver’s license suspensions, driving with a suspended license, and  
DUI penalties ..... 3092

**H. 620** Health insurance and Medicaid coverage for contraceptives ..... 3112

**H. 868** Miscellaneous economic development provisions ..... 3112

**H. 877** Transportation funding ..... 3199

### Committee of Conference Report

**S. 114** An act relating to the Open Meeting Law ..... 3204

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**ORDERS OF THE DAY**

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**Action Postponed Until May 3, 2016**

**Senate Proposal of Amendment**

**H. 858**

An act relating to miscellaneous criminal procedure amendments

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

Sec. 1. 13 V.S.A. § 2651(6) is amended to read:

(6) "Human trafficking" means:

\* \* \*

(B) "severe form of trafficking" as defined by ~~21 U.S.C. § 7105~~  
22 U.S.C. § 7105.

\* \* \*

Sec. 2. 13 V.S.A. § 5238 is amended to read:

§ 5238. CO-PAYMENT AND REIMBURSEMENT ORDERS

\* \* \*

(d) To the extent that the Court finds that the eligible person has income or assets available to enable payment of an immediate co-payment, it shall order such a co-payment to cover in whole or in part the amount of the costs of representation to be borne by the eligible person. ~~When a co-payment is ordered, the assignment of counsel shall be contingent on prior payment of the co-payment.~~ The co-payment shall be paid to the clerk of the Court. Any portion of the co-payment not paid to the clerk may be included in a reimbursement order.

\* \* \*

Sec. 2a. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court

shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

\* \* \*

Sec. 2b. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

\* \* \*

Sec. 3. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

\* \* \*

(7) ~~For the purpose of this chapter, “listed~~ “Listed crime” means any of the following offenses:

\* \* \*

(W) operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210~~(e)~~(f) and ~~(f)~~(g);

\* \* \*

Sec. 4. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall electronically post information on the Internet in accordance with subsection

(b) of this section regarding the following sex offenders, upon ~~their~~ the offender's release from confinement or, if the offender was not subject to confinement, upon the offender's conviction:

\* \* \*

Sec. 5. 13 V.S.A. § 5572(a) is amended to read:

(a) A person convicted and imprisoned for a crime of which the person was exonerated pursuant to ~~subchapter 1~~ of this chapter shall have a cause of action for damages against the ~~state~~ State.

Sec. 6. 13 V.S.A. § 5578 is added to read:

§ 5578. APPLICABILITY; RETROACTIVITY

Notwithstanding 1 V.S.A. § 214(b), this subchapter and any amendments thereto shall apply to any exoneration that occurs on or after July 1, 2007.

Sec. 7. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

\* \* \*

~~(5) Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing. If the a court fails to provide the defendant with notice of collateral consequences in accordance with this subdivision 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.~~

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling marijuana or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing ~~one-half ounce or more~~ than one ounce of marijuana or ~~2.5~~ five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of marijuana or 2.8 ounces of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

\* \* \*

Sec. 8. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.~~

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind. A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.~~

~~(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:~~

- ~~(i) not more than \$100.00 for a first offense;~~
- ~~(ii) not more than \$200.00 for a second offense; and~~
- ~~(iii) not more than \$500.00 for a third or subsequent offense.~~

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.:~~

(1) permit a person to cultivate marijuana without a license from the Department of Public Safety;

(2) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(3) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(4) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(5) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(6) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(7) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.~~

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.



Sec. 9. 18 V.S.A. § 4230e is added to read:

§ 4230e. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c)(1) Except as provided in subdivision (2) of this subsection and subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(2) A person who violates subdivision (a)(1) of this section by selling or furnishing marijuana to a person under 18 years of age shall be imprisoned not more than four years or fined not more than \$4,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 10. 18 V.S.A. § 4230f is added to read:

§ 4230f. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, “social host” means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

Sec. 11. 18 V.S.A. § 4230g is added to read:

§ 4230g. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using a solvent such as butane, hexane, isopropyl alcohol, ethanol, or carbon dioxide unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title. This section does not preclude extraction by vegetable glycerin.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 12. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

During 2016 the Joint Legislative Justice Oversight Committee shall study:

(1) how a criminal defendant’s credit for time served is determined with respect to time that the defendant was in Department of Corrections custody on nonincarcerative status or conditions of release; and

(2) when the name of an offender who has committed a qualifying offense is posted on the Internet Sex Offender Registry if the offender was in Department of Corrections custody on nonincarcerative status.

\* \* \* Findings \* \* \*

Sec. 13. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(5) In his 2016 State of the State address, the Governor identified five essential elements to a well-regulated framework for marijuana legalization, which the General Assembly believes have been addressed in this Act:

(A) Keeping marijuana and other drugs out of the hands of youth.

(B) Creating a regulated marijuana market that shifts demand away from the illegal market and the inherent public health and safety risks associated with the illegal market.

(C) Using revenue from commercial marijuana sales to expand drug prevention and treatment programs.

(D) Strengthening law enforcement's capacity to improve the response to impaired drivers under the influence of marijuana or other drugs.

(E) Prohibiting the commercial production and sale of marijuana concentrates and edible marijuana products until other states that are currently permitting such products successfully develop consumer protections that are shown to prevent access by youth and potential misuse by adults.

(6) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(7)(A) The General Assembly understands there are a number of Vermonters who would prefer to cultivate small amounts of marijuana for personal use instead of buying marijuana through a licensed retailer and to allow small "craft" marijuana cultivators to sell to the public without the same restrictions and licensing of commercial cultivators. At this time, the General Assembly believes there is insufficient information to determine whether Vermont could effectively regulate personal cultivation in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market.

(B) Marijuana is illegal for any purpose under federal law and the federal government retains prosecutorial discretion to enforce the provisions of the Controlled Substances Act. In a 2013 memo from Deputy Attorney General James M. Cole, the U.S. Department of Justice provided guidance on its use of this discretion stating, "[i]n jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong effective regulatory and enforcement systems to control cultivation,

distribution, sale and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten [federal priorities] . . . If state enforcement efforts are not sufficiently robust to protect against the harms [identified in the memo], the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focusing on those harms.”

(C) The Marijuana Program Review Commission created by this act will take testimony on the issues identified in subdivision (7)(A) and consider whether and when Vermont may move toward increasing opportunities for small-scale cultivation while meeting State and federal interests concerning public health and safety.

\* \* \* Prevention \* \* \*

#### Sec. 14. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor’s Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youths under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State’s pediatric practices and school-based health centers.

(E) Strategies specific to youths who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2017, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2017.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youths in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

\* \* \* Regulation of Commercial Marijuana \* \* \*

Sec. 15. 18 V.S.A. § 4201(15) is amended to read:

~~(15)(A) “Marijuana” means any plant material of the genus *Cannabis* or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant *Cannabis sativa* L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:~~

~~(i) the seeds of the plant;~~

~~(ii) the resin extracted from any part of the plant; and~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.~~

~~(B) “Marijuana” does not include:~~

~~(i) the mature stalks of the plant and fiber produced from the stalks;~~

~~(ii) oil or cake made from the seeds of the plant;~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or~~

~~(iv) the sterilized seed of the plant that is incapable of germination.~~

Sec. 16. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

## Subchapter 1. General Provisions

### § 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Applicant” means a person that applies for a license to operate a marijuana establishment pursuant to this chapter.

(3) “Child care facility” means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

(4) “Commissioner” means the Commissioner of Public Safety.

(5) “Department” means the Department of Public Safety.

(6) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(7) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(8) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or



otherwise provides financing to a person with the expectation of a financial return.

(9) “Handbill” means a flyer, leaflet, or sheet that advertises marijuana or a marijuana establishment.

(10) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(11) “Marijuana cultivator” or “cultivator” means a person registered with the Department to engage in commercial cultivation of marijuana in accordance with this chapter.

(12) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Department to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Department to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(14) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Department to test marijuana for cultivators and retailers in accordance with this chapter.

(15) “Owns or controls,” “is owned or controlled by,” and “under common ownership or control” mean direct ownership or beneficial ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the power to direct, or cause the direction of, the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(16) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(17) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(18) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(19) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(20) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(21) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

#### § 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

#### § 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption;

(3) represents that the use of marijuana has curative or therapeutic effects;

(4) depicts a person under 21 years of age consuming marijuana; or

(5) is designed to be appealing to children or persons under 21 years of age.

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) Handbills shall not be posted or distributed.

(d) In accordance with section 4512 of this chapter, the Department shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(e) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

## Subchapter 2. Administration

### § 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Department shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(b)(1) For the purpose of regulating the cultivation and testing of marijuana in accordance with this chapter, the Agency of Agriculture, Food and Markets shall have the following authority and duties:

(A) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(B) the inspection of licensed marijuana cultivators and testing of marijuana; and

(C) the prevention of contaminated or adulterated marijuana from being offered for sale.

(2) The authority and duties of the Agency shall be in addition to, and not a substitute for, the authority and duties of the Department.

(c)(1) There is established a Marijuana Advisory Board within the Department for the purpose of advising the Department and other administrative agencies and departments regarding policy for the

implementation and operation of this chapter. The Board shall be composed of the following members:

- (A) the Commissioner of Public Safety or designee;
- (B) the Secretary of Agriculture, Food and Markets or designee;
- (C) the Commissioner of Health or designee;
- (D) the Commissioner of Taxes or designee; and
- (E) a member of local law enforcement appointed by the Governor.

(2) The Department shall endeavor to notify and consult with the Board prior to the adoption of any significant policy decision.

(3) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2016 and shall attend Board meetings.

#### § 4512. RULEMAKING

(a) The Department shall adopt rules to implement this chapter on or before March 15, 2017, in accordance with subdivisions (1)–(4) of this section.

(1) Rules concerning any marijuana establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;

(C) oversight requirements;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;

(G) security requirements, including lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2) Rules concerning cultivators shall include:

(A) labeling requirements for products sold to retailers; and

(B) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.

(3) Rules concerning retailers shall include:

(A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;

(B) requirements for proper verification of age and residency of customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.

(4) Rules concerning testing laboratories shall include:

(A) procedures for destruction of all samples; and

(B) requirements for chain of custody recordkeeping.

(b) In addition to the rules adopted by the Department pursuant to subsection (a) of this section, the Agency of Agriculture, Food and Markets

shall adopt rules regarding the cultivation and testing of marijuana regulated pursuant to this chapter as follows:

(1) restrictions on the use by cultivators of pesticides that are injurious to human health;

(2) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;

(3) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;

(4) reporting requirements of a testing laboratory; and

(5) inspection requirements for cultivators and testing laboratories.

#### § 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2017, the Department shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2017, the Department shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2017, the Department shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2017, the Department shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2018.

(c)(1) Prior to July 1, 2018, provided applicants meet the requirements of this chapter, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet;

(E) a maximum of five testing laboratory licenses; and

(F) a maximum of 15 retailer licenses.

(2) On or after July 1, 2018 and before July 1, 2019, provided applicants meet the requirements of this chapter and in addition to the licenses authorized in subdivision (1) of this subsection, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet for a total of 20 such licenses;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet for a total of eight such licenses;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet for a total of 20 such licenses;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet for a total of six such licenses;

(E) a maximum of five testing laboratory licenses for a total of 10 such licenses; and

(F) a maximum of 15 retailer licenses for a total of 30 such licenses.

(3) On or after July 1, 2019, the limitations in subdivisions (1) and (2) of this subsection shall not apply and the Department shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed under the limitations of subdivisions (1) or (2) of this subsection may apply to the Department to modify its license to expand its cultivation space.

#### § 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Department shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Department shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

### Subchapter 3. Licenses

#### § 4521. GENERAL PROVISIONS



(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Department.

(b) All licenses shall expire at midnight, April 30, of each year beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Department and shall be accompanied by the fees provided for in section 4528 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), an applicant and its affiliates may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtains no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Department. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Department. Failure to provide proof of insurance to the Department, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

(i) This subchapter shall not apply to possession regulated by section 4230a of this title.

#### § 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant shall be a resident of Vermont.

(2) A principal of an applicant, and a person who owns or controls an applicant, shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(3) An applicant, principal of an applicant, or person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(b) A financier of an applicant shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Department, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to retailers; and

(J) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product; and

(E) the types of testing to be offered.

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) an applicant or financier;

(2) a principal of an applicant or financier; and

(3) a person who owns or controls an applicant or financier.

(e) When considering applications for a marijuana establishment license, the Department shall:

(1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;

(2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Department designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Department. A license shall not be renewed unless the records of the Department show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Department prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Department. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Department shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the marijuana establishment with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the identification card; and
- (5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Department shall obtain the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of

criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Department shall not issue an identification card to any person who has been convicted of a drug-related criminal offense or a violent felony or who has a pending charge for such an offense. As used in this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(f) The Department shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a registry identification card. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

#### § 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility.

(c) An applicant shall designate on their operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Department and the Agency of Agriculture, Food and Markets.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency of Agriculture, Food and Markets finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing

within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary of Agriculture, Food and Markets and shall clearly identify the marijuana affected and the basis for the appeal.

#### § 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption off the registered premises; and

(2) purchase marijuana from a licensed cultivator.

(b)(1) In a single transaction, a retailer may provide:

(A) one-half ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer shall only sell “useable marijuana” which means the dried flowers of marijuana, and does not include the seeds, stalks, leaves, and roots of the plant, and shall not package marijuana with other items, such as paraphernalia, for sale to customers.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate

machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Board and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

#### § 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

(1) residual solvents;

(2) poisons or toxins;

(3) harmful chemicals;

(4) dangerous molds, mildew, or filth;

(5) harmful microbials, such as E.coli or salmonella;

(6) pesticides; and

(7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.



§ 4528. FEES

(a) The Department of Public Safety shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the application fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the application fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the application fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the application fee shall be \$30,000.00.

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is:

(A) fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2018; or

(B) twenty-five percent of the application fees set forth in subdivisions (1)–(3) of this subsection if the original application was submitted on or after July 1, 2018 and before July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the initial annual license and subsequent renewal fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the initial annual license and subsequent renewal fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the initial annual license and subsequent renewal fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the initial annual license and subsequent renewal fee shall be \$30,000.00.

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.

(d) The following administrative fees shall apply:

(1) Change of corporate structure fee (per person) shall be \$1,000.00.

(2) Change of name fee shall be \$1,000.00.

(3) Change of location fee shall be \$1,000.00.

(4) Modification of license premises fee shall be \$250.00.

(5) Addition of financier fee shall be \$250.00.

(6) Duplicate license fee shall be \$100.00.

#### § 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected by Departments pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) 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.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

#### Subchapter 4. Marijuana Program Review Commission

##### § 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

(b) Membership. The Commission shall be composed of the following members:

(1) four members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) one member of the House of Representatives, appointed by the Speaker of the House;

(3) one member of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

(c) Legislative members shall serve only while in office.

(d) The Governor shall appoint one member for a one-year term, two members for two-year terms, and one member for a three-year term who shall serve as Chair. The Governor may reappoint members at his or her discretion.

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(3) consider the issue of personal cultivation of a small number of marijuana plants and whether Vermont could permit home grow in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market;

(4) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;

(5) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of impaired driving as it relates to marijuana;

(6) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

(7) examine whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license;

(8) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(9) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Department and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(10) monitor the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;

(11) identify strategies for preventing youth from using marijuana;

(12) identify academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy in accordance with this act;

(13) consider whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees;

(14) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

(15) report any recommendations to the General Assembly and the Governor, as needed.

(b)(1) On or before October 15, 2017, the Commission shall issue a report to the General Assembly and the Governor regarding allowing personal cultivation of marijuana as provided in subdivision (a)(3) of this section.

(2) On or before January 15, 2019, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

#### § 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

##### (b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2016.

(2) A majority of the membership shall constitute a quorum.

(3) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the Commission shall cease to exist.

##### (c) Reimbursement.

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

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

Sec. 17. 32 V.S.A. chapter 207 is added to read:

#### CHAPTER 207. MARIJUANA TAXES

##### § 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

##### § 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax

were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

#### § 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

#### § 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding

month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

#### § 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Sec. 18. 32 V.S.A. § 5811 is amended to read:

#### § 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

\* \* \*

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and



(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

\* \* \*

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

\* \* \*

Sec. 19. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

\* \* \* Impaired Driving \* \* \*

Sec. 20. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 21. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 22. 23 V.S.A. § 1219 is amended to read:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;  
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person's general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Sec. 23. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

\* \* \*

(4) refusal to submit to a test to determine the operator's alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

\* \* \*

Sec. 24. VERMONT GOVERNOR'S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to address comprehensively the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor's Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2017 regarding implementation of this section.

#### Sec. 25. REPORTING IMPAIRED DRIVING DATA

The Commissioner of Public Safety and the Secretary of Transportation, in collaboration, shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

(1) the previous year's data in Vermont;

(2) the latest information regarding best practices on prevention and enforcement; and

(3) their recommendations for legislative action.

\* \* \*

\* \* \* Medical Marijuana Dispensaries \* \* \*

#### Sec. 26. LEGISLATIVE INTENT; DISPENSARIES

The continued viability of medical marijuana dispensaries in a regulated retail market is critical to ensure appropriate services and products to Vermonters with qualifying debilitating medical conditions.

Sec. 27. 18 V.S.A. § 4472 is amended to read:

#### § 4472. DEFINITIONS

\* \* \*

(6)(A) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81 ~~who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines to the extent that a diagnosis provided by a naturopath under this chapter is within the scope of his or her practice~~, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) ~~Except for naturopaths, this~~ This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

\* \* \*

(11) ~~“Registered caregiver” means a person who is at least 21 years old who has never been convicted of a drug related crime~~ 21 years of age or older, has met eligibility requirements as determined by the Department in accordance with this chapter, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

\* \* \*

(17) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the dispensary, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the dispensary when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of another dispensary, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the dispensary.

Sec. 28. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

\* \* \*

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

\* \* \*

(5)(A) A Review Board is established. ~~The Medical Practice Board shall appoint three physicians licensed in Vermont to constitute the Review Board. If an application under subdivision (1) of this subsection is denied,~~

~~within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board. The Review Board shall comprise three members:~~

(i) a physician appointed by the Medical Practice Board;

(ii) a naturopathic physician appointed by the Office of Professional Regulation; and

(iii) an advanced practice registered nurse appointed by the Office of Professional Regulation.

(B) The Board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The Board may make recommendations to the General Assembly for adjustments and changes to this chapter.

(C) Members of the Board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first members appointed shall serve as follows: one for a term of two years, one for a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

(D) If an application under subdivision (1) of this subsection (b) is denied, within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board.

Sec. 29. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS  
AND PROCEDURES

\* \* \*

(d) A registered caregiver of a patient who is under 18 years of age and suffers from seizures may cultivate hemp upon notifying the Department and shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 30. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

(A) Marijuana-infused products shall include tinctures, oils, solvents, and edible or potable goods. Only the portion of any marijuana-infused product that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient. The Department of Public Safety shall establish by rule the appropriate method to establish the weight of marijuana that is attributable to marijuana-infused products. A dispensary shall dispense marijuana-infused products in child-resistant packaging as defined in 7 V.S.A. § 1012.

\* \* \*

(2)(A) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided that records are kept concerning the amount and the recipient.

(B) Acquire, purchase, or borrow marijuana, marijuana-infused products, or services from another registered Vermont dispensary or give, sell, or lend marijuana, marijuana-infused products, or services to another registered Vermont dispensary, provided that records are kept concerning the product, the amount, and the recipient. Each Vermont dispensary is required to adhere to all possession limits pertaining to cultivation as determined by the number of patients designating that dispensary and may not transfer eligibility to another dispensary.

(3)(A) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

(B) Notwithstanding subdivision (A) of this subdivision (3), if a dispensary is designated by a registered patient under 18 years of age who qualifies for the registry because of seizures, the dispensary may apply to the



Department for a waiver of the limits in subdivision (A) of this subdivision (3) if additional capacity is necessary to develop and provide an adequate supply of a product for symptom relief for the patient. The Department shall have discretion whether to grant a waiver and limit the possession amounts in excess of subdivision (A) of this subdivision (3) in accordance with rules adopted pursuant to section 4474d of this title.

(C) The plant limitations in subdivision (A) of this subdivision (3) shall not be construed to restrict a dispensary's cultivation of marijuana pursuant to a cultivation license issued under chapter 87 of this title.

(4) With approval from the Department, transport and transfer marijuana to a Vermont academic institution for the purpose of research.

~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax exempt organization by the Internal Revenue Service.~~

~~(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.~~

\* \* \*

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility ~~which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards.~~ The Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

\* \* \*

(h) A dispensary shall include a label on the packaging of all marijuana that is dispensed. The label shall:

(1) identify the particular strain of marijuana contained therein. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant. ~~The label also shall:~~

(2) identify the amount of tetrahydrocannabinol in each single dose marijuana-infused edible or potable product; and

(3) contain a statement to the effect that the State of Vermont does not attest to the medicinal value of cannabis.

\* \* \*

(o) Notwithstanding any provision of law or any provision of its articles or bylaws to the contrary, a dispensary formed as a nonprofit may convert to any other type of business entity authorized by the laws of this State by:

(1) a majority vote of the directors and a majority vote of the members, if any; and

(2) filing with the Secretary of State a statement that the dispensary is converting to another type of entity and the documents required by law to form the type of entity.

Sec. 31. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;  
CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the Department of Public Safety shall issue each principal officer, Board member, and employee of a dispensary a registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to a principal officer, Board member, or employee. A person shall not serve as principal officer, Board member, or employee of a dispensary until that person has received a registry identification card issued under this section. Each card shall specify whether the cardholder is a principal officer, Board member, or employee of a dispensary and shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the dispensary with which the person is affiliated;

(3) a random identification number that is unique to the person-;

(4) the date of issuance and the expiration date of the registry identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for a registry identification card, the Department of Public Safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each

applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary principal or Board member.

\* \* \*

(e) The Department of Public Safety shall not issue a registry identification card to any applicant who has been convicted of a drug-related criminal offense or a violent felony or who has a pending charge for such an offense. ~~For purposes of~~ As used in this subchapter, “violent felony” means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

\* \* \*

Sec. 32. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient’s designated dispensary and may designate only one dispensary. If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary. A registered patient who wishes to change his or her dispensary shall notify the ~~department of public safety~~ Department of Public Safety in writing on a form issued by the ~~department~~ Department and shall submit with the form a fee of \$25.00. The ~~department~~ Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient’s previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the ~~department~~ Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any ~~90-day~~ 30-day period.

(b) The ~~department of public safety~~ Department of Public Safety shall track the number of registered patients who have designated each dispensary. The ~~department~~ Department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient’s designated caregiver, if any.

(c) In addition to the monthly reports, the ~~department of public safety~~ Department of Public Safety shall provide written notice to a dispensary whenever any of the following events occurs:

(1) ~~A~~ a qualifying patient designates the dispensary to serve his or her needs under this subchapter;

(2) ~~An~~ an existing registered patient revokes the designation of the dispensary because he or she has designated a different dispensary; ~~or~~

(3) ~~A~~ a registered patient who has designated the dispensary loses his or her status as a registered patient under this subchapter.

\* \* \* Appropriations and Positions \* \* \*

Sec. 33. FISCAL YEAR 2017 APPROPRIATIONS FROM THE  
MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2017, the following amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter-marketing programs.

(2) Department of Taxes: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Department of Public Safety:

(A) \$160,000.00 for staffing expenses related to rulemaking, program administration, and processing of applications.

(B) \$124,000.00 for laboratory equipment, supplies, training, testing, and contractual expenses required by this act.

(C) \$63,500.00 for matching funds needed for Drug Recognition Expert training for the Department and other State law enforcement agencies in FY17 after other available matching funds are applied.

(4) Agency of Agriculture, Food and Markets:

(A) \$112,500.00 for the Vermont Agriculture and Environmental Lab.

(B) \$112,500.00 for staffing expenses related to rulemaking and program administration.

(5) Agency of Administration: \$150,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

Sec. 34. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2017 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Department of Public Safety—one (1) Program Administrator and one (1) Administrative Assistant.

(4) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and one (1) Program Administrator.

(5) In the Marijuana Program Review Commission—one (1) exempt Commission Director.

Sec. 35. MARIJUANA REGULATION AND RESOURCE FUND  
BUDGET AND REPORT

Annually, through 2018, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

\* \* \* Miscellaneous \* \* \*

Sec. 36. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

\* \* \*

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, “marijuana establishment” is as defined in 18 V.S.A. chapter 87.

Sec. 37. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

\* \* \*

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 38. 6 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CENTRAL TESTING LABORATORY

§ 121. CREATION AND PURPOSE

There is created within the Agency of Agriculture, Food and Markets a central testing laboratory for the purpose of providing agricultural ~~and~~, environmental, and other necessary testing services.

§ 122. FEES

Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for providing agricultural ~~and~~, environmental, and other necessary testing services at the request of private individuals and State agencies. The fees shall be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

§ 123. REGULATED DRUGS

(a) Except as provided in subsection (b) of this section, the provisions of 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the

otherwise lawful performance of his or her official duties requiring the possession or control of regulated drugs.

(b) The central testing laboratory shall obtain a certificate of approval from the Department of Health pursuant to 18 V.S.A. § 4207.

(c) As used in this section, “regulated drug” shall have the same meaning as in 18 V.S.A. § 4201.

#### Sec. 39. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created a Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

(b) Membership. The Committee shall be composed of the following five members:

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

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

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

(1) whether Vermont’s workers’ compensation and unemployment insurance systems are adversely impacted by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont’s workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct post-accident, employerwide, or post-rehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2016, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2016.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on December 31, 2016.

Sec. 40. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(24) Violations of 18 V.S.A. §§ ~~§ 4230a and 4230b~~, relating to ~~possession~~public consumption of marijuana.

Sec. 41. EFFECTIVE DATES

(a) This section, Secs. 1 (human trafficking), 2 (co-payment and reimbursement orders), 3 (listed crime definition), 4 (sex offender registry), 5 and 6 (innocence protection), 7 (marijuana criminal penalties), 12 (Justice Oversight Committee), 13 (legislative intent), 14 (marijuana youth education and prevention), 15–17 and 19 (regulation of commercial marijuana) shall take effect on passage.

(c) Sec. 18 (related to marijuana taxes) shall take effect on January 1, 2017 and shall apply to taxable year 2017 and after.

(d) Secs. 8–11 (relating to marijuana civil and criminal penalties) shall take effect on January 2, 2018.

(e) Secs. 20–25 (impaired driving), 26–32 (marijuana dispensaries), 33–35 (appropriations and positions), and 36–40 (miscellaneous) shall take effect on July 1, 2016.

(For text see House Journal March 10, 2016 )



**Amendment to be offered by Reps. Conquest of Newbury, Copeland-Hanzas of Bradford, Grad of Moretown, Komline of Dorset, Olsen of Londonderry, and Young of Glover to H. 858**

That the House concur in the Senate proposal of amendment with further proposal of amendment as follows:

First: By striking out Secs. 8–11 and 13–41 in their entirety.

Second: By redesignating Sec. 12 to be Sec. 8

Third: By adding Secs. 9–20 to read as follows:

Sec. 9. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor’s Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youths under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each supervisory union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and countermarketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State’s pediatric practices and school-based health centers.

(E) Strategies specific to youths who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2017, the Department shall adopt rules to implement the education and prevention program described in this subsection and implement the program on or before September 15, 2017.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youths in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

Sec. 10. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

\* \* \*

Sec. 11. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER; CIVIL VIOLATION

(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana ~~or~~ five grams or less of hashish, or not more than two marijuana plants, or who possesses paraphernalia for marijuana use commits a civil violation and shall be assessed a civil penalty as follows:

~~(1)~~(A) not more than ~~\$200.00~~ \$100.00 for a first offense;

~~(2)~~(B) not more than \$300.00 for a second offense;

~~(3)~~(C) not more than \$500.00 for a third or subsequent offense.

(2) Possession of any marijuana harvested from no more than two plants possessed in violation of subdivision (1) of this subsection shall be subject to the penalties provided in that subdivision, provided the harvested marijuana is stored in a secure indoor facility on the property where the marijuana was cultivated.

(3) Although possession of marijuana plants is unlawful, if a person does possess marijuana plants, the penalties provided in subdivision (1) of this subsection shall apply only under the following circumstances:

(A) The plants are possessed on property lawfully in possession of the person or with the consent of the person in lawful possession of the property and screened from public view. If the plants are not possessed in accordance with this subdivision (a)(3)(A), the person in possession of those plants shall be subject to the penalties in subdivision (a)(1)(B) of this section.

(B) No more than four marijuana plants are possessed per dwelling unit or per property owned or controlled by a person or persons in possession of the plants, regardless of how many persons 21 years of age or older reside in the dwelling unit or on the property. If a dwelling unit has more than four marijuana plants, the person or persons in possession of those plants shall be subject to the penalties in section 4230 of this title. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish, or not more than two marijuana plants, or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) A violation of this section shall not result in the creation of a criminal history record of any kind.

\* \* \*

Sec. 12. 18 V.S.A. § 4230e is added to read:

§ 4230e. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 15. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor’s Highway Safety Program’s administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for enforcement efforts to address impaired driving.

Sec. 16. MARIJUANA ADVISORY COMMISSION

(a) There is created a temporary Marijuana Advisory Commission for the purpose of providing guidance to the Administration and the General Assembly on issues relating to the national trend toward reclassifying marijuana at the state level, and the emergence of a regulated adult-use commercial market for marijuana within Vermont.

(b) The Commission shall be composed of the following members:

(1) two members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees;

(4) the Attorney General or designee; and

(5) a representative of the Vermont League of Cities and Towns.

(c) Legislative members shall serve only while in office.

(d) The Governor may appoint new members of the public when a vacancy occurs.

(e)(1) In developing proposals for consideration by the Administration and the General Assembly, the Commission shall:

(A) prioritize the need for a solution that is consistent with Vermont values, culture, and scale;

(B) consult with other states and jurisdictions that have legalized marijuana, and monitor them regarding implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(C) recommend approaches for preventing, detecting, and penalizing impaired driving as it relates to marijuana use, drawing on the latest information in Vermont and other jurisdictions;

(D) identify effective educational, preventative, and treatment strategies for reducing marijuana use by youth and monitor the impact of legalization in other jurisdictions on youth;

(E) consider the fiscal impact of revenue issues arising from the emergence of an adult-use commercial market for marijuana, with particular attention paid to other jurisdictions' experiences and choices in establishing tax and fee structures;

(F) propose a comprehensive regulatory and revenue structure that establishes controlled access to marijuana in a manner that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health;

(G) weigh the various options for the appropriate existing or new governmental agency or department to administer and enforce a marijuana regulatory system;

(H) explore options for municipalities to regulate marijuana establishments within their jurisdictions;

(I) consider the issue of personal cultivation of a small number of marijuana plants and whether Vermont could permit home grow in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market;

(J) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

(K) examine the issue of marijuana concentrates and edible marijuana products, and whether Vermont can allow and regulate their manufacture and sale safely and, if so, how;

(L) review the statutes and rules for the therapeutic marijuana program and dispensaries, and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries; and

(M) any other issues the Commission finds important to the current policy discussions on marijuana.

(2) Any proposal shall take into consideration the shared State and federal concerns about marijuana reform and seek to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(f) The Commission shall report to the Governor and the General Assembly, as needed, but shall issue its final recommendations on or before December 15, 2016. The Commission shall cease to exist February 1, 2017.

(g) The Commission shall have the administrative, technical, and legal assistance of the Administration.

(h) The Administration shall call the first meeting of the Commission to occur on or before July 1, 2016. The Commission shall select a chair from among its members at the first meeting. A majority of the membership shall constitute a quorum.

(i) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary. Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

#### Sec. 17. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created a Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

(b) Membership. The Committee shall be composed of the following five members:

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

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.



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

(1) whether Vermont's workers' compensation and unemployment insurance systems are adversely affected by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct postaccident, employerwide, or postrehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2016, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2016.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on December 31, 2016.

\* \* \* Effective Dates \* \* \*

Sec. 18. EFFECTIVE DATES

(a) This section, Secs. 1 (human trafficking), 2 (co-payment and reimbursement orders), 2a (expungement), 2b (sealing), 3 (listed crime definition), 4 (sex offender registry), 5 and 6 (innocence protection), 7 (marijuana criminal penalties), 8 (Justice Oversight Committee), 9 (marijuana youth education and prevention), 15 (impaired driving training for law



(17) Montpelier, 115 State Street and One Baldwin Street, data wiring:  
\$40,000.00

(18) Montpelier, 11 and 13 Green Mountain Drive, planning and siting options for Department of Liquor Control and warehouse: \$75,000.00

(19) Waterbury State Office Complex projects, true up:  
\$2,000,000.00

\* \* \*

(e) The Commissioner of Buildings and General Services is authorized to use funds from the amount appropriated in subdivision (c)(5) of this section to:

(1) conduct engineering and design for either a single generator for the State House or a shared generator for the State House and the Capitol Complex, and the related upgrades for the electrical switch gear; and

(2) pay for or reimburse, up to \$150,000.00, for costs associated with repairing damage related to the removal of Vermont Interactive Technologies' equipment and wiring; provided, however, that the Commissioner of Buildings and General Services shall not pay for or reimburse labor costs associated with the repair.

(f) The Commissioner of Buildings and General Services is authorized to begin the design of the parking garage at 108 Cherry Street in Burlington, as described in subdivision (c)(14) of this section, prior to the start of the 2017 legislative session if the Commissioner determines it is in the best interest of the State.

Appropriation – FY 2016	\$41,313,990.00
Appropriation – FY 2017	<del>\$29,450,622.00</del> \$33,265,235.00
Total Appropriation – Section 2	<del>\$70,764,612.00</del> \$74,579,225.00

Sec. 2. 2015 Acts and Resolves No. 26, Sec. 3 is amended to read:

Sec. 3. ADMINISTRATION

(a) ~~The following sums are~~ sum of \$125,000.000 is appropriated in FY 2016 to the Department of Taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:

~~(1) \$125,000.00 is appropriated in FY 2016.~~

~~(2) \$125,000.00 is appropriated in FY 2017.~~

(b) The following sums are appropriated to the Department of Finance and Management for the ERP expansion project (Phase II):

(1) \$5,000,000.00 is appropriated in FY 2016.

(2) ~~\$9,267,470.00~~ \$6,313,881.00 is appropriated in FY 2017.

(c) The sum of \$5,463,211.00 is appropriated in FY 2017 to the Agency of Human Services for the Health and Human Services Enterprise IT System.

Appropriation – FY 2016		\$5,125,000.00
Appropriation – FY 2017	<del>\$14,855,681.00</del>	<u>\$11,777,092.00</u>
Total Appropriation – Section 3	<del>\$19,980,681.00</del>	<u>\$16,902,092.00</u>

Sec. 3. 2015 Acts and Resolves No. 26, Sec. 5 is amended to read:

Sec. 5. JUDICIARY

\* \* \*

(c) The following sums are appropriated in FY 2017 to the Judiciary:

(1) Statewide court security systems and improvements: ~~\$125,000.00~~  
\$740,000.00

(2) Judicial case management system: \$4,000,000.00

(d) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Judiciary:

(1) Orleans State Courthouse, building assessment and feasibility study:  
\$50,000.00

(2) Barre State Courthouse and Office Building, infrastructure evaluation and design for the Courthouse: \$40,000.00

Appropriation – FY 2016		\$5,880,000.00
Appropriation – FY 2017	<del>\$4,125,000.00</del>	<u>\$4,830,000.00</u>
Total Appropriation – Section 5	<del>\$10,005,000.00</del>	<u>\$10,710,000.00</u>

Sec. 4. 2015 Acts and Resolves No. 26, Sec. 6 is amended to read:

Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

\* \* \*

(d) The following sums are appropriated in FY 2017 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers: \$15,000.00

(3) <u>Update statewide quadrangle maps through digital orthophotographic quadrangle mapping:</u>	<u>\$125,000.00</u>
Appropriation – FY 2016	\$393,000.00
Appropriation – FY 2017	<del>\$295,000.00</del> <u>\$420,000.00</u>
Total Appropriation – Section 6	<del>\$688,000.00</del> <u>\$813,000.00</u>

Sec. 5. 2015 Acts and Resolves No. 26, Sec. 7 is amended to read:

Sec. 7. GRANT PROGRAMS

\* \* \*

(h) The sum of \$200,000.00 is appropriated in FY 2017 to the Enhanced 911 Board for the Enhanced 911 Compliance Grant Program.

Appropriation – FY 2016	\$1,400,000.00
Appropriation – FY 2017	<del>\$1,400,000.00</del> <u>\$1,600,000.00</u>
Total Appropriation – Section 7	<del>\$2,800,000.00</del> <u>\$3,000,000.00</u>

Sec. 6. 2015 Acts and Resolves No. 26, Sec. 8 is amended to read:

Sec. 8. EDUCATION

(a) The following sums are appropriated in FY 2016 to the Agency of Education for funding the State share of completed school construction projects pursuant to 16 V.S.A. § 3448 and emergency projects:

- (1) Emergency projects: ~~\$82,188.00~~ \$62,175.00
- (2) School construction projects: ~~\$3,975,500.00~~ \$3,995,513.00

(b) The sum of \$60,000.00 is appropriated in FY 2017 to the Agency of Education for State aid for emergency projects.

Appropriation – FY 2016	\$4,057,688.00
Appropriation – FY 2017	\$60,000.00
Total Appropriation – Section 8	\$4,117,688.00

Sec. 7. 2015 Acts and Resolves No. 26, Sec. 9 is amended to read:

Sec. 9. UNIVERSITY OF VERMONT

\* \* \*

(b) The sum of \$1,400,000.00 is appropriated in FY 2017 to the University of Vermont for construction, renovation, and major maintenance:

\$1,400,000.00

(c) The General Assembly acknowledges that, pursuant to the terms of the deed, the property located at 195 Colchester Avenue in Burlington shall be transferred from the State to the University of Vermont at no cost to the University, and that the University of Vermont shall retain any proceeds from the sale of the property.

Appropriation – FY 2016	\$1,400,000.00
Appropriation – FY 2017	\$1,400,000.00
Total Appropriation – Section 9	\$2,800,000.00

Sec. 8. 2015 Acts and Resolves No. 26, Sec. 10 is amended to read:

Sec. 10. VERMONT STATE COLLEGES

(a) The following sums are appropriated in FY 2016 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) Engineering Randolph, Vermont Technical College, engineering technology laboratories, plan, design, and upgrade:  
\$1,000,000.00

(b) The following sums are appropriated in FY 2017 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) Engineering Randolph, Vermont Technical College, engineering technology laboratories, plan, design, and upgrade:  
\$500,000.00

(3) Castleton, Castleton University, science laboratories, plan, design, and upgrade:  
\$1,000,000.00

(4) Lyndon, Lyndon State College, installation of solar thermal system, sound monitoring equipment:  
\$150,000.00

(c) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(2) of this section shall be used as a challenge grant to raise funds to upgrade engineering technology laboratories at the Vermont Technical College. The funds shall only become available after the Vermont Technical College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$500,000.00 in committed funds has been raised to match the appropriation in subdivision (b)(2) of this section and finance additional costs of comprehensive laboratory improvements.

(d) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(3) of this section shall be used as a challenge grant to raise funds to upgrade science laboratories at Castleton University. Of the amount appropriated, \$500,000.00 shall become available upon passage of this act, and the remaining funds shall only become available after Castleton University has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$500,000.00 in committed funds has been raised as a match to finance costs associated with comprehensive laboratory improvements.

(e) It is the intent of the General Assembly that of the amount appropriated in subdivision (b)(4) of this section, \$100,000.00 shall become available upon passage of this act for the installation of the solar thermal system, and the remaining funds shall only become available after Lyndon State College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$50,000.00 in committed funds has been raised as a match to finance costs associated with the purchase of sound monitoring equipment.

Appropriation – FY 2016		\$2,400,000.00
Appropriation – FY 2017	<del>\$1,900,000.00</del>	\$3,050,000.00
Total Appropriation – Section 10	<del>\$4,300,000.00</del>	<u>\$5,450,000.00</u>

Sec. 9. 2015 Acts and Resolves No. 26, Sec. 11 is amended to read:

Sec. 11. NATURAL RESOURCES

\* \* \*

(d) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) the Water Pollution Control Fund for the Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,300,000.00

\* \* \*

(3) the Drinking Water Supply, Drinking Water State Revolving Fund: ~~\$2,538,000.00~~ \$2,738,000.00

\* \* \*

(7) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies: \$2,276,494.00

(8) Bristol, closure of town landfill: \$145,000.00

\* \* \*

(f) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Fish and Wildlife:

(1) General infrastructure projects: \$875,000.00

(2) Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: \$25,000.00

(g) The sum of \$2,300,000.00 is appropriated in FY 2017 to the Department of Buildings and General Services for the Department of Fish and Wildlife for the Roxbury fish hatchery reconstruction project.

(h) Notwithstanding any other provision of law, the Commissioner of Environmental Conservation may transfer any funds appropriated in a capital construction act to the Department of Environmental Conservation to support the response to PFOA contamination. If a responsible party reimburses the Department for the cost of any such response, the Department shall use those funds to support the original capital appropriation and shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the reimbursement.

Appropriation – FY 2016		\$13,481,601.00
Appropriation – FY 2017	\$13,243,000.00	<u>\$18,164,494.00</u>
Total Appropriation – Section 11	\$26,724,601.00	<u>\$31,646,095.00</u>

Sec. 10. 2015 Acts and Resolves No. 26, Sec. 12 is amended to read:

Sec. 12. MILITARY

\* \* \*

~~(b) The sum of \$750,000.00 is appropriated in FY 2017 to the Department of Military for maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds. The following sums are appropriated in FY 2017 to the Department of Military for the projects described in this subsection:~~

(1) Construction, maintenance, renovations, roof replacements, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: \$750,000.00

(2) Randolph, Vermont Veterans Memorial Cemetery, project costs not covered by federal grant funds: \$188,000.00



(3) ADA projects, State armories. To the extent feasible, these funds shall be used to match federal funds: \$120,000.00

Appropriation – FY 2016 \$809,759.00

Appropriation – FY 2017 ~~\$750,000.00~~ \$1,058,000.00

Total Appropriation – Section 12 ~~\$1,559,759.00~~ \$1,867,759.00

Sec. 11. 2015 Acts and Resolves No. 26, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

\* \* \*

(c) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Department of Public Safety as described in this subsection:

(1) Williston, State Police Barracks, site location and proposal, feasibility studies, and program analysis: \$250,000.00

(2) Westminster, DPS Facility, project cost adjustment for unanticipated site conditions and code modifications: \$400,000.00

(3) Waterbury State Office Complex, blood analysis laboratory, renovations: \$460,000.00

(d) The Commissioner of Buildings and General Services is authorized to use up to \$50,000.00 of the amount appropriated in subdivision (c)(1) of this section for acoustical enhancements at the Williston Public Safety Answer Point Center (PSAP), if deemed necessary after consultation with the Department of Public Safety. Any funds remaining at the end of the fiscal year may be used to evaluate options to replace the Middlesex State Police Barracks.

Appropriation – FY 2016 \$300,000.00

Appropriation – FY 2017 \$1,110,000.00

~~Total Appropriation – § 13~~ Total Appropriation – Section 13 \$1,410,000.00

Sec. 12. 2015 Acts and Resolves No. 26, Sec. 14 is amended to read:

Sec. 14. AGRICULTURE, FOOD AND MARKETS

\* \* \*

(b) The following sums are appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the projects described in this subsection:

(1) Best Management Practices and Conservation Reserve Enhancement Program: \$1,800,000.00

(2) Vermont Exposition Center Building, upgrades:	\$115,000.00
(3) <u>Vermont Environment and Agricultural Laboratory, equipment:</u>	
	<u>\$455,000.00</u>
Appropriation – FY 2016	\$2,202,412.00
Appropriation – FY 2017	<del>\$1,915,000.00</del> <u>\$2,370,000.00</u>
Total Appropriation – Section 14	<del>\$4,117,412.00</del> <u>\$4,572,412.00</u>

Sec. 13. 2015 Acts and Resolves No. 26, Sec. 18 is amended to read:

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

\* \* \*

(b) The following amounts are appropriated in FY 2017 to the Vermont Housing and Conservation Board.

- (1) Statewide, water quality improvement projects: \$1,000,000.00
- (2) Housing: \$1,800,000.00
- (3) Downtown development projects: \$1,200,000.00

(c) The Vermont Housing and Conservation Board shall use the funds appropriated in subdivision (b)(3) of this section to leverage other resources to assist economically distressed downtowns in the Northeast Kingdom. The funds shall be held in reserve until appropriate affordable housing, historic preservation, community parks, public facilities, or public access to water projects can be developed. The Vermont Housing and Conservation Board may allocate up to ten percent of the funds to assist communities or community-based nonprofit organizations to support predevelopment or planning activities necessary for project implementation. It is the intent of the General Assembly that priority is given to communities acting on recommendations from a Vermont Council on Rural Development community visit, and that priority projects shall include distressed historic buildings where investment can help stabilize and improve the surrounding neighborhood.

(d) Notwithstanding the amounts allocated in subsection (b) of this section, the Vermont Housing and Conservation Board may use the amounts appropriated in subdivisions (b)(2) and (b)(3) of this section to increase the amount it allocates to conservation grant awards; provided, however, that the Vermont Housing and Conservation Board increases any affordable housing investments by the same amount from funds appropriated to the Vermont Housing and Conservation Board in the FY 2017 Appropriations Act.

Appropriation – FY 2016	\$4,550,000.00
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Appropriation – FY 2017	<del>\$2,800,000.00</del> <u>\$4,000,000.00</u>
Total Appropriation – Section 18	<del>\$7,350,000.00</del> <u>\$8,550,000.00</u>

Sec. 14. 2015 Acts and Resolves No. 26, Sec. 19 is amended to read:

Sec. 19. VERMONT INTERACTIVE TECHNOLOGIES

~~\$220,000.00~~ The sum of \$110,810.64 is appropriated in FY 2016 to the Vermont State Colleges on behalf of Vermont Interactive Technologies (VIT) for all costs associated with the dissolution of VIT’s operations.

Total Appropriation – Section 19	<del>\$220,000.00</del> <u>\$110,810.64</u>
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Sec. 15. 2015 Acts and Resolves No. 26, Sec. 20 is amended to read:

Sec. 20. GENERAL ASSEMBLY

\* \* \*

(b) The sum of \$60,000.00 is appropriated in FY 2016 to the Joint Fiscal Office to hire consultant services for a security and safety protocol for the State House, as described in Sec. 46 of this act. Any funds remaining at the end of the fiscal year shall be reallocated to the Sergeant at Arms to support the project described in subsection (c) of this section.

(c) The sum of \$145,000.00 is appropriated in FY 2017 to the Sergeant at Arms for security enhancements in the State House, as described in Sec. 36 of this act.

Total Appropriation – Section 20	<del>\$180,000.00</del> <u>\$325,000.00</u>
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Sec. 16. 2015 Acts and Resolves No. 26, Sec. 20a is added to read:

Sec. 20a. PUBLIC SERVICE

The sum of \$300,000.00 is appropriated to the Department of Public Service for the Connectivity Initiative, established in 30 V.S.A. § 7515b.

<u>Appropriation – FY 2017</u>	<u>\$300,000.00</u>
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<u>Total Appropriation – Section 20a</u>	<u>\$300,000.00</u>
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Sec. 17. 2015 Acts and Resolves No. 26, Sec. 21 is amended to read:

Sec. 21. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

\* \* \*

(3) of the amount appropriated in ~~2011~~ 2012 Acts and Resolves No. 40  
104, Sec. 2(b) 2(c)(8) (State House committee renovations): \$28,702.15

\* \* \*

(11) of the amount appropriated in 2008 Acts and Resolves No. 200,  
Sec. 20 (Vermont Veterans Home): \$206.36

(12) of the amount appropriated in 2011 Acts and Resolves No. 40,  
Sec. 2(b) (Hebard State Office Building): \$5,838.85

(13) of the amount appropriated in 2011 Acts and Resolves No. 40,  
Sec. 4(a) (Health laboratory): \$0.06

(14) of the amount appropriated in 2011 Acts and Resolves No. 40,  
Sec. 7(b)(2) (Historic Barns Preservation Grants): \$2,050.00

(15) of the amount appropriated in 2012 Acts and Resolves No. 104,  
Sec. 2(c)(7) (Vermont Veterans Memorial Cemetery Master Plan): \$1,622.94

(16) of the amount appropriated in 2013 Acts and Resolves No. 51,  
Sec. 2(b)(16) (Barre Courthouse and State Office Building, pellet boiler):  
\$96,389.57

(17) of the amount appropriated in 2013 Acts and Resolves No. 51,  
Sec. 11(a)(water pollution control): \$16,464.86

(18) of the amount appropriated in 2013 Acts and Resolves No. 51,  
Sec. 13(c) (land purchase and feasibility studies): \$150,000.00

(19) of the amount appropriated in 2013 Acts and Resolves No. 51,  
Sec. 13(d) (Public Safety land purchases): \$299,022.00

(20) of the amount appropriated in 2015 Acts and Resolves No. 26,  
Sec. 2(b) (Department of Labor parking lot expansion): \$71,309.26

(21) of the amount appropriated in 2014 Acts and Resolves No. 178,  
Sec. 2(c) (BGS engineering, project management, and architectural cost):  
\$113,411.93

(22) of the amount appropriated in 2014 Acts and Resolves No. 178,  
Sec. 2(c)(17)(State House, security enhancements): \$142,732.59

(23) of the amount appropriated in 2014 Acts and Resolves No. 178,  
Sec. 2(c)(18) (State House maintenance and upgrades and renovations):  
\$100,000.00

(24) of the amount appropriated to the Historic Property Stabilization  
and Rehabilitation Special Fund established in 29 V.S.A. § 155: \$50,000.00

(25) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 12(a) to the Vermont Veterans Memorial Cemetery: \$38,135.00

(b) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

\* \* \*

(6) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 6 (water pollution control projects): \$3,253.00

(7) of the amount appropriated to the Vermont Pollution Control Revolving Fund established in 24 V.S.A. § 4753: \$496,147.71

(8) of the amount appropriated to the Vermont Water Source Protection Fund established in 24 V.S.A. § 4753: \$200,000.00

(c) The following sums are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

\* \* \*

(6) of the proceeds from the sale of property authorized in 2009 Acts and Resolves No. 43, Sec. 25 (1193 North Ave., Thayer School): \$60,991.12

(d) The amount appropriated in subdivision (b)(8) of this section shall be directed to the amount appropriated to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund in Sec. 11(d)(3) of this act.

Reallocations and Transfers – FY 2016 \$1,648,656.08

Reallocations and Transfers – FY 2017 \$1,847,575.25

Total Reallocations and Transfers – Section 21 ~~\$1,648,656.08~~ \$3,496,231.33

Sec. 18. 2015 Acts and Resolves No. 26, Sec. 22 is amended to read:

Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

\* \* \*

(c) The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$9,398,753.35 that were previously authorized but unissued under 2015 Acts and Resolves No. 26 for the purpose of funding the appropriations in this act.

Total Revenues – Section 22 \$155,559,096.05 \$164,957,849.40

\* \* \* Policy \* \* \*

\* \* \* Buildings and General Services \* \* \*

Sec. 19. WATERBURY STATE OFFICE COMPLEX; PROPERTY  
TRANSACTIONS

(a) The Commissioner of Buildings and General Services is authorized to transfer the parcel of land designated as Lot 6A on the map prepared by Engineering Ventures PC entitled "Waterbury State Office Complex Restoration" and dated June 24, 2013, as revised by the Department of Buildings and General Services on March 24, 2016, to the owners of the property located at 28 Park Row in Waterbury; provided, however, that the owners of the property shall be required to pay any costs associated with the transfer.

(b) The Commissioner of Buildings and General Services shall survey the parcel of land designated as Lot 8 on the map prepared by Engineering Ventures PC entitled "Waterbury State Office Complex Restoration" and dated June 24, 2013, as revised by the Department of Buildings and General Services on March 24, 2016.

Sec. 20. HOSKISON PROPERTY; PLYMOUTH; TRANSACTION

Notwithstanding 29 V.S.A. § 166(b), the Department of Buildings and General Services is authorized to transfer, sell, demolish, or gift the house located on the Hoskison property deeded to the State of Vermont in 2006 that abuts the Calvin Coolidge State Historic Site in Plymouth Notch.

Sec. 21. MONTPELIER; 144 STATE STREET; PROPERTY  
TRANSACTION

Notwithstanding 29 V.S.A. § 166(b), the Commissioner of Buildings and General Services is authorized to sell, subdivide, lease, lease purchase, or enter into a common interest community agreement for the property located at 144 State Street in Montpelier, if the Commissioner determines that it is in the best interest of the State. Any agreement shall ensure that the State receives fair market value for the property, and costs associated with the sale, including relocation costs.

Sec. 22. VERMONT AGRICULTURE AND ENVIRONMENTAL  
LABORATORY; BIOMASS FACILITY

(a) The Commissioner of Buildings and General Services shall evaluate opportunities for the future development of biomass facilities to support the Vermont Agriculture and Environmental laboratory in Randolph if the Commissioner determines that it is in the best interest of the State. The

Commissioner shall ensure that all opportunities are consistent with the State Agency Energy Plan.

(b) On or before December 1, 2016, the Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the findings of the evaluation described in subsection (a) of this section.

Sec. 23. VERMONT AGRICULTURE AND ENVIRONMENTAL  
LABORATORY; ROXBURY HATCHERY; CONSTRUCTION

The Department of Buildings and General Services is authorized to enter into contractual obligations for construction for the following projects:

(1) the Vermont Agriculture and Environmental Laboratory, located at the Vermont Technical College site in Randolph, Vermont; and

(2) Roxbury Fish Hatchery, located in Roxbury, Vermont.

Sec. 24. 2011 Acts and Resolves No. 40, Sec. 26(b) is amended to read:

~~(b) The commissioner of buildings and general services~~ Commissioner of Buildings and General Services on behalf of the ~~division for historic preservation~~ Division for Historic Preservation is authorized to enter into the agreements specified for the following properties, the proceeds of which shall be dedicated to the fund created by Sec. 30 of this act:

(1) Fuller farmhouse at the Hubbardton Battlefield ~~state~~ State historic site, authority to ~~sell or enter into a long term lease with covenants~~ demolish the farmhouse if the Town of Hubbardton and the Hubbardton Historical Society are not able to find adequate funding to use the farmhouse by July 1, 2016; provided, however, that if the farmhouse is demolished, the foundation shall be capped to preserve any potential archaeological sites.

\* \* \*

(3) Bishop Cabin at Mount Independence State Historic Site in Orwell, authority to ~~sell or enter into a long term lease with covenants on the land~~ demolish the Cabin and remove all materials.

\* \* \*

Sec. 25. 2011 Acts and Resolves No. 40, Sec. 29, amending 2010 Acts and Resolves No. 161, Sec. 25(f), is amended to read:

~~(f) Following consultation with the state advisory council on historic preservation~~ State Advisory Council on Historic Preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General

Services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. ~~Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in Sec. 30 of this act.~~

Sec. 26. 29 V.S.A. § 155 is amended to read:

§ 155. ~~HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND~~

~~(a) There is established a special fund managed by and under the authority and control of the Commissioner, comprising net revenue from the sale or lease of underutilized State owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the Fund; provided, however, that if the Fund balance exceeds \$250,000.00 as of November 15 in any year, then the General Assembly shall reallocate funds not subject to encumbrances for other purposes in the next enacted capital appropriations bill.~~

~~(b) Monies in the Fund shall be available to the Department for the rehabilitation or stabilization of State owned historic properties that are authorized by the General Assembly to be in the Fund program, for payment of costs of historic resource evaluations and archeological investigations, for building assessments related to a potential sale or lease, for one time fees for easement stewardship and monitoring, and for related one-time expenses.~~

~~(c) On or before January 15 of each year, the Department shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions concerning deposits into and disbursements from the Fund occurring in the previous calendar year, the properties sold, leased, stabilized, or rehabilitated during that period, and the Department's plans for future stabilization or rehabilitation of State owned historic properties.~~

~~(d) Annually, the list presented to the General Assembly of State owned property the Commissioner seeks approval to sell pursuant to section 166 of this title shall identify those properties the Commissioner has identified as underutilized State owned historic property pursuant to subsection (b) of this section.~~

~~(e) For purposes of this section, "historic property" has the same meaning as defined in 22 V.S.A. § 701. [Repealed.]~~

Sec. 27. 29 V.S.A. § 1556 is amended to read:

§ 1556. STATE SURPLUS PROPERTY

(a) All material, equipment, and supplies found to be surplus by any state State agency or department shall be transferred to the ~~commissioner~~ of



~~buildings and general services~~ Commissioner of Buildings and General Services. The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall be responsible for the disposal of surplus ~~state~~ State property. The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services may:

(1) transfer the property to any other ~~state~~ State agency or department having a justifiable need for the property, or transfer to any municipality, school, or nonprofit organization having a justifiable need as determined by a State agency or department, and assess an administrative fee if deemed appropriate;

(2) store or warehouse the property for future needs of the ~~state~~ State;

(3) transfer the property to municipalities for town highways and bridges;

(4) after giving priority to the provisions of subdivisions (1), (2), and (3) of this ~~section~~ subsection, transfer used bridge beams and other surplus material, equipment, and supplies to VAST, the local affiliates of VAST, or to municipalities cooperating with VAST or municipalities developing and maintaining their own trail system;

(5) recondition and repair any property for use or sale when economically feasible;

(6) sell surplus property by any suitable means, including ~~but not limited to~~, bids or auctions;

(7) donate, at no charge, surplus motor vehicles and related equipment, to any nonprofit entity engaged in rehabilitating and redistributing motor vehicles to ~~low income~~ Vermont residents with low income, provided that the ~~commissioner~~ Commissioner has first attempted to sell or satisfy the needs of the ~~state~~ State for the vehicles or equipment concerned.

(b) Any municipality, school, or nonprofit organization that receives a transfer of property pursuant to this section shall assume ownership of the property from the State.

Sec. 28. 29 V.S.A. § 821(b) is amended to read:

(b) State correctional facilities. The names of State correctional facilities shall be as follows:

\* \* \*

~~(10) In Waterbury, "Dale Correctional Facility."~~

Sec. 29. SOUTHEAST STATE CORRECTIONAL FACILITY; WINDSOR;  
LAND TRANSFER

(a) On or before August 1, 2016, the Department of Buildings and General Services shall conduct a survey of the 160-acre portion of the State-owned parcel in the Town of Windsor known as the "Windsor Prison Farm" that is under the jurisdiction of the Department of Buildings and General Services and described in Executive Order 08-15. The survey shall identify the boundaries for all of the land used by the Departments of Corrections and of Buildings and General Services for the operation and security of the Southeast State Correctional Facility.

(b) Within 30 days of receipt of the survey described in subsection (a) of this section, the Commissioner of Buildings and General Services shall transfer to the jurisdiction of the Department of Fish and Wildlife the portion of the land identified in the survey that is not used by the Departments of Buildings and General Services and of Corrections for the operation and security of the Southeast State Correctional Facility.

\* \* \* Corrections \* \* \*

Sec. 30. STATE CORRECTIONAL FACILITIES; COMMITTEE;  
ASSESSMENT; REPORT

(a) Creation. There is created a Correctional Facility Planning Committee to develop a 20-year capital plan for, and assess the population needs at, State correctional facilities.

(b) Membership. The Committee shall be composed of the following:

(1) the Commissioner of Corrections or designee, who shall serve as chair;

(2) the Commissioner of Finance and Management or designee;

(3) the Commissioner of Buildings and General Services or designee;

(4) the Commissioner for Children and Families or designee;

(5) the Commissioner of Mental Health or designee;

(6) the Commissioner of Disabilities, Aging, and Independent Living or designee; and

(7) the Executive Director of the Crime Research Group or designee.

(c) Powers and duties. The Committee shall assess the capital and programming needs of State correctional facilities, which shall include the following:

(1) An evaluation of the use, condition, and maintenance needs of each State correctional facility, including whether any facility should be closed renovated, relocated, or repurposed. This evaluation shall include an update of the most recent facilities assessment as of June 30, 2016:

(A) each facility's replacement value;

(B) each facility's deferred maintenance schedule; and

(C) the cost of each facility's five-, ten-, and 15-year scheduled maintenance.

(2) An analysis of the historic population trends of State correctional facilities, and anticipated future population trends, including age, gender, and medical, mental health, and substance abuse conditions.

(3) An evaluation of whether the design and use of existing facilities adequately serve the current population and anticipated future populations, including whether the Out-of-State inmate program may be eliminated and the feasibility of constructing new infrastructure more suitable for current and future populations.

(4) An investigation into the options for cost savings, including public-private partnerships.

(5) An evaluation on potential site locations for a replacement State correctional facility.

(d) Report and recommendations. On or before February 1, 2017, the Committee shall submit a report based on the assessment described in subsection (c) of this section, and any recommendations for legislative action, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

\* \* \* Judiciary \* \* \*

Sec. 31. 4 V.S.A. § 38 is added to read:

§ 38. CAPITAL BUDGET REQUESTS; COUNTY COURTHOUSES

(a) On or before October 1 each year, any county requesting capital funds for its courthouse, or court operations, shall submit a request to the Court Administrator.

(b) The Court Administrator shall evaluate requests based on the following criteria:

(1) whether the funding request relates to an emergency that will affect the court operations and the administration of justice;

(2) whether there is a State-owned courthouse in the county that could absorb court activities in lieu of this capital investment;

(3) whether the county consistently has invested in major maintenance in the courthouse;

(4) whether the request relates to a State-mandated function;

(5) whether the request diverts resources of other current Judiciary capital priorities;

(6) whether the request is consistent with the long-term capital needs of the Judiciary, including providing court services adapted to modern needs and requirements; and

(7) any other criteria as deemed appropriate by the Court Administrator.

(c) Based on the criteria described in subsection (b) of this section, the Court Administrator shall make a recommendation to the Commissioner of Buildings and General Services regarding whether the county's request should be included as part of the Judiciary's request for capital funding in the Governor's annual proposed capital budget request.

(d) On or before January 15 of each year, the Court Administrator shall advise the House Committee on Corrections and Institutions and the Senate Committee on Institutions of all county requests received and the Court Administrator's recommendations for the proposed capital budget request.

\* \* \* Natural Resources \* \* \*

### Sec. 32. HAZARDOUS MATERIAL RESPONSE; PROJECTED CAPITAL NEEDS;

On or before January 15, 2017, the Commissioner of Environmental Conservation shall submit a report to the House Committees on Corrections and Institutions and on Ways and Means, and the Senate Committees on Finance and on Institutions, on the following:

(1) the projected costs in fiscal year 2018, including capital costs, for the Department to investigate and respond to the effects of hazardous material releases to the environment;

(2) other projected obligations of the Environmental Contingency Fund, established in 10 V.S.A. § 1283; and

(3) specific recommendations for funding the Environmental Contingency Fund in order to meet the State's obligations with respect to releases of hazardous materials.

\* \* \* Public Safety \* \* \*

Sec. 33. BRADFORD STATE POLICE BARRACKS

On or before December 1, 2016, the Commissioners of Buildings and General Services and of Public Safety shall investigate opportunities for the Bradford State Police Barracks, including selling, leasing, or gifting the property, and shall report back with the findings to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 34. PUBLIC SAFETY; PUBLIC SAFETY FIELD STATION; SITE LOCATION; WILLISTON POLICE BARRACKS

(a) The Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, is authorized to use funds appropriated in Sec. 11 of this act to evaluate options for the site location of a public safety field station and an equipment storage facility. The investigation may include conducting feasibility studies and program analysis, site selection, purchase and lease-purchase opportunities, and consolidation of the two facilities.

(b) On or before October 10, 2016, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, shall submit a recommendation for a site location for the public safety field station and the equipment storage facility to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, based on the evaluation described in subsection (a) of this section. It is the intent of the General Assembly that when evaluating site locations, preference shall be first given to State-owned property located in Chittenden County.

(c) The Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, in consultation with the members of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, shall review the recommendation described in subsection (a) of this section. The House Committee on Corrections and Institutions and the Senate Committee on Institutions may each meet up to one time when the General Assembly is not in session to review the recommendation. The Committees shall notify the Commissioners of Buildings and General Services and of Public Safety of any meeting. Committee members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(d) On or before December 1, 2016, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, shall develop a detailed proposal on the site location based on the recommendation described in subsection (a) of this section; provided, however, that the Commissioner shall not proceed without unanimous approval of the

site location by the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. The proposal shall include programming, size, design, and preliminary cost estimates for either separate or consolidated facilities.

(e) The Commissioner of Buildings and General Services shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions at least monthly of updates on the proposals described in this section.

Sec. 35. 24 V.S.A. § 5609 is added to read:

§ 5609. ENHANCED 911 COMPLIANCE GRANTS PROGRAM

(a) Grant guidelines. The following guidelines shall apply to capital grants associated with the planning and implementation of the Enhanced 911 program in schools pursuant to 30 V.S.A. § 7057:

(1) Grants shall be awarded competitively to schools for fees and equipment necessary to comply with and implement the Enhanced 911 program.

(2) The Program is authorized to award matching grants of up to \$25,000.00 per project. The required match shall be met through dollars raised and not in-kind services.

(b) Administration. The Enhanced 911 Board, established in 30 V.S.A. § 7052, shall administer and coordinate grants made pursuant to this section, and shall have the authority to award grants in its sole discretion.

\* \* \* Security \* \* \*

Sec. 36. STATE HOUSE SECURITY

(a) The Sergeant at Arms is authorized to use funds appropriated in Sec. 15 of this act to:

(1) install seven security cameras in the State House;

(2) install a remote lockdown system for doors to the State House; and

(3) conduct trainings at the State House.

(b) The Sergeant at Arms shall consult with the Commissioner of Buildings and General Services on the design and installation of the security enhancements described in subsection (a) of this section.

(c) On or before August 1, 2016, the Capitol Complex Security Advisory Committee, established in 2 V.S.A. § 991, shall develop both a camera retention procedure and lockdown guidelines for the State House; provided,

however, that any camera procedure developed by the Committee shall limit access to the Sergeant at Arms and the Capitol Police, and shall limit data retention to no more than 30 days. The camera retention procedure and lockdown guidelines shall only become effective after unanimous approval by the Senate President Pro Tempore or designee, the Speaker of the House or designee, the Sergeant at Arms, and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. No cameras shall be installed until the procedures have been approved.

(d) It is the intent of the General Assembly that the cameras described in subdivision (a)(1) of this section shall be installed at the entrances of the State House and shall be fixed on points of ingress.

\* \* \* Effective Dates \* \* \*

#### Sec. 37. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 26 (Historic Property Stabilization and Rehabilitation Special Fund; repeal) shall take effect on July 1, 2017.

(For text see House Journal March 31, 2016 )

### **ACTION CALENDAR**

#### **Third Reading**

#### **H. 888**

An act relating to compensation for certain State employees

#### **J.R.H. 27**

Joint resolution requesting federal action to alleviate the national student loan debt crisis

#### **S. 14**

An act relating to single dose, child-resistant packaging and labeling of marijuana-infused edible or potable products sold by a registered dispensary

#### **Amendment to be offered by Rep. Pugh of South Burlington to S. 14**

House propose to the Senate that after passage the title of the bill be amended to read: “An act relating to amendments to the marijuana for medical symptom use statutes”

#### **S. 155**

An act relating to privacy protection

**S. 169**

An act relating to the Rozo McLaughlin Farm-to-School Program

**S. 198**

An act relating to the Government Accountability Committee and the annual report on the State's population-level outcomes

**S. 245**

An act relating to notice to patients of new health care provider affiliations

**NOTICE CALENDAR**

**Favorable with Amendment**

**S. 62**

An act relating to surrogate decision making for do-not-resuscitate orders and clinician orders for life-sustaining treatment

**Rep. Dame of Essex**, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended as follows:

By striking out Sec. 4, effective date, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2018, provided that the Department of Disabilities, Aging, and Independent Living may commence the rulemaking process required pursuant to Sec. 3 of this act prior to that date in order to ensure that its rules are in effect on January 1, 2018.

**(Committee vote: 10-0-1 )**

**(For text see Senate Journal March 19, 2015 )**

**Senate Proposal of Amendment**

**H. 518**

An act relating to the membership of the Clean Water Fund Board

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

Sec. 1. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean



Water Fund. The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) ~~the~~ The Secretary of Administration or designee;

(2) ~~the~~ The Secretary of Natural Resources or designee;

(3) ~~the~~ The Secretary of Agriculture, Food and Markets or designee;

(4) ~~the~~ The Secretary of Commerce and Community Development or designee; ~~and.~~

(5) ~~the~~ The Secretary of Transportation or designee.

(6) Two members of the public or of the House of Representatives appointed by the Speaker of the House, each of whom shall be from a separate major watershed of the State. One of the members appointed under this subdivision shall be a municipal official.

(7) Two members of the public or of the Senate appointed by the Committee on Committees, each of whom shall be from a separate major watershed of the State. One of the members appointed under this subdivision shall be a municipal official.

(c) Terms; public members. Members of the Clean Water Fund Board shall be appointed for terms of three years, except initially, appointments shall be made such that one member appointed by the Speaker shall be appointed for a term of two years, and one member appointed by the Committee on Committees shall be appointed for a term of one year. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

(d) Officers; committees; rules; reimbursement.

(1) The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont, who are not legislators, and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board. Legislative members of the Board shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

\* \* \*

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 17, 2016 )

**H. 571**

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties

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

\* \* \* Pre-July 1, 1990 Criminal Traffic Offenses \* \* \*

Sec. 1. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY 1, 1990 CRIMINAL TRAFFIC OFFENSES

(a) Background.

(1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic violations under current Vermont law were charged as criminal offenses.

(2) A defendant's failure to appear on such charges resulted in suspension of the defendant's privilege to operate a motor vehicle in Vermont.

(3) As of February 2016, approximately 26,260 defendants who failed to appear in connection with pre-July 1, 1990 criminal traffic charges have pending suspensions as a result of their failure to appear. None of these charges relate to conduct that is criminal under current Vermont law.

(4) Many of the criminal complaints in these matters are fire- and water-damaged. In many of these cases, the facts underlying the complaints no longer can be proved.

(5) On February 22, 2016, the Office of the Attorney General mailed to all Criminal Divisions of the Superior Court and to the Judicial Bureau notices of dismissal of these pre-July 1, 1990 charges.

(b) Termination of suspensions.

(1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle that resulted from the person's failure to appear prior to July 1, 1990 on a criminal traffic offense charged by the State for conduct that is a civil traffic violation under current Vermont law.

(2) This subsection shall not affect pending suspensions of a person's license or privilege to operate other than those specifically described in subdivision (1) of this subsection.

\* \* \* Driver Restoration Program \* \* \*

## Sec. 2. DRIVER RESTORATION PROGRAM

(a) Program established; one-time event.

(1) The Judicial Bureau and the Department of Motor Vehicles shall carry out a Driver Restoration Program (Program) from September 1, 2016 through November 30, 2016 (the "Program time period"). It is the intent of the General Assembly that the Program be a one-time event.

(2) As used in this section, "suspension" means a suspension of a person's license or privilege to operate a motor vehicle in Vermont imposed by the Commissioner of Motor Vehicles.

(3) The Program is only targeted at suspensions arising from nonpayment of a traffic violation judgment. Even if a person benefits under the Program from the termination of suspensions arising from nonpayment of traffic violation judgments, other suspensions such as those arising from driving under the influence in violation of 23 V.S.A. chapter 13, subchapter 13 shall remain in effect.

(b) Traffic violation judgments entered before July 1, 2006; exception.

(1) During the Program time period, a person who has not paid in full the amount due on a traffic violation judgment entered prior to July 1, 2006 may apply to the Judicial Bureau for a reduction in the amount due on a form approved by the Court Administrator. Judgments for traffic violations that involve violation of a law specifically governing the operation of commercial motor vehicles shall not be eligible for reduction under the Program. The Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

(2) A person shall be permitted to apply in person or through the mail. The Judicial Bureau may accept applications electronically or by other means.

(3) If a person submits a complete application during the Program time period and the judgment is eligible for reduction under subdivision (1) of this subsection, the Clerk of the Judicial Bureau or designee shall reduce the amount due on the judgment to \$30.00. Amounts paid toward a traffic violation judgment prior to the Judicial Bureau's granting an application under this subsection shall not be refunded or credited toward the amount due under the amended judgment.

(c) Consistent with Sec. 5 of this act, amending 4 V.S.A. § 1109 to direct the Judicial Bureau to provide a more flexible payment plan option, a person who has an amount due on a traffic violation judgment shall not be required to pay more than \$100.00 per month in order to be current on all of his or her traffic violation judgments, regardless of the dates when the judgments were entered. This subsection shall not be limited by the Program time period.

(d) Restoration of driving privileges.

(1) If a person has paid all traffic violation judgments reduced under subsection (b) of this section, and is under a payment plan for any other outstanding traffic violation judgments, the Judicial Bureau shall notify the Department of Motor Vehicles that the person is in compliance with his or her obligations.

(2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner of Motor Vehicles shall:

(A) upon receipt of the notice of compliance from the Judicial Bureau and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person described in subdivision (1) of this subsection (d);

(B) during the Program time period and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person who has paid all outstanding traffic violation judgments in full or is in compliance with a Judicial Bureau payment plan prior to December 1, 2016.

(3) If a person described in subdivision (1) or (2)(B) of this subsection fails to make a payment under a payment plan, the Judicial Bureau shall notify the Department of Motor Vehicles if required under 4 V.S.A. § 1109, as amended by Sec. 5 of this act.

(4) This subsection shall not affect pending suspensions other than as specifically described in this subsection.

(e) Public awareness campaign. Prior to the start of the Program, the Agency of Transportation shall commence a campaign to raise public awareness of the Program, and shall conduct the campaign until the end of the Program. The Judicial Bureau, the Department of Motor Vehicles, and the Agency of Transportation shall prominently advertise the Program on their websites until the Program ends.

(f) Allocation of amounts collected. Amounts collected on traffic violation judgments reduced under subsection (b) of this section shall be allocated in accordance with the Process Review approved by the Court Administrator's

Office entitled “Revenue Distributions - Civil Violations” and dated November 3, 2015.

\* \* \* Termination of Suspensions Repealed in Act \* \* \*

Sec. 3. TERMINATION OF SUSPENSIONS REPEALED IN ACT

Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person’s license or privilege to operate a motor vehicle and refusals of a person’s license or privilege to operate that were imposed pursuant to the following provisions:

(1) 7 V.S.A. § 656(g) (underage alcohol violation; failure to pay civil penalty);

(2) 7 V.S.A. § 1005 (underage tobacco violation);

(3) 13 V.S.A. § 1753 (false public alarm; students and minors);

(4) 18 V.S.A. § 4230b(g) (underage marijuana violation; failure to pay civil penalty); and

(5) 32 V.S.A. § 8909 (driver’s license suspensions for nonpayment of purchase and use tax).

\* \* \* Amendment or Repeal of License Suspension and Registration Refusal Provisions and Underage Alcohol and Marijuana Crimes \* \* \*

Sec. 4. REPEALS

23 V.S.A. §§ 305a (registration not renewed following nonpayment of traffic violation judgment) and 2307 (remedies for failure to pay traffic violations) are repealed.

Sec. 5. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

(a) Definitions. As used in this section:

(1) “Amount due” means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) “Designated collection agency” means a collection agency designated by the Court Administrator.

(3) [Repealed.]

(b) Late fees; suspensions for nonpayment of certain traffic violation judgments.

(1) A Judicial Bureau judgment shall provide notice that a \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

(2)(A) In the case of a traffic violation judgment, the judgment shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and that payment plan options are available. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a Judicial Bureau clerk or hearing officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles. After 20 days from the date of receiving the electronic notice, the Commissioner shall suspend the person's operator's license or privilege to operate for a period of 30 days or until the amount due is satisfied, whichever is earlier.

(B) At minimum, the Judicial Bureau shall offer a payment plan option that allows a person to avoid a suspension of his or her license or privilege to operate by paying no more than \$30.00 per traffic violation judgment per month, and not to exceed \$100.00 per month if the person has four or more outstanding judgments.

(c)(1) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the Judicial Bureau provides the defendant with a notice of judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.

~~(1)~~(2) Notice of hearing. The Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision ~~(2)~~(3) of this subsection.

~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the Judicial Bureau to do one or more of the following:

(A) ~~Cause~~ cause the matter to be reported to one or more designated collection agencies; or

(B) ~~Refer~~ refer the matter to the Criminal Division of the Superior Court for contempt proceedings.

(C) ~~Provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

~~(3)~~(4)(A) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(B) Traffic violations; reduction of amount due. When the judgment is based upon a traffic violation, the hearing officer may reduce the amount due on the basis of the defendant's driving history, ability to pay, or service to the community; the collateral consequences of the violation; or the interests of justice. The hearing officer's decision on a motion to reduce the amount due shall not be subject to review or appeal except in the case of a violation of rights guaranteed under the Vermont or U.S. Constitution.

~~(4)~~(5) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a Judicial Bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

~~(iii) Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall~~

~~become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

(iv) Recommend that the Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision ~~(4)(c)(5)~~, the Judicial Bureau shall notify the Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in the Criminal Division of the Superior Court, the Defender General shall assign counsel at the Defender General's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the Court Administrator may authorize the clerk of the Judicial Bureau to refer the matter to a designated collection agency.

(2) The Court Administrator or the Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide. No entry or motion fee shall be charged to a defendant who applies for a reduced judgment under subdivision (c)(4)(B) of this section.

(f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the Court Administrator.

Sec. 6. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; ~~FIRST OR SECOND OFFENSE~~; CIVIL VIOLATION

(a)(1) Prohibited conduct. A person under 21 years of age shall not:

(A) ~~falsely~~ Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons;



(B) ~~possess~~ Possess malt or vinous beverages, spirits, or fortified wines for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor; ~~or~~.

(C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~ A person under 21 years of age who knowingly ~~and unlawfully~~ violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(A) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(B) a civil penalty of not more than ~~\$600.00~~ \$1,200.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days, for a second or subsequent offense.

\* \* \*

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse ~~education~~ assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse

counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

\* \* \*

~~(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made. [Repealed.]~~

\* \* \*

Sec. 7. 7 V.S.A. § 657 is amended to read:

~~§ 657. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; THIRD OR SUBSEQUENT OFFENSE~~

~~A person under 21 years of age who engages in conduct in violation of subdivision 656(a)(1) of this title commits a crime if the person has been adjudicated at least twice previously in violation of subdivision 656(a)(1) of this title and shall be imprisoned not more than 30 days or fined not more than \$600.00, or both. [Repealed.]~~

Sec. 8. 13 V.S.A. § 5201(5) is amended to read:

(5) "Serious crime" does not include the following misdemeanor offenses unless the judge at arraignment but before the entry of a plea determines and states on the record that a sentence of imprisonment or a fine over \$1,000.00 may be imposed on conviction:

~~(A) Minors misrepresenting age, procuring or possessing malt or vinous beverages or spirituous liquor (7 V.S.A. § 657(a)) [Repealed.]~~

\* \* \*

Sec. 9. 28 V.S.A. § 205(c) is amended to read:

(c)(1) Unless the Court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the Court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:

\* \* \*

(2) As used in this subsection, "qualifying offense" means:

\* \* \*

(M) ~~A first offense of a minor's misrepresenting age, procuring, possessing, or consuming liquors under 7 V.S.A. § 657. [Repealed.]~~

\* \* \*

Sec. 10. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. ~~In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

(b) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both.

Sec. 11. 13 V.S.A. § 1753 is amended to read:

§ 1753. FALSE PUBLIC ALARMS

(a) A person who initiates or willfully circulates or transmits a report or warning of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm, shall, for the first offense, be imprisoned for not more than two years or fined not more than \$5,000.00, or both. For the second or subsequent offense, the person shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both. In addition, the court may order the person to perform community service. Any community service ordered under this section shall be supervised by the ~~department of corrections~~ Department of Corrections.

~~(b) In addition, if the person is under 18 years of age, or if the person is enrolled in a public school, an approved or recognized independent school, a home study program, or tutorial program as those terms are defined in section 11 of Title 16:~~

~~(1) if the person has a motor vehicle operator's license issued under chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the license for 180 days for a first offense and two years for a second offense; or~~

~~(2) if the person does not qualify for a license because the person is underage, the commissioner of motor vehicles shall delay the person's eligibility to obtain a drivers license for 180 days for the first offense and two years for the second offense. [Repealed.]~~

Sec. 12. 18 V.S.A. § 4230a(a)(3) is amended to read:

(a) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

\* \* \*

(3) not more than \$500.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days for a third or subsequent offense.

Sec. 13. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; ~~FIRST OR SECOND OFFENSE~~; CIVIL VIOLATION

(a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~ A person under 21 years of age who knowingly and unlawfully possesses one

ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(2) a civil penalty of not more than ~~\$600.00~~ \$1,200.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days, for a second or subsequent offense.

\* \* \*

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse ~~education~~ assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

\* \* \*

~~(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made. [Repealed.]~~

\* \* \*

Sec. 14. 18 V.S.A. § 4230c is amended to read:

§ 4230c. ~~MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; THIRD OR SUBSEQUENT OFFENSE; CRIME~~

~~No person shall knowingly and unlawfully possess marijuana. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a crime if the person has been adjudicated at least twice previously in violation of section 4230b of this title and shall be imprisoned not more than 30 days or fined not more than \$600.00, or both. [Repealed.]~~

Sec. 15. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

(XX) 18 V.S.A. §§ 4230(a), ~~4230e,~~ and 4230d (marijuana possession);

Sec. 16. 32 V.S.A. § 8909 is amended to read:

§ 8909. ENFORCEMENT

If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is not paid as hereinbefore provided the Commissioner shall suspend ~~such purchaser's or the rental company's right to operate a motor vehicle license to act as a rental company and motor vehicle registrations~~ within the State of Vermont until such tax is paid, and such tax may be recovered with costs in an action brought in the name of the State on this statute.

\* \* \* Driving with License Suspended\* \* \*

Sec. 17. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(2) A person who violates section 676 of this title for the ~~sixth~~ third or subsequent time shall, if the ~~five~~ two prior offenses occurred within two years of the third offense and on or after July 1, 2003 December 1, 2016, be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the DLS Diversion Program ~~or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under subdivision (2) of this subsection.

\* \* \*

\* \* \* Operating Without Obtaining a License \* \* \*

Sec. 18. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

\* \* \*

(g) A person who violates this section commits a traffic violation, except that a person who violates this section after a previous conviction under this section within the prior two years shall be subject to imprisonment for not more than 60 days or a fine of not more than \$5,000.00, or both. An unsworn printout of the person's Vermont motor vehicle conviction history may be admitted into evidence to prove a prior conviction under this section.

\* \* \* Assessment of Points Against a Person's Driving Record \* \* \*

Sec. 19. 23 V.S.A. § 4(44) is amended to read:

(44) "Moving violation" ~~shall mean~~ means any violation of any provision of this title, while the motor vehicle is being operated on a public highway, over which operation the operator has discretion as to commission of the act, ~~with exception of~~ except for offenses pertaining to:

(A) a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle and child restraint or safety belt systems or;

(B) motorcycle headgear under section 1256 of this title; or

(C) seat belts as required in section 1258 or 1259 of this title.

Sec. 20. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

\* \* \*

(CCC)	§ <del>1256.</del>	<del>Motorcycle headgear</del> <u>[Repealed.]</u> ;
(DDD)	§ 1257.	<del>Face</del> <u>Eye</u> Protection;

\* \* \*

Sec. 21. 23 V.S.A. § 1257 is amended to read:

§ 1257. ~~FACE~~ EYE PROTECTION

If a motorcycle is not equipped with a windshield or screen, the operator of the motorcycle shall wear either eye glasses, goggles, or a protective face shield when operating the vehicle. The glasses, goggles, or face shield shall have colorless lenses when the motorcycle is being operated during the period of 30 minutes after sunset to 30 minutes before sunrise and at any other time when due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet ahead.

\* \* \* Judicial Bureau Hearings; Consideration of Ability to Pay \* \* \*

Sec. 22. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

(a) The Bureau shall notify the person charged and the issuing officer of the time and place for the hearing.

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the State or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the Department of Motor Vehicles or the Agency of Natural Resources and presented by the issuing officer or other person shall be admissible without testimony by a representative of the Department of Motor Vehicles or the Agency of Natural Resources.

(c) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, made in writing at a later date. The hearing officer may make a finding that the person has committed a lesser included



violation. If the hearing officer finds that the defendant committed a violation, the hearing officer shall consider evidence of ability to pay, if offered by the defendant, prior to imposing a penalty.

(d) A law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the Bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement officer may void or amend a complaint issued by that officer in the discretion of that officer.

(e) A State's Attorney may dismiss or amend a complaint.

(f) The Supreme Court shall establish rules for the conduct of hearings under this chapter.

\* \* \* Awareness of Payment and Hearing Options \* \* \*

#### Sec. 23. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT PAYMENT AND HEARING OPTIONS

(a) In conducting basic training courses and annual in-service trainings, the Criminal Justice Training Council is encouraged to train enforcement officers about the existence of payment plan options for traffic violation judgments. Enforcement officers are encouraged to mention these options to a motorist at the time of issuing a complaint for a traffic violation.

(b) The General Assembly recommends that the Judicial Bureau update the standard materials that enforcement officers provide to persons issued a civil complaint for a traffic violation to notify such persons of payment plan options and of the person's right to request a hearing on ability to pay.

(c) The General Assembly encourages the Judicial Bureau to prominently display on its website information about the existence of payment plan options for traffic violation judgments and the right of a person issued a complaint for a traffic violation to request a hearing on ability to pay.

(d) The Agency of Transportation shall carry out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.

\* \* \* Immunity for Forcible Entry of Motor Vehicle for Rescue Purposes \* \* \*

Sec. 24. 12 V.S.A. § 5784 is added to read:

#### § 5784. FORCIBLE ENTRY OF MOTOR VEHICLE TO REMOVE UNATTENDED CHILD OR ANIMAL

A person who forcibly enters a motor vehicle for the purpose of removing a child or animal from the motor vehicle shall not be subject to civil liability for damages arising from the forcible entry if the person:

(1) determines the motor vehicle is locked or there is otherwise no reasonable method for the child or animal to exit the vehicle;

(2) reasonably and in good faith believes that forcible entry into the motor vehicle is necessary because the child or animal is in imminent danger of harm;

(3) notifies local law enforcement, fire department, or a 911 operator as soon as practicable under the circumstances;

(4) remains with the child or animal in a safe location reasonably close to the motor vehicle until a law enforcement, fire, or other emergency responder arrives;

(5) places a notice on the vehicle that the authorities have been notified and specifying the location of the child or animal; and

(6) uses no more force to enter the vehicle and remove the child or animal than necessary under the circumstances.

\* \* \* Law Enforcement Training and Data Collection \* \* \*

Sec. 25. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

\* \* \*

(e)(1) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy, adopted pursuant to subsection 2366(a) of this title.

(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection.

(3) In order to remain certified, law enforcement officers shall receive a refresher course on the training required by this subsection during every odd-numbered year in a program approved by the Vermont Criminal Justice Training Council.

Sec. 26. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL  
POLICING POLICY; RACE DATA COLLECTION

~~(a)(1) Except as provided in subdivision (2) of this subsection, on or before September 1, 2014, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy. The policy shall contain substantially the same elements of either the current Vermont State Police fair and impartial policing policy or the most current model policy issued by the Office of the Attorney General.~~

~~(2)~~ On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall ~~adopt~~ create a model fair and impartial policing policy. On or before July 1, 2016, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council model policy.

(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before ~~September 1, 2014~~ July 1, 2016, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the ~~Office of the Attorney General~~ Criminal Justice Training Council.

(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, ~~local,~~ county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall report to the Council whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section ~~and which policy has been adopted~~. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, ~~if~~ whether current officers have received training on fair and impartial policing as required by 20 V.S.A. § 2358(e).

(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which departments and officers have adopted a fair

and impartial policing policy, ~~which policy has been adopted~~, and whether officers have received training on fair and impartial policing.

(e)(1) On or before September 1, 2014, every State, ~~local~~, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

- (A) the age, gender, and race of the driver;
- (B) the reason for the stop;
- (C) the type of search conducted, if any;
- (D) the evidence located, if any; and
- (E) the outcome of the stop, including whether:
  - (i) a written warning was issued;
  - (ii) a citation for a civil violation was issued;
  - (iii) a citation or arrest for a misdemeanor or a felony occurred; or
  - (iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Criminal Justice Training Council and a vendor chosen by the Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the vendor chosen by the Criminal Justice Training Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website.

## Sec. 27. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert

(DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to:

(1) ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for enforcement efforts to address impaired driving; and

(2) collect data regarding the number and geographic distribution of law enforcement officers who receive ARIDE and DRE training.

\* \* \* Study; Credit-Based Motor Vehicle Insurance Scoring \* \* \*

#### Sec. 28. STUDY OF CREDIT REPORTS AND MOTOR VEHICLE INSURANCE RATES

The Commissioner of Financial Regulation shall conduct a study of credit-based insurance scoring for motor vehicle insurance. The study shall make findings regarding the prevalence of use of credit-based insurance scoring and related rating factors in Vermont's market for motor vehicle insurance, its impact on Vermont motor vehicle insurance consumers, and how limitations on the use of such scoring would affect insurance companies doing business in Vermont and the affordability and availability of motor vehicle insurance. The Commissioner shall report his or her findings and recommendations to the General Assembly on or before December 15, 2016.

\* \* \* Effective Dates \* \* \*

#### Sec. 29. EFFECTIVE DATES

(a) This section, Sec. 1 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 2(e) (public awareness campaign), Sec. 3 (termination of suspensions repealed in act), Secs. 4-16 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes), and Sec. 28 (study of credit reports and motor vehicle insurance rates) shall take effect on passage.

(b) Secs. 25-26 (related to law enforcement training and data collection) shall take effect on passage, except that in Sec. 25, 20 V.S.A. § 2358(e)(3) shall take effect on January 1, 2019.

(c) All other sections shall take effect on July 1, 2016.

(For text see House Journal March 15, 16, 2016 )

### H. 620

An act relating to health insurance and Medicaid coverage for contraceptives

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

First: By adding a new section to be Sec. 4 to read as follows:

Sec. 4. 33 V.S.A. § 1811(l) is added to read:

(l) A registered carrier shall allow for the enrollment of a pregnant individual, and of any individual who is eligible for coverage under the terms of the health benefit plan because of a relationship to the pregnant individual, at any time after the commencement of the pregnancy. Coverage shall be effective as of the first of the month following the individual's selection of a health benefit plan.

And by renumbering the existing Sec. 4, effective dates, to be Sec. 5

Second: In the newly renumbered Sec. 5, effective dates, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Secs. 3 (appropriation), 4 (Exchange special enrollment period for pregnancy), and this section shall take effect on July 1, 2016.

(For text see House Journal March 23, 24, 2016 )

### H. 868

An act relating to miscellaneous economic development provisions

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

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

Sec. A.1. [Reserved.]

Sec. A.2. 10 V.S.A. § 216 is amended to read:

§ 216. AUTHORITY; GENERAL POWERS

The Authority is hereby authorized:

\* \* \*

(15) To delegate to loan officers the power to review, approve, and make loans under this chapter, subject to the approval of the manager, and to disburse funds on such loans, subject to the approval of the manager, ~~provided that such loans do not exceed \$350,000.00 in aggregate amount for any industrial loan for any three year period for any particular individual,~~

~~partnership, corporation, or other entity or related entity, or do not exceed \$350,000.00 in aggregate amount if the loan is guaranteed by the Farm Services Agency, or its successor agency, or \$300,000.00 in aggregate amount if the loan is not guaranteed by the Farm Services Agency, or its successor agency, for any agricultural loan for any three year period for any particular individual, partnership, corporation, or other entity or related entity. No funds may be disbursed for any loan approved under this provision, except for any agricultural loan referenced above in an amount not to exceed \$50,000.00, and no rejection of a loan by a loan officer pursuant to this subdivision shall become final, until three working days after the members of the Authority are notified by facsimile, electronic mail, or overnight delivery mailed or sent on the day of approval or rejection, of the intention to approve or reject such loan. If any member objects within that three day period, the approval or rejection will be held for reconsideration by the members of the Authority at its next duly scheduled meeting.~~

\* \* \*

Sec. A.3. 10 V.S.A. § 219 is amended to read:

§ 219. RESERVE FUNDS

\* \* \*

(d) In order to ensure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the Authority, there may be appropriated annually and paid to the Authority for deposit in each such fund, such sum as shall be certified by the Chair of the Authority, to the Governor, the President of the Senate, and the Speaker of the House, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The Chair shall annually, on or about February 1, make, execute, and deliver to the Governor, the President of the Senate, and the Speaker of the House, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the Authority during the then current State fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which State funds may be appropriated pursuant to this subsection shall not exceed ~~\$130,000,000.00~~ \$155,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the Authority in contravention of the Constitution of the United States.

Sec. A.4. 10 V.S.A. § 220 is added to read:

§ 220. TRANSFER FROM INDEMNIFICATION FUND

The State Treasurer shall transfer from the Indemnification Fund created in former section 222a of this title to the Authority all current and future amounts deposited to that Fund.

Sec. A.5. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

\* \* \*

(c) Monies in the Fund may be loaned to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the Authority to establish a line of credit in an amount not to exceed ~~\$60,000,000.00~~ \$100,000,000.00 to be advanced to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title.

\* \* \*

Sec. A.6. 10 V.S.A. chapter 16A is amended to read:

CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT PROGRAM

(a) There is created the Vermont Agricultural Credit Program, which will provide an alternative source of sound and constructive credit to farmers and forest products businesses who are not having their credit needs fully met by conventional agricultural credit sources at reasonable rates and terms. The Program is intended to meet, either in whole or in part, the credit needs of eligible agricultural facilities and farm operations in fulfillment of one or more of the purposes listed in this subsection by making direct loans and participating in loans made by other agricultural credit providers:

\* \* \*

(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~~ \$5,000,000.00, 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 or forest products which have been primarily produced in this 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.

(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, 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.

(9) “Forest products business” means a Vermont enterprise that is primarily engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing products derived from Vermont forests.

(10) “Livestock” shall mean cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, chukar partridge, coturnix quail, ferrets, camelids and ratites, cultured trout propagated by commercial trout farms, and bees.

~~(10)~~(11) “Loan” means an operating loan or farm ownership loan, including a financing lease, provided that such lease transfers the ownership of the leased property to each lessee following the payment of all required lease payments as specified in each lease agreement.

~~(11)~~(12) “Operating loan” means a loan to purchase livestock, farm or forestry equipment, or fixtures to pay annual operating expenses of a farm operation or agricultural facility, to pay loan closing costs, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

~~(12)~~(13) “Program” means the Vermont Agricultural Credit Program established by this chapter.

~~(13)~~(14) “Project” or “agricultural project” means the creation, establishment, acquisition, construction, expansion, improvement, strengthening, reclamation, operation, or renovation of an agricultural facility or farm operation.

~~(14)~~(15) “Resident” means a person who is or will be domiciled in this State as evidenced by an intent to maintain a principal dwelling place in the State indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent, including the filing of a Vermont income tax return within 18 months of the application for a loan under this chapter. In the case of a limited liability company, partnership, corporation, or other business entity, resident means a business entity formed under the laws of Vermont, the majority of which is owned and operated by Vermont residents who are natural persons.

\* \* \*

#### § 374h. LOAN ELIGIBILITY STANDARDS

A farmer, or a limited liability company, partnership, corporation, or other business entity the majority ownership of which is vested in one or more farmers, shall be eligible to apply for a farm ownership or operating loan, provided the applicant is:

\* \* \*

(4) an operator or proposed operator of an agricultural facility, ~~or farm operation,~~ or forest products business for whom the loan reduces investment costs to an extent that offers the applicant a reasonable chance to succeed in the operation and management of an agricultural facility or farm operation;

\* \* \*

(7) able to demonstrate that the applicant is responsible and able to manage responsibilities as owner or operator of the farm operation, ~~or agricultural facility,~~ or forest products business;

\* \* \*

(13) able to demonstrate that the proposed loan will be adequately secured by a mortgage on real property ~~with a satisfactory maturity date in no event later than 20 years from the date of inception of the mortgage,~~ or by a security agreement on personal property ~~with a satisfactory maturity date in no event longer than the average remaining useful life of the assets in which the security interest is being taken;~~ and

\* \* \*

#### Sec. A.7. REPEALS

(a) 2009 Acts and Resolves No. 54, Sec. 112(b), pledging up to \$1,000,000.00 of the full faith and credit of the State for loss reserves for the Vermont Economic Development Authority small business loan program and TECH loan program, is repealed.

(b) In 10 V.S.A. chapter 12 (Vermont Economic Development Authority) the following are repealed:

(1) subchapter 2, §§ 221–229 (Mortgage Insurance); and

(2) subchapter 8, §§ 279–279b (Vermont Financial Access Program).

\* \* \* Cooperatives; Electronic Voting \* \* \*

Sec. B.1. 11 V.S.A. § 995 is amended to read:

#### § 995. ARTICLES

Each association formed under this subchapter shall prepare and file articles of incorporation setting forth:

(1) The name of the association;

(2) The purpose for which it is formed;

(3) The place where its principal business will be transacted;

(4) The names and addresses of the directors thereof who are to serve until the election and qualification of their successors;

(5) The name and residence of the clerk;

(6) When organized without capital stock, whether the property rights and interest of the members are equal, and, if unequal, the general rules applicable to all members by which the property rights and interest, respectively, of each member shall be determined and fixed, and provision for the admission of new members who shall be entitled to share in the property of the association in accordance with such general rules. This provision or paragraph of the certificate of organization shall not be altered, amended, or replaced except by the written consent or vote representing three-fourths of the members;

(7) When organized with capital stock, the amount of such stock, the number of shares into which it is divided, and the par value thereof;

(8) The capital stock may be divided into preferred and one or more classes of common stock. When so divided, the certificate of organization shall contain a statement of the number of shares of stock to which preference is granted, the number of shares of stock to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each;

(9) The articles of incorporation of any association organized under this subchapter ~~shall~~ may provide that the members or stockholders thereof shall have the right to vote in person ~~or alternate only and not by proxy or otherwise~~ or through another method of communication, including through a telecommunications or electronic medium, but a member or stockholder may not vote by proxy. This provision or paragraph of the articles of association shall not be altered and shall not be subject to amendment;

(10) In addition to the foregoing, the articles of incorporation of any association incorporated hereunder may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement, and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate or with respect to its members, officers, or directors and any other provisions relating to its affairs;

(11) The certificate shall be subscribed by the incorporators and shall be sworn to by one or more of them; and shall be filed with the ~~secretary of state~~ Secretary of State. A certified copy shall also be filed with the ~~secretary of agriculture, food and markets;~~ Secretary of Agriculture, Food and Markets.

(12) When so filed, the certificate of organization or a certified copy thereof shall be received in the courts of this ~~state~~ State as prima facie evidence of the facts contained therein and of the due incorporation of such association.

\* \* \* Regional Planning and Economic Development \* \* \*

Sec. C.1. 24 V.S.A. chapter 76 is amended to read:

CHAPTER 76. ECONOMIC DEVELOPMENT PERFORMANCE  
CONTRACTS GRANTS

\* \* \*

§ 2782. PROPOSALS FOR PERFORMANCE ~~CONTRACTS~~ GRANTS FOR  
ECONOMIC DEVELOPMENT

(a) The Secretary shall ~~annually award~~ negotiate and issue performance ~~contracts~~ grants to qualified regional development corporations, regional planning commissions, or both in the case of a joint proposal, to provide economic development services under this chapter.

(b) A proposal shall be submitted in response to a request for proposals issued by the Secretary.

(c) The Secretary may require that a service provider submit with a proposal, or subsequent to the filing of a proposal, additional supportive data or information that he or she considers necessary to make a decision to award or to assess the effectiveness of a performance ~~contract~~ grant.

§ 2783. ELIGIBILITY FOR PERFORMANCE ~~CONTRACTS~~ GRANTS

Upon receipt of a proposal for a performance ~~contract~~ grant, the Secretary shall within 60 days determine whether or not the service provider may be awarded a performance ~~contract~~ grant under this chapter. The Secretary shall enter into a performance ~~contract~~ grant with a service provider if the Secretary finds:

(1) the service provider serves an economic region generally consistent with one or more of the State's regional planning commission regions;

(2) the service provider demonstrates the ability and willingness to provide planning and resource development services to local communities and to assist communities in evaluating economic conditions and prepare for economic growth and stability;

(3) the service provider demonstrates an ability to gather economic and demographic information concerning the area served;

(4) the service provider has, or demonstrates it will be able to secure, letters of support from the legislative bodies of the affected municipalities;

(5) the service provider demonstrates a capability and willingness to assist existing business and industry, to encourage the development and growth of small business, and to attract industry and commerce;

(6) the service provider appears to be the best qualified service provider from the region to accomplish and promote economic development;

(7) the service provider needs the performance ~~contract-award~~ grant and that the performance ~~contract-award~~ grant will be used for the employment of professional persons or expenses consistent with performance ~~contract~~ grant provisions, or both;

(8) the service provider presents an operating budget and has adequate funds available to match the performance ~~contract-award~~ grant;

(9) the service provider demonstrates a willingness to involve the public of the region in its policy-making process by offering membership to representatives of all municipalities in the economic region which shall elect the directors of the governing board;

(10) the service provider demonstrates a willingness to coordinate its activities with the planning functions of any regional planning commission located in the same geographic area as the service provider.

#### § 2784. TERMS OF PERFORMANCE ~~CONTRACTS~~ GRANTS

(a)(1) Funds available ~~under~~ through a performance ~~contract~~ grant may only be used by an applicant to perform the duties or provide the services ~~set forth~~ specified in the performance ~~contract~~ grant.

(2) The amount and terms of the performance ~~contract-award~~ grant shall be determined by the ~~parties to the contract~~ Secretary.

(b) A performance ~~contract~~ grant shall be made for a period ~~agreed to by the parties~~ specified by the grant.

(c) Payments to a service provider shall be made pursuant to the terms of the performance ~~contract~~ grant.

#### § 2784a. PLANS

A service provider awarded a performance ~~contract~~ grant under this chapter shall conduct its activities under subdivision 2784(a)(1) of this title consistent with local and regional plans.

\* \* \*

#### § 2786. APPLICABILITY OF STATE LAWS

(a) A service provider awarded a performance ~~contract~~ grant by the Secretary under this chapter shall be subject to 1 V.S.A. chapter 5, subchapter 2 (open meetings) and 1 V.S.A. chapter 5, subchapter 3 (public records), except that in addition to any limitation provided in subchapter 2 or 3:

(1) no person shall disclose any information relating to a proposed transaction or agreement between the service provider and another person, in furtherance of the service provider's public purposes under the law, prior to final execution of such transaction or agreement; and

(2) meetings of the service provider's board to consider such proposed transactions or agreements may be held in executive session under 1 V.S.A. § 313.

(b) Nothing in this section shall be construed to limit the exchange of information between or among regional development corporations or regional planning commissions concerning any activity of the corporations and the commissions, provided that such information shall be subject to the provisions of subsection (a) of this section.

(c) The provisions of 2 V.S.A. chapter 11 (registration of lobbyist) shall apply to regional development corporations and regional planning commissions.

\* \* \*

Sec. C.2. 24 V.S.A. § 4341a is amended to read:

§ 4341a. ~~PERFORMANCE CONTRACTS~~ GRANTS FOR REGIONAL PLANNING SERVICES

(a) The Secretary of Commerce and Community Development shall negotiate and ~~enter into performance contracts with~~ issue performance grants to regional planning commissions, or with to regional planning commissions and regional development corporations in the case of a joint ~~contract~~ grant, to provide regional planning services.

(b) A performance ~~contract~~ grant shall address how the regional planning commission, or regional planning commission and regional development corporation jointly, will improve results and achieve savings compared with the current regional service delivery system, which may include:

(1) a proposal without change in the makeup or change of the area served;

(2) a joint proposal to provide different services ~~under one contract with~~ pursuant to a grant to one or more regional service providers;

(3) co-location with other local, regional, or State service providers;

- (4) merger with one or more regional service providers;
- (5) consolidation of administrative functions and additional operational efficiencies within the region; or
- (6) such other cost-saving mechanisms as may be available.

\* \* \* Vermont Training Program \* \* \*

Sec. D.1. 10 V.S.A. § 531 is amended to read:

§ 531. THE VERMONT TRAINING PROGRAM

\* \* \*

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

\* \* \*

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

\* \* \*

(H) other paid time off, ~~including~~ excluding paid sick days;

\* \* \*

(e) Work-based learning activities.

(1) In addition to eligible training authorized in subsection (b) of this section, the Secretary of Commerce and Community Development may annually allocate up to 10 percent of the funding appropriated for the Program to fund work-based learning programs and activities with eligible employers to introduce Vermont students in a middle school, secondary school, career technical education program, or postsecondary school to manufacturers and other regionally significant employers.

(2) An employer with a defined work-based learning program or activity developed in partnership with a middle school, secondary school, career technical education program, or postsecondary school may apply to the Program for a grant to offset the costs the employer incurs for the work-based learning program or activity, including the costs of transportation, curriculum development, and materials.

\* \* \*

(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.



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) from among the following, the category the training addressed:
  - (A) preemployment training or other training for a new employee to begin a newly created position with the employer;
  - (B) preemployment 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 (2) of this subsection whether the training is onsite or classroom-based;
- (4) the number of employees served;
- (5) the average wage by employer;
- (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; and
- (10) the number, type, and description of grants for work-based learning programs and activities awarded pursuant to subsection (e) of this section.

\* \* \* Corporations; Mergers, Conversions, Domestications, Share Exchanges,  
Limited Liability Company Technical Corrections \* \* \*

Sec. E.1. 11A V.S.A. chapter 11 is amended to read:

#### ~~CHAPTER 11. MERGER AND SHARE EXCHANGE~~

##### ~~§ 11.01. MERGER~~

~~(a) One or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders (if required by section 11.03 of this title) approve a plan of merger.~~

~~(b) The plan of merger must set forth:~~

~~(1) the name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;~~

~~(2) the terms and conditions of the merger; and~~

~~(3) the manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or in part.~~

~~(c) The plan of merger may set forth:~~

~~(1) amendments to the articles of incorporation of the surviving corporation; and~~

~~(2) other provisions relating to the merger.~~

#### ~~§ 11.02. SHARE EXCHANGE~~

~~(a) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders (if required by section 11.03 of this title) approve the exchange.~~

~~(b) The plan of exchange must set forth:~~

~~(1) the name of the corporation whose shares will be acquired and the name of the acquiring corporation;~~

~~(2) the terms and conditions of the exchange;~~

~~(3) the manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or in part.~~

~~(c) The plan of exchange may set forth other provisions relating to the exchange.~~

~~(d) This section does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through a voluntary exchange or otherwise.~~

#### ~~§ 11.03. ACTION ON PLAN~~

~~(a) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (g) of this section) or share exchange for approval by its shareholders.~~

~~(b) For a plan of merger or share exchange to be approved:~~

~~(1) the board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and~~

~~(2) the shareholders entitled to vote must approve the plan.~~

~~(c) The board of directors may condition its submission of the proposed merger or share exchange on any basis.~~

~~(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 7.05 of this title. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.~~

~~(e) Unless this title, the articles of incorporation, or the board of directors (acting pursuant to subsection (c) of this section) require a greater vote or a vote by voting groups, the plan of merger or share exchange to be authorized must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.~~

~~(f) Separate voting by voting groups is required:~~

~~(1) on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under section 10.04 of this title;~~

~~(2) on a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.~~

~~(g) Action by the shareholders of the surviving corporation on a plan of merger is not required if:~~

~~(1) the articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in section 10.02 of this title) from its articles before the merger;~~

~~(2) each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;~~

~~(3) the number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than 20 percent the total number of voting shares of the surviving corporation outstanding immediately before the merger; and~~

~~(4) the number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than 20 percent the total number of participating shares outstanding immediately before the merger.~~

~~(h) As used in subsection (g) of this section:~~

~~(1) "Participating shares" mean shares that entitle their holders to participate without limitation in distributions.~~

~~(2) "Voting shares" mean shares that entitle their holders to vote unconditionally in elections of directors.~~

~~(i) After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned (subject to any contractual rights), without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.~~

#### ~~§ 11.04. MERGER OF SUBSIDIARY~~

~~(a) A parent corporation owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary.~~

~~(b) The board of directors of the parent shall adopt a plan of merger that sets forth:~~

~~(1) the names of the parent and subsidiary; and~~

~~(2) the manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or in part.~~

~~(c) The parent shall mail a copy or summary of the plan merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.~~

~~(d) The parent may not deliver articles of merger to the secretary of state for filing until at least 30 days after the date it mailed a copy of the plan of merger to each shareholder of the subsidiary who did not waive the mailing requirement.~~

~~(e) Articles of merger under this section may not contain amendments to the articles of incorporation of the parent corporation (except for amendments enumerated in section 10.02 of this title).~~

#### ~~§ 11.05. ARTICLES OF MERGER OR SHARE EXCHANGE~~

~~(a) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the secretary of state for filing, articles of merger or share exchange setting forth:~~

~~(1) the plan of merger or share exchange;~~

~~(2) if shareholder approval was not required, a statement to that effect;~~

~~(3) if approval of the shareholders of one or more corporations party to the merger or share exchange was required:~~

~~(A) the designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation; and~~

~~(B) either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.~~

~~(b) A merger or share exchange takes effect upon the effective date of the articles of merger or share exchange as provided in section 1.23 of this title.~~

#### ~~§ 11.06. EFFECT OF MERGER OR SHARE EXCHANGE~~

~~(a) When a merger takes effect:~~

~~(1) every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;~~

~~(2) the title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment;~~

~~(3) the surviving corporation has all liabilities of each corporation party to the merger;~~

~~(4) a proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;~~

~~(5) the articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and~~

~~(6) the shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under chapter 13 of this title.~~

~~(b) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under chapter 13 of this title.~~

#### ~~§ 11.07. MERGER OR SHARE EXCHANGE WITH FOREIGN CORPORATION~~

~~(a) One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:~~

~~(1) in a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;~~

~~(2) in a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated;~~

~~(3) the foreign corporation complies with section 11.05 of this title if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and~~

~~(4) each domestic corporation complies with the applicable provisions of sections 11.01 through 11.04 of this title and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with section 11.05 of this title.~~

~~(b) Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange is deemed:~~

~~(1) to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange; and~~

~~(2) to agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under chapter 13 of this title.~~

~~(e) This section does not limit the power of a foreign corporation to acquire all or part of the shares of one or more classes or series of a domestic corporation through a voluntary exchange or otherwise.~~

## CHAPTER 11. CONVERSION, MERGER, SHARE EXCHANGE, AND DOMESTICATION

### § 11.01. DEFINITIONS

In this chapter:

(1) “Constituent corporation” means a constituent organization that is a corporation.

(2) “Constituent organization” means an organization that is a party to a conversion, merger, share exchange, or domestication pursuant to this chapter.

(3) “Conversion” means a transaction authorized by sections 11.02 through 11.07 of this title.

(4) “Converted organization” means the converting organization as it continues in existence after a conversion.

(5) “Converting organization” means the domestic organization that approves a plan of conversion pursuant to section 11.04 of this title or the foreign organization that approves a conversion pursuant to the law of its jurisdiction of formation.

(6) “Domestic organization” means an organization whose internal affairs are governed by the law of this State.

(7) “Domesticated corporation” means the corporation that exists after a domesticating corporation effects a domestication pursuant to sections 11.13 through 11.16 of this title.

(8) “Domesticating corporation” means the corporation that effects a domestication pursuant to sections 11.13 through 11.16 of this title.

(9) “Domestication” means a transaction authorized by sections 11.13 through 11.16 of this title.

(10) “Governing statute” means the statute that governs an organization’s internal affairs.

(11) “Interest holder” means:

(A) a shareholder of a business corporation;

(B) a member of a nonprofit corporation;

(C) a general partner of a general partnership, including a limited liability partnership;

(D) a general partner of a limited partnership, including a limited liability partnership;

(E) a limited partner of a limited partnership, including a limited liability partnership;

(F) a member of a limited liability company;

(G) a shareholder of a general cooperative association;

(H) a member of a limited cooperative association or mutual benefit enterprise;

(I) a member of an unincorporated nonprofit association;

(J) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or

(K) any other direct holder of an interest.

(12) “Merger” means a merger authorized by sections 11.08 through 11.12 of this title.

(13) “Organization”:

(A) means any of the following, whether a domestic or foreign organization, and regardless of whether organized for profit:

(i) a business corporation;

(ii) a nonprofit corporation;

(iii) a general partnership, including a limited liability partnership;

(iv) a limited partnership, including a limited liability limited partnership;

(v) a limited liability company;

(vi) a general cooperative association;

(vii) a limited cooperative association or mutual benefit enterprise;



- (viii) an unincorporated nonprofit association;
- (ix) a statutory trust, business trust, or common-law business trust; or
- (x) any other person that has:
  - (I) a legal existence separate from any interest holder of that person; or
  - (II) the power to acquire an interest in real property in its own name; and
- (B) does not include:
  - (i) an individual;
  - (ii) a trust with a predominantly donative purpose or a charitable trust;
  - (iii) an association or relationship that is not an organization listed in subdivision (A) of this subdivision (13) and is not a partnership under 11 V.S.A. chapter 22 or 23, or a similar provision of law of another jurisdiction;
  - (iv) a decedent's estate; or
  - (v) a government or a governmental subdivision, agency, or instrumentality.
- (14) "Organizational documents" means the organizational documents for a domestic or foreign organization that create the organization, govern the internal affairs of the organization, and govern relations between or among its interest holders, including:
  - (A) for a general partnership, its statement of partnership authority and partnership agreement;
  - (B) for a limited liability partnership, its statement of qualification and partnership agreement;
  - (C) for a limited partnership, its certificate of limited partnership and partnership agreement;
  - (D) for a limited liability company, its certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute;
  - (E) for a business trust, its agreement of trust and declaration of trust;

(F) for a business corporation, its certificate or articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and

(G) for any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

(15) “Personal liability” means:

(A) liability for a debt, obligation, or other liability of an organization which is imposed on a person:

(i) by the governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or

(ii) by the organization’s organizational documents under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization; or

(B) an obligation of an interest holder under the organizational documents of an organization to contribute to the organization.

(16) “Private organizational documents” means organizational documents or portions thereof for a domestic or foreign organization that are not part of the organization’s public record, if any, and includes:

(A) the bylaws of a business corporation;

(B) the bylaws of a nonprofit corporation;

(C) the partnership agreement of a general partnership or limited liability partnership;

(D) the partnership agreement of a limited partnership or limited liability limited partnership;

(E) the operating agreement of a limited liability company;

(F) the bylaws of a general cooperative association;

(G) the bylaws of a limited cooperative association or mutual benefit enterprise;

(H) the governing principles of an unincorporated nonprofit association; and

(I) the trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.

(17) “Protected agreement” means:

(A) a record evidencing indebtedness and any related agreement in effect on July 1, 2017;

(B) an agreement that is binding on an organization on July 1, 2017;

(C) the organizational documents of an organization in effect on July 1, 2017; or

(D) an agreement that is binding on any of the partners, directors, managers, or interest holders of an organization on July 1, 2017.

(18) “Public organizational documents” means the record of organizational documents required to be filed with the Secretary of State to form an organization, and any amendment to or restatement of that record, and includes:

(A) the articles of incorporation of a business corporation;

(B) the articles of incorporation of a nonprofit corporation;

(C) the statement of partnership authority of a general partnership;

(D) the statement of qualification of a limited liability partnership;

(E) the certificate of limited partnership of a limited partnership;

(F) the articles of organization of a limited liability company;

(G) the articles of incorporation of a general cooperative association;

(H) the articles of organization of a limited cooperative association or mutual benefit enterprise; and

(I) the certificate of trust of a statutory trust or similar record of a business trust.

(19) “Record,” used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) “Share exchange” means a share exchange authorized by sections 11.08 through 11.12 of this title.

(21) “Surviving organization” means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

## § 11.02. CONVERSION AUTHORIZED

(a) By complying with sections 11.03 through 11.06 of this title, a domestic corporation may become a domestic organization that is a different type of organization.

(b) By complying with sections 11.03 through 11.06 of this title, a domestic organization may become a domestic corporation.

(c) By complying with sections 11.03 through 11.06 of this title applicable to foreign organizations, a foreign organization that is not a foreign corporation may become a domestic corporation if the conversion is authorized by the law of the foreign organization's jurisdiction of formation.

(d) If a protected agreement contains a provision that applies to a merger of a domestic corporation but does not refer to a conversion, the provision applies to a conversion of the corporation as if the conversion were a merger until the provision is amended after July 1, 2017.

## § 11.03. PLAN OF CONVERSION

(a) A domestic corporation may convert to a different type of organization under section 11.02 of this title by approving a plan of conversion, and a domestic organization, other than a corporation, may convert into a domestic corporation by approving a plan of conversion. The plan shall be in a record and shall contain:

(1) the name of the converting corporation or organization;

(2) the name, jurisdiction of formation, and type of organization of the converted organization;

(3) the manner and basis for converting an interest holder's interest in the converting organization into any combination of an interest in the converted organization and other consideration;

(4) the proposed public organizational documents of the converted organization if it will be an organization with public organizational documents filed with the Secretary of State;

(5) the full text of the private organizational documents of the converted organization that are proposed to be in a record;

(6) the other terms and conditions of the conversion; and

(7) any other provision required by the law of this State or the organizational documents of the converting corporation.

(b) A plan of conversion may contain any other provision not prohibited by law.

#### § 11.04. APPROVAL OF CONVERSION

Subject to section 11.17 of this title and any contractual rights, a converting organization shall approve a plan of conversion as follows:

(1) a domestic corporation shall approve a plan of conversion in accordance with the procedures for approving a merger under section 11.10 of this title;

(2) any other organization shall approve a plan of conversion in accordance with its governing statute and its organizational documents; provided:

(A) if its organizational documents do not address the manner for approving a conversion, then a plan of conversion shall be approved by the same vote required under the organizational documents for a merger; and

(B) if its organizational documents do not provide for approval of a merger, then by the approval of the number or percentage of interest holders required to approve a merger under the governing statute.

#### § 11.05. AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION

(a) A domestic corporation may amend a plan of conversion:

(1) in the same manner the corporation approved the plan, if the plan does not specify how to amend the plan; or

(2) by its directors and shareholders as provided in the plan, but a shareholder who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the shareholder may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the shareholder in any material respect.

(b) A domestic general or limited partnership may amend a plan of conversion:

(1) in the same manner the partnership approved the plan, if the plan does not specify how to amend the plan; or

(2) by the partners as provided in the plan, but a partner who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the partner may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the partner in any material respect.

(c) A domestic limited liability company may amend a plan of conversion:

(1) in the same manner the company approved the plan, if the plan does not specify how to amend the plan; or

(2) by the managers or members as provided in the plan, but a member who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the member may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the member in any material respect.

(d)(1) After a domestic converting organization approves a plan of conversion, and before a statement of conversion takes effect, the organization may abandon the conversion as provided in the plan.

(2) Unless prohibited by the plan, the organization may abandon the plan in the same manner it approved the plan.

(e)(1) A domestic converting organization that abandons a plan of conversion pursuant to subsection (d) of this section shall deliver a signed statement of abandonment to the Secretary of State for filing before the statement of conversion takes effect.

(2) The statement of abandonment shall contain:

(A) the name of the converting organization;

(B) the date the Secretary of State filed the statement of conversion; and

(C) a statement that the converting organization has abandoned the conversion pursuant to this section.

(3) A statement of abandonment takes effect, on filing, and on filing the conversion is abandoned and does not take effect.

#### § 11.06. STATEMENT OF CONVERSION; EFFECTIVE DATE OF CONVERSION

(a) A converting organization shall sign a statement of conversion and deliver it to the Secretary of State for filing.

(b) A statement of conversion shall contain:

(1) the name, jurisdiction of formation, and type of organization prior to the conversion;

(2) the name, jurisdiction of formation, and type of organization following the conversion;

(3) if the converting organization is a domestic organization, a statement that the organization approved the plan of conversion in accordance with the provisions of this chapter, or, if the converting organization is a foreign organization, a statement that the organization approved the conversion in accordance with its governing statute; and

(4) the public organizational documents of the converted organization.

(c) A statement of conversion may contain any other provision not prohibited by law.

(d) If the converted organization is a domestic organization, its public organizational documents, if any, shall comply with the law of this State.

(e)(1) If a converted organization is a domestic corporation, its conversion takes effect when the statement of conversion takes effect.

(2) If a converted organization is not a domestic corporation, its conversion takes effect on the later of:

(A) the date and time provided by its governing statute; or

(B) when the statement of conversion takes effect.

#### § 11.07. EFFECT OF CONVERSION

(a) When a conversion takes effect:

(1) The converted organization is:

(A) organized under and subject to the governing statute of the converted organization; and

(B) the same organization continuing without interruption as the converting organization.

(2) The property of the converting organization continues to be vested in the converted organization without transfer, assignment, reversion, or impairment.

(3) The debts, obligations, and other liabilities of the converting organization continue as debts, obligations, and other liabilities of the converted organization.

(4) Except as otherwise provided by law or the plan of conversion, the rights, privileges, immunities, powers, and purposes of the converting organization remain in the converted organization.

(5) A court or other authority may substitute the name of the converted organization for the name of the converting organization in any pending action or proceeding.

(6) The public organizational documents of the converted organization takes effect.

(7) The provisions of the organizational documents of the converted organization that are required to be in a record, if any, that were approved as part of the plan of conversion take effect.

(8) The interests in the converting organization are converted, and the interest holders of the converting organization are entitled only to the rights provided to them under the plan of conversion.

(b) Except as otherwise provided in the organizational documents of a domestic converting organization, a conversion does not give rise to any rights that a shareholder, member, partner, limited partner, director, or third party would have upon a dissolution, liquidation, or winding up of the converting organization.



(c) When a conversion takes effect, a person who did not have personal liability with respect to the converting organization and becomes subject to personal liability with respect to the converted organization as a result of the conversion has personal liability only to the extent provided by the governing statute of the converted organization and only for those debts, obligations, and other liabilities that the converted organization incurs after the conversion.

(d) When a conversion takes effect, a person who had personal liability for a debt, obligation, or other liability of the converting organization but who does not have personal liability with respect to the converted organization is subject to the following rules:

(1) The conversion does not discharge any personal liability under this title to the extent the personal liability was incurred before the conversion took effect.

(2) The person does not have personal liability under this title for any debt, obligation, or other liability that arises after the conversion takes effect.

(3) This title continues to apply to the release, collection, or discharge of any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(4) The person has the rights of contribution from another person that are provided by this title, law other than this title, or the organizational documents of the converting organization with respect to any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(e) When a conversion takes effect, a person may serve a foreign organization that is the converted organization with process in this State for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in section 5.04 of this title.

(f) If the converting organization is a registered foreign organization, its registration to do business in this State is canceled when the conversion takes effect.

(g) A conversion does not require an organization to wind up its affairs and does not constitute or cause the dissolution of the organization.

#### § 11.08. MERGER AUTHORIZED; PLAN OF MERGER

(a) A corporation organized pursuant to this title may merge with one or more other constituent organizations pursuant to this section and sections 11.09 through 11.12 of this title and a plan of merger if:

(1) the governing statute of each of the other constituent organizations authorizes the merger;

(2) the merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and

(3) each of the other constituent organizations complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) the name and type of each constituent organization;

(2) the name and type of the surviving constituent organization and, if the surviving constituent organization is created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting an interest holder's interest in each constituent organization into any combination of an interest in the surviving organization and other consideration;

(4) if the merger creates the surviving constituent organization, the surviving constituent organization's organizational documents that are proposed to be in a record; and

(5) if the merger does not create the surviving constituent organization, any amendments to the surviving constituent organization's organizational documents that are, or are proposed to be, in a record.

#### § 11.09. SHARE EXCHANGE AUTHORIZED; PLAN OF SHARE EXCHANGE

(a) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts, and its shareholders, if required under section 11.10 of this title, approve a plan of share exchange.

(b) The plan of share exchange shall be in a record and shall include:

(1) the name of the corporation whose shares will be acquired and the name of the acquiring corporation; and

(2) the terms and conditions of the share exchange; including the manner and basis of exchanging the shares to be acquired in exchange for shares of the acquiring corporation or other consideration.

(c) The plan of share exchange may contain any other provision not prohibited by law.

§ 11.10. APPROVAL OF PLAN OF MERGER OR SHARE EXCHANGE

(a) Subject to section 11.17 of this title and any contractual rights, a constituent organization shall approve a plan of merger or share exchange as follows:

(1) if the constituent organization is a corporation:

(A) the board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(B) the shareholders entitled to vote must approve the plan; and

(2) if the constituent organization is not a corporation, the plan of merger or share exchange shall be approved in accordance with the organization's governing statute and organizational documents.

(b) The board of directors of a constituent corporation may condition its submission of the proposed merger or share exchange on any basis.

(c) For a constituent organization that is a domestic corporation:

(1)(A) The constituent organization shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 7.05 of this title.

(B) The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

(2) Unless this title, the articles of incorporation, or the board of directors acting pursuant to subsection (b) of this section requires a greater vote or a vote by voting groups, the plan of merger or share exchange must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(3) Separate voting by voting groups is required:

(A) on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under section 10.04 of this title; and

(B) on a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

(4) Action by the shareholders of the surviving corporation on a plan of merger is not required if:

(A) the articles of incorporation of the surviving corporation will not differ, except for amendments enumerated in section 10.02 of this title, from its articles before the merger;

(B) each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;

(C) the number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than 20 percent the total number of voting shares of the surviving corporation outstanding immediately before the merger; and

(D) the number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than 20 percent the total number of participating shares outstanding immediately before the merger.

(5) As used in this subsection:

(A) “Participating shares” means shares that entitle their holders to participate without limitation in distributions.

(B) “Voting shares” means shares that entitle their holders to vote unconditionally in elections of directors.

(d) Subject to section 11.17 of this title and any contractual rights, after a constituent organization approves a merger or share exchange, and before the organization delivers articles of merger or share exchange to the Secretary of State for filing, a constituent organization may amend the plan or abandon the merger or share exchange:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, in the same manner it approved the plan.

§ 11.11. FILING REQUIRED FOR MERGER OR SHARE EXCHANGE;  
EFFECTIVE DATE

(a) After each constituent organization approves a merger or share exchange, a person with appropriate authority shall sign articles of merger or share exchange on behalf of:

(1) each constituent corporation; and

(2) each other constituent organization as required by its governing statute.

(b) Articles of merger under this section shall be in a record and shall include:

(1) the name and type of each constituent organization and the jurisdiction of its governing statute;

(2) the name and type of the surviving constituent organization, the jurisdiction of its governing statute, and, if the merger creates the surviving constituent organization, a statement to that effect;

(3) the date the merger takes effect under the governing statute of the surviving constituent organization;

(4) if the merger creates the surviving constituent organization, its public organizational documents;

(5) if the surviving constituent organization preexists the merger, any amendments to its public organizational documents;

(6) a statement on behalf of each constituent organization that it approved the merger as required by its governing statute;

(7) if the surviving constituent organization is a foreign constituent organization not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title; and

(8) any additional information the governing statute of a constituent organization requires.

(c) A merger takes effect under this chapter:

(1) if the surviving constituent organization is a corporation, upon the later of:

(A) compliance with subsection (f) of this section; or

(B) subject to section 1.23 of this title, as specified in the articles of merger; or

(2) if the surviving constituent organization is not a corporation, as provided by the governing statute of the surviving constituent organization.

(d) Articles of share exchange under this section shall be in a record and shall include:

(1) the name and type of each constituent organization and the jurisdiction of its governing statute;

(2) the date the share exchange takes effect under the governing statute of each of the constituent organizations;

(3) a statement on behalf of each constituent organization that it approved the share exchange as required by its governing statute;

(4) if either constituent organization is a foreign organization not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title; and

(5) any additional information the governing statute of a constituent organization requires.

(e) A share exchange takes effect under this chapter upon the later of:

(1) compliance with subsection (f) of this section; or

(2) subject to section 1.23 of this title, as specified in the articles of share exchange.

(f) Each constituent organization shall deliver the articles of merger or share exchange for filing in the Office of the Secretary of State.

#### § 11.12. EFFECT OF MERGER OR SHARE EXCHANGE

(a) When a merger takes effect:

(1) the surviving constituent organization continues or comes into existence;

(2) each constituent organization that merges into the surviving constituent organization ceases to exist as a separate entity;

(3) the property of each constituent organization that ceases to exist vests in the surviving constituent organization without transfer, assignment, reversion, or impairment;

(4) the debts, obligations, and other liabilities of each constituent organization that ceases to exist continue as debts, obligations, and other liabilities of the surviving constituent organization;

(5) an action or proceeding pending by or against a constituent organization that ceases to exist continues as if the merger did not occur;

(6) except as prohibited by other law, the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving constituent organization;

(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(8) except as otherwise agreed, if a constituent corporation ceases to exist, the merger does not dissolve the corporation for the purposes of chapter 14 of this title;

(9) if the merger creates the surviving constituent organization, its public organizational documents take effect; and

(10) if the surviving constituent organization preexists the merger, any amendments to its public organizational documents take effect.

(b)(1) A surviving constituent organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce a debt, obligation, or other liability the constituent organization owes, if before the merger the constituent organization was subject to suit in this State on the debt, obligation, or other liability.

(2) A surviving constituent organization that is a foreign organization and not authorized to transact business in this State appoints the Secretary of State as its agent for service of process for the purposes of enforcing a debt, obligation, or other liability under this subsection.

(3) A person shall serve the Secretary of State under this subsection in the same manner, and the service has the same consequences, as in section 5.04 of this title.

(c) When a share exchange takes effect:

(1) the shares of each acquired constituent organization are exchanged as provided in the plan of share exchange; and

(2) the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under chapter 13 of this title.

#### § 11.13. DOMESTICATION AUTHORIZED

(a) A foreign corporation may become a domestic corporation pursuant to this section and sections 11.14 through 11.17 of this title and a plan of domestication if:

(1) the foreign corporation's governing statute and its organizational documents permit the domestication; and

(2) the foreign corporation complies with its governing statute and organizational documents.

(b) A domestic corporation may become a foreign corporation pursuant to this section and sections 11.14 through 11.17 of this title and a plan of domestication if:

(1) its organizational documents permit the domestication; and

(2) the corporation complies with this section and sections 11.14 through 11.17 of this title and its organizational documents.

(c) A plan of domestication shall be in a record and shall include:

(1) the name of the domesticating corporation before domestication and the jurisdiction of its governing statute;

(2) the name of the domesticated corporation after domestication and the jurisdiction of its governing statute;

(3) the terms and conditions of the domestication, including the manner and basis for converting an interest holder's interest in the domesticating organization into any combination of an interest in the domesticated organization and other consideration; and

(4) the organizational documents of the domesticated corporation that are, or are proposed to be, in a record.

#### § 11.14. ACTION ON PLAN OF DOMESTICATION

(a) A domesticating corporation shall approve a plan of domestication as follows:

(1) if the domesticating corporation is a domestic corporation, in accordance with this chapter and the corporation's organizational documents; provided that:

(A) if its organizational documents do not specify the vote needed to approve domestication, then by the same vote required for a merger under its organizational documents; or

(B) if its organizational documents do not specify the vote required for a merger, then by the number or percentage of shareholders required to approve a merger under this chapter;

(2) if the domesticating corporation is a foreign corporation, as provided in its organizational documents and governing statute.

(b) Subject to any contractual rights, after a domesticating corporation approves a domestication and before it delivers articles of domestication to the



Secretary of State for filing, the domesticating corporation may amend the plan or abandon the domestication:

(1) as provided in the plan; or

(2) except as otherwise prohibited by the plan, in the same manner it approved the plan.

§ 11.15. FILING REQUIRED FOR DOMESTICATION; EFFECTIVE DATE

(a) A domesticating corporation that approves a plan of domestication shall deliver to the Secretary of State for filing articles of domestication that include:

(1) a statement, as the case may be, that the corporation was domesticated from or into another jurisdiction;

(2) the name of the corporation and the jurisdiction of its governing statute prior to the domestication;

(3) the name of the corporation and the jurisdiction of its governing statute following domestication;

(4) the date the domestication takes effect under the governing statute of the domesticated company; and

(5) a statement that the corporation approved the domestication as required by the governing statute of the jurisdiction to which it is domesticating.

(b) When a domesticating corporation delivers articles of domestication to the Secretary of State pursuant to subsection (a) of this section, it shall include:

(1) if the domesticating corporation will be a domestic corporation, articles of incorporation pursuant to section 2.02 of this title;

(2) if the domesticating corporation will be a foreign corporation authorized to transact business in this State, an application for a certificate of authority pursuant to section 15.03 of this title; or

(3) if the domesticating corporation will be a foreign corporation that is not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title.

(c) A domestication takes effect:

(1) when the articles of domestication of the domesticating corporation take effect, if the corporation is domesticating to this State; and

(2) according to the governing statute of jurisdiction to which the corporation is domesticating.

§ 11.16. EFFECT OF DOMESTICATION

(a) When a domestication takes effect:

(1) The domesticated corporation is for all purposes the corporation that existed before the domestication.

(2) The property owned by the domesticating corporation remains vested in the domesticated corporation.

(3) The debts, obligations, and other liabilities of the domesticating corporation continue as debts, obligations, and other liabilities of the domesticated corporation.

(4) An action or proceeding pending by or against a domesticating corporation continues as if the domestication had not occurred.

(5) Except as prohibited by other law, the rights, privileges, immunities, powers, and purposes of the domesticating corporation remain vested in the domesticated corporation.

(6) Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect.

(7) Except as otherwise agreed, the domestication does not dissolve a domesticating corporation for the purposes of this chapter 11.

(b)(1) A domesticated corporation that was a foreign corporation consents to the jurisdiction of the courts of this State to enforce a debt, obligation, or other liability the domesticating corporation owes, if, before the domestication, the domesticating corporation was subject to suit in this State on the debt, obligation, or other liability.

(2) A domesticated corporation that was a foreign corporation and not authorized to transact business in this State appoints the Secretary of State as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection.

(3) A person shall serve the Secretary of State under this subsection in the same manner, and the service has the same consequences, as in section 5.04 of this title.

(c) A corporation that domesticates in a foreign jurisdiction shall deliver to the Secretary of State for filing a statement surrendering the corporation's certificate of organization that includes:

(1) the name of the corporation;

(2) a statement that the articles of incorporation are surrendered in connection with the domestication of the company in a foreign jurisdiction;

(3) a statement that the corporation approved the domestication as required by this title; and

(4) the name of the relevant foreign jurisdiction.

§ 11.17. RESTRICTION ON APPROVAL OF CONVERSION, MERGER,  
AND DOMESTICATION

(a) An approval or amendment of a plan of conversion, plan of merger, or plan of domestication under this chapter is ineffective without the approval of each interest holder of a surviving constituent who will have personal liability for a debt, obligation, or other liability of the organization, unless:

(1) a provision of the organization's organizational documents provides in a record that some or all of its interest holders may be subject to personal liability by a vote or consent of fewer than all of the interest holders; and

(2)(A) the interest holder voted for or consented in a record to the provision referenced in subdivision (1)(A) of this subsection; or

(B) the interest holder became an interest holder after the organization adopted the provision referenced in subdivision (1)(A) of this subsection.

(b) An interest holder does not provide consent as required in subdivision (a)(2)(A) of this section merely by consenting to a provision of the organizational documents that permits the organization to amend the organizational documents with the approval of fewer than all of the interest holders.

§ 11.18. CHAPTER NOT EXCLUSIVE

(a) This chapter does not preclude an organization from being converted, merged, or domesticated under law other than this title.

(b) This chapter does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through means other than those included in this chapter.

Sec. E.2. 11A V.S.A. § 13.02 is amended to read:

§ 13.02. RIGHT TO DISSENT

(a) A shareholder is entitled to dissent from, and obtain payment of the fair value of his or her shares in the event of, any of the following corporate actions:

(1) Merger. Consummation of a plan of merger to which the corporation is a party;

(A) if shareholder approval is required for the merger by section ~~11.03~~ 11.10 of this title or the articles of incorporation and the shareholder is entitled to vote on the merger; or

(B) if the corporation is a subsidiary that is merged with its parent under section ~~11.04~~ 11.08 of this title;

(2) Share exchange. Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;

(3) Conversion. Consummation of a plan of conversion pursuant to section 11.03 of this title to which the corporation is a party unless the shareholders of the corporation will have the same dissenters' rights after conversion to the converted organization as they hold before conversion.

(4) Domestication. Consummation of a plan of domestication pursuant to section 11.14 of this title to which the corporation is a party unless the shareholders of the corporation will have the same dissenters' rights after domestication to the domesticated organization as they hold before domestication.

(5) Sale of assets. Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale;

~~(4)~~(6) Amendment to articles. An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

(A) alters or abolishes a preferential right of the shares;

(B) creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;

(C) alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities;

(D) excludes or limits the right of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

(E) reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under section 6.04 of this title;~~or.~~

~~(5)~~(7) Market exception. Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(b) A shareholder entitled to dissent and obtain payment for his or her shares under this chapter may not challenge the corporate action creating his or her entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Sec. E.3. 11 V.S.A. chapter 25 is amended to read:

## CHAPTER 25. LIMITED LIABILITY COMPANIES

\* \* \*

### § 4003. EFFECT OF OPERATING AGREEMENT; NONWAIVABLE PROVISIONS

(a) Except as otherwise provided in subsection (b) of this section, an operating agreement regulates the affairs of the company and the conduct of its business and governs relations among the members, among the managers, and among the members, managers, and the limited liability company. To the extent the operating agreement does not otherwise provide, this chapter regulates the affairs of the company, the conduct of its business, and governs relations among the members, among the managers, and among members, managers, and the limited liability company.

(b) An operating agreement may not:

(1) vary a limited liability company's capacity under subsection 4011(e) of this title to sue and be sued in its own name;

(2) except as provided in subchapter 8 of this chapter, vary the law applicable under subsection 4011(g) of this title;

(3) vary the power of the court under section 4030 of this title;

(4) subject to subsections (c) through (f) of this section, eliminate or restrict the duty of loyalty, the duty of care, or any other fiduciary duty;

(5) subject to subsections (c) through (f) of this section, eliminate or restrict the contractual obligation of good faith and fair dealing under subsection 4059(d) of this title;

(6) unreasonably restrict the duties and rights with respect to books, records, and other information stated in section 4058 of this title, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(7) vary the power of a court to decree dissolution in the circumstances specified in subdivision 4101(a)(4) of this title;

(8) vary the requirement to wind up a limited liability company's business as specified in section ~~4102~~ 4101 of this title;

\* \* \*

#### § 4141. DEFINITIONS

~~As used in~~ As used in this subchapter:

\* \* \*

(3) "Conversion" means a transaction authorized by sections ~~by~~ 4142 through 4147 of this title.

\* \* \*

(13) "Limited partnership" means a limited partnership created under chapter ~~44~~ 23 of this title, a predecessor law, or comparable law of another jurisdiction.

\* \* \*

(17) "Partnership" means a general partnership under chapter ~~9~~ 22 of this title, a predecessor law, or comparable law of another jurisdiction.

\* \* \*

(21) "Protected agreement" means:

(A) ~~a record of an instrument or agreement evidencing indebtedness and any related agreement of an organization in effect on the effective date set forth in section 4171 of this title on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier;~~

(B) ~~an agreement that is binding on an organization on the effective date set forth in section 4171 of this title on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier;~~

(C) ~~the organizational documents of an organization in effect on the effective date set forth in section 4171 of this title on July 1, 2016, or on the~~

date the organization elects to become subject to this chapter, whichever is earlier; or

(D) an agreement that is binding on any of the ~~governors~~ directors, officers, general partners, managers, or interest holders of an organization ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier.

\* \* \*

#### § 4142. CONVERSION AUTHORIZED

(a) By complying with sections ~~4142~~ 4143 through 4146 of this title, a domestic limited liability company may become a domestic organization that is a different type of organization.

(b) By complying with sections 4143 through 4146 of this title, a domestic limited liability company may convert into a different type of foreign organization if the conversion is authorized by the foreign statute that governs the organization after conversion and the converting organization complies with the statute.

(c) By complying with sections ~~4142~~ 4143 through 4146 of this title, a domestic ~~partnership or limited partnership~~ organization may become a domestic limited liability company.

~~(e)~~(d) By complying with sections ~~4142~~ 4143 through 4146 of this title applicable to foreign organizations, a foreign organization that is not a foreign limited liability company may become a domestic limited liability company if the conversion is authorized by the law of the foreign organization's jurisdiction of formation.

~~(e)~~(e) If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a conversion, the provision applies to a conversion of the company as if the conversion were a merger until the provision is amended after the effective date set forth in section 4171 of this title after July 1, 2016, or after the date the organization elects to become subject to this chapter, whichever is earlier.

\* \* \*

#### § 4149. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED LIABILITY COMPANY

(a) Subject to section 4156 of this title, a plan of merger shall be approved in accordance with the organizational documents of the constituent limited liability company, or, in the absence of a provision governing approval of

~~conversions~~ a merger, by all the members of the limited liability company entitled to vote on or consent to any matter.

(b) Subject to section 4156 of this title and any contractual rights, after a merger is approved, and at any time before the articles of merger are delivered to the Secretary of State for filing under section 4150 of this title, a constituent limited liability company may amend the plan or abandon the merger:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

\* \* \*

Sec. E.4. 11 V.S.A. § 1623 is amended to read:

§ 1623. ~~REGISTRATION BY CORPORATIONS AND LIMITED LIABILITY COMPANIES~~ BUSINESS ORGANIZATIONS

(a) A ~~corporation or limited liability company~~ business organization doing business in this State under any name other than that of the ~~corporation or limited liability company~~ business organization shall be subject to all the provisions of this chapter; and shall file returns sworn to by some officer or ~~member~~ director of ~~such~~ the corporation or mutual benefit enterprise, or by some member or manager of ~~such~~ the limited liability company, or by some partner of the partnership or limited partnership, setting forth:

(1) the name and location of the principal office of the business organization;

(2) the name other than the corporation or limited liability company name under which such the organization will conduct business is carried on;

(3) the name of the town wherein such business is to be carried on, or towns where the organization conducts business under the name; and

(4) a brief description of the kind of business transacted under such name, and the corporate or the limited liability company name and location of the principal office of such corporation or limited liability company the organization conducts under the name.

\* \* \*

\* \* \* Vermont State Treasurer; Public Retirement Plan \* \* \*

Sec. F.1. INTERIM STUDY ON THE FEASIBILITY OF ESTABLISHING  
A PUBLIC RETIREMENT PLAN

(a) Creation of Committee.



(1) There is created a Public Retirement Plan Study Committee to evaluate the feasibility of establishing a public retirement plan.

(2) It is the intent of the General Assembly that the Committee continue the work of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016.

(b) Membership.

(1) The Public Retirement Plan Study Committee shall be composed of eight members as follows:

(A) the State Treasurer or designee;

(B) the Commissioner of Labor or designee;

(C) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(D) an individual with private sector experience in the area of providing retirement products and financial services to small businesses, to be appointed by the Speaker;

(E) an individual with experience or expertise in the area of the financial needs of an aging population, to be appointed by the Committee on Committees;

(F) an individual with experience or expertise in the area of the financial needs of Vermont youth or young working adults, to be appointed by the Treasurer;

(G) a representative of employers, to be appointed by the Speaker; and

(H) a representative of employees who currently lack access to employer-sponsored retirement plans, to be appointed by the Committee on Committees.

(2) Unless another appointee is specified pursuant to the authority granted under subdivision (1) of this subsection, the members of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016, shall serve as the members of the Committee created pursuant to this section.

(c) Powers and duties.

(1)(A) The Committee shall study the feasibility of establishing a public retirement plan, including the following:

(i) the access Vermont residents currently have to employer-sponsored retirement plans and the types of employer-sponsored retirement plans;

(ii) data and estimates on the amount of savings and resources Vermont residents will need for a financially secure retirement;

(iii) data and estimates on the actual amount of savings and resources Vermont residents will have for retirement, and whether those savings and resources will be sufficient for a financially secure retirement;

(iv) current incentives to encourage retirement savings, and the effectiveness of those incentives;

(v) whether other states have created a public retirement plan and the experience of those states;

(vi) whether there is a need for a public retirement plan in Vermont;

(vii) whether a public retirement plan would be feasible and effective in providing for a financially secure retirement for Vermont residents;

(viii) other programs or incentives the State could pursue in combination with a public retirement plan, or instead of such a plan, in order to encourage residents to save and prepare for retirement; and

(B) if the Committee determines that a public retirement plan is necessary, feasible, and effective, the Committee shall study:

(i) potential models for the structure, management, organization, administration, and funding of such a plan;

(ii) how to ensure that the plan is available to private sector employees who are not covered by an alternative retirement plan;

(iii) how to build enrollment to a level where enrollee costs can be lowered;

(iv) whether such a plan should impose any obligation or liability upon private sector employers; and

(v) any other issue the Committee deems relevant.

(2) The Committee shall:

(A) continue monitoring U.S. Department of Labor guidance concerning State Savings Programs for Non-Governmental Employees regarding ERISA rules and other pertinent areas of analysis;

(B) further analyze the relationship between the role of states and the federal government; and

(C) continue its collaboration with educational institutions, other states, and national stakeholders.

(3) The Committee shall have the assistance of the staff of the Office of the Treasurer, the Department of Labor, and the Department of Disabilities, Aging, and Independent Living.

(d) Report. On or before January 15, 2018, the Committee shall report to the General Assembly its findings and any recommendations for legislative action. In its report, the Committee shall state its findings as to every factor set forth in subdivision (c)(1)(A) of this section, whether it recommends that a public retirement plan be created, and the reasons for that recommendation. If the Committee recommends that a public retirement plan be created, the Committee's report shall include specific recommendations as to the factors listed in subdivision (c)(1)(B) of this section.

(e) Meetings; term of Committee; Chair. The Committee may meet as frequently as necessary to perform its work and shall cease to exist on January 15, 2018. The State Treasurer shall serve as Chair of the Committee and shall call the first meeting.

(f) Reimbursement. For attendance at meetings, members of the Committee who are not employees of the State of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

\* \* \* Vermont State Treasurer; ABLE Savings Program \* \* \*

Sec. F.2. 33 V.S.A. § 8001 is amended to read:

§ 8001. PROGRAM ESTABLISHED

\* \* \*

(c) The Treasurer or designee shall have the authority to implement the Program in cooperation with one or more states or other partners in the manner he or she determines is in the best interests of the State and designated beneficiaries.

(d) The Treasurer or designee shall have the authority to adopt rules, policies, and procedures necessary to implement the provisions of this chapter and comply with applicable federal law.

Sec. F.3. 2015 Acts and Resolves No. 51, Sec. C.8 is amended to read:

Sec. C.8. VERMONT ABLE TASK FORCE; REPORTS

The Until the State Treasurer or designee implements the ABLE Savings Program pursuant to 33 V.S.A. chapter 80, the Treasurer shall convene a Vermont ABLE Task Force to include representatives of the Department of Disabilities, Aging, and Independent Living, the Vermont Developmental Disabilities Council, Vermont Center for Independent Living; Green Mountain Self-Advocates, and other stakeholders with relevant expertise, to provide recommendations annually beginning on or before January 15, 2016 to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on planning and delivery of the ABLE Savings Program, including:

- (1) promotion and marketing of the Program;
- (2) rules governing operation of ABLE accounts, including mechanisms for consumer convenience;
- (3) fees charged to account owners;
- (4) future enhancements to protect from the loss of State benefits as may be necessary to fulfill the intent of the ABLE Act;
- (5) the composition and charge of an ABLE Advisory Board; and
- (6) a progress update on implementation of the Program consistent with U.S. Treasury Department Rules, the Internal Revenue Code, and the federal ABLE Act (P.L. 113-295 of 2014).

\* \* \* Vermont State Treasurer;

Private Activity Bond Advisory Committee \* \* \*

Sec. F.4. PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

Notwithstanding any provision of 32 V.S.A. § 994 to the contrary, the Private Activity Bond Advisory Committee shall not meet or perform its statutory duties except upon call of the Vermont State Treasurer in his or her discretion.

\* \* \* Vermont State Treasurer;  
Vermont Community Loan Fund \* \* \*

Sec. F.5. REPEAL

2014 Acts and Resolves No. 179, Sec. E.131(a) (Treasurer authority to invest in Vermont Community Loan Fund) is repealed.

Sec. F.6. 10 V.S.A. § 9 is added to read:

§ 9. INVESTMENT IN VERMONT COMMUNITY LOAN FUND

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the State Treasurer is authorized to invest up to \$1,000,000.00 of short-term operating or restricted funds in the Vermont Community Loan Fund on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c).

\* \* \* Vermont State Treasurer; Treasurer’s Local Investment  
Advisory Committee \* \* \*

Sec. F.7. REPEAL

2014 Acts and Resolves No. 199, Secs. 23–25 (Treasurer’s Local Investment Advisory Committee, Report, and Sunset) are repealed.

Sec. F.8. REPEAL

2015 Acts and Resolves No. 51, Sec. E.3 (extending sunset of Local Investment Advisory Committee provisions) is repealed.

Sec. F.9. 10 V.S.A. §§ 10–11 are added to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR  
LOCAL INVESTMENTS

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) 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 and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and 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, and the renewal or replacement of those credit facilities.

§ 11. TREASURER’S LOCAL INVESTMENT ADVISORY COMMITTEE

(a) Creation of committee. The Treasurer’s Local Investment 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, citizens' groups, and members of the public 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, the Advisory Committee annually shall submit a report to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, on Finance, and on Government Operations and the House Committees on Appropriations, on Commerce and Economic Development, 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.

\* \* \* Medicaid for Working People with Disabilities \* \* \*

Sec. G.1. 33 V.S.A. § 1902 is amended to read:

§ 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

(a) In determining whether a person is medically indigent, the Secretary of Human Services shall prescribe and use an income standard and requirements for eligibility which will permit the receipt of federal matching funds under Title XIX of the Social Security Act.

(b) Workers with disabilities whose income is less than 250 percent of the federal poverty level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected income level for one or the Supplemental Security Income (SSI) payment level for two, whichever is higher, after disregarding all earnings of the working individual with disabilities, any Social Security disability insurance benefits, and any veteran's disability benefits. Earnings of the working individual with disabilities shall be documented by evidence of Federal Insurance Contributions Act tax payments, Self-Employment Contributions Act tax payments, or a written business plan approved and supported by a third-party investor or funding source. The resource limit for this program shall be ~~\$5,000.00~~ \$10,000.00 for an individual and ~~\$6,000.00~~ \$15,000.00 for a couple at the time of enrollment in the program. Assets attributable to earnings made after enrollment in the program shall be disregarded.

\* \* \* Vermont Employment Growth Incentive \* \* \*

Sec. H.1. 32 V.S.A. chapter 105 is added to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM

Subchapter 1. Vermont Economic Progress Council

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

(a) Creation. The Vermont Economic Progress Council is created to exercise the authority and perform the duties assigned to it, including its authority and duties relating to:

(1) the Vermont Employment Growth Incentive Program pursuant to subchapter 2 of this chapter; and

(2) tax increment financing districts pursuant to 24 V.S.A. chapter 53, subchapter 5 and section 5404a of this title.

(b) Membership.

(1) The Council shall have 11 voting members:

(A) nine residents of the State appointed by the Governor with the advice and consent of the Senate who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, State fiscal affairs, property taxation, or entrepreneurial ventures and represent diverse geographical areas of the State and municipalities of various sizes;

(B) one member of the Vermont House of Representatives appointed by the Speaker of the House; and

(C) one member of the Vermont Senate appointed by the Senate Committee on Committees.

(2)(A) The Council shall have two regional members from each region of the State, one appointed by the regional development corporation of the region and one appointed by the regional planning commission of the region.

(B) A regional member shall be a nonvoting member and shall serve during consideration by the Council of an application from his or her region.

(c) Terms.

(1) Members of the Council appointed by the Governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms.

(2) After the initial term expires, a member's term is four years and a member may be reappointed.

(3) A term commences on April 1 of each odd-numbered year.

(d) Compensation.

(1) For attendance at a meeting and for other official duties, a member appointed by the Governor shall be entitled to compensation for services and



reimbursement of expenses as provided in section 1010 of this title, except that a member who is a member of the General Assembly shall be entitled to compensation for services and reimbursement of expenses as provided in 2 V.S.A. § 406.

(2) A regional member who does not otherwise receive compensation and reimbursement of expenses from his or her regional development or planning organization shall be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

(e) Operation.

(1) The Governor shall appoint a chair from the Council's members.

(2) The Council shall receive administrative support from the Agency of Commerce and Community Development and the Department of Taxes.

(3) The Council shall have:

(A) an executive director appointed by the Governor with the advice and consent of the Senate who is knowledgeable in subject areas of the Council's jurisdiction and who is an exempt State employee; and

(B) administrative staff.

(f) Rulemaking authority. The Council shall have the authority to adopt policies and procedures as necessary, and to adopt rules under 3 V.S.A. chapter 25, to implement the provisions of this chapter.

(g) Decisions not subject to review. A decision of the Council to approve or deny an application under subchapter 2 of this chapter, or to approve or deny a tax increment financing district pursuant to 24 V.S.A. chapter 53, subchapter 5 and section 5404a of this title, is an administrative decision that is not subject to the contested case hearing requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

#### § 3326. COST-BENEFIT MODEL

(a) The Council shall adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities.

(b) The Council shall not modify the cost-benefit model without the prior approval of the Joint Fiscal Committee.

Subchapter 2. Vermont Employment Growth Incentive Program

§ 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES  
ELIGIBLE APPLICANT

(a) Purpose. The purpose of the Vermont Employment Growth Incentive Program is to encourage a business to add incremental and qualifying payroll, jobs, and capital investments by sharing with the business a portion of the revenue generated by the new payroll, new jobs, and new capital investments, thereby generating net new revenues to the State.

(b) Form of incentives; enhanced incentives.

(1) The Vermont Economic Progress Council may approve an incentive under this subchapter in the form of a direct cash payment in annual installments.

(2) The Council may approve the following enhanced incentives:

(A) an enhanced incentive for a business in a labor market area with higher than average unemployment or lower than average wages pursuant to section 3334 of this title;

(B) an enhanced incentive for an environmental technology business pursuant to section 3335 of this title; and

(C) an enhanced incentive for a business that participates in a State workforce training program pursuant to section 3336 of this title.

(c) Eligible applicant. Only a business may apply for an incentive pursuant to this subchapter.

§ 3331. DEFINITIONS

As used in this subchapter:

(1) “Award period” means the consecutive five years during which a business may apply for an incentive under this subchapter.

(2) “Base employment” means the number of full-time Vermont jobs held by non-owner employees as of the date a business with an approved application commences its proposed economic activity.

(3) “Base payroll” means the Vermont gross salaries and wages paid as compensation to full-time Vermont jobs held by non-owner employees as of the date a business with an approved application commences its proposed economic activity.

(4) “Capital investment performance requirement” means the minimum value of additional investment in one or more capital improvements.

(5) “Jobs performance requirement” means the minimum number of qualifying jobs a business must add.

(6) “Labor market area” means a labor market area as designated by the Vermont Department of Labor.

(7) “Non-owner” means a person with no more than 10 percent ownership interest, including attribution of ownership interests of the person’s spouse, parents, spouse’s parents, siblings, and children.

(8) “Payroll performance requirement” means the minimum value of Vermont gross salaries and wages a business must pay as compensation for one or more qualifying jobs.

(9) “Qualifying job” means a new, permanent position in Vermont that meets each of the following criteria:

(A) The position is filled by a non-owner employee who regularly works at least 35 hours each week.

(B) The business provides compensation for the position that equals or exceeds the wage threshold.

(C) The business provides for the position at least three of the following:

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

(ii) dental assistance;

(iii) paid vacation;

(iv) paid holidays;

(v) child care;

(vi) other extraordinary employee benefits;

(vii) retirement benefits;

(viii) other paid time off, excluding paid sick days.

(D) The position is not an existing position that the business transfers from another facility within the State.

(E) When the position is added to base employment, the business’s total employment exceeds its average annual employment during the two preceding years, unless the Council determines that the business is establishing a significantly different, new line of business and creating new jobs in the new line of business that were not part of the business prior to filing its application.

(10) “Utilization period” means each year of the award period and the four years immediately following each year of the award period.

(11) “Vermont gross wages and salaries” means Medicare wages as reported on Federal Tax Form W-2 to the extent those wages are Vermont wages, excluding income from nonstatutory stock options.

(12) “Wage threshold” means the minimum amount of annualized Vermont gross wages and salaries a business must pay for a qualifying job, as required by the Council in its discretion, but not less than:

(A) 60 percent above the State minimum wage at the time of application; or

(B) for a business located in a labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State, 40 percent above the State minimum wage at the time of application.

#### § 3332. APPLICATION; APPROVAL CRITERIA

##### (a) Application.

(1) A business may apply for an incentive in one or more years of an award period by submitting an application to the Council in the format the Council specifies for that purpose.

(2) For each award year the business applies for an incentive, the business shall:

(A) specify a payroll performance requirement;

(B) specify a jobs performance requirement or a capital investment performance requirement, or both; and

(C) provide any other information the Council requires to evaluate the application under this subchapter.

(b) Mandatory criteria. The Council shall not approve an application unless it finds:

(1) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, the new revenue the proposed activity generates to the State exceeds the costs of the activity to the State.

(2) The host municipality welcomes the new business.

(3) The proposed economic activity conforms to applicable town and regional plans.

(4) If the business proposes to expand within a limited local market, an incentive would not give the business an unfair competitive advantage over other Vermont businesses in the same or similar line of business and in the same limited local market.

(5) But for the incentive, the proposed economic activity:

(A) would not occur; or

(B) would occur in a significantly different manner that is significantly less desirable to the State.

### § 3333. CALCULATING THE VALUE OF AN INCENTIVE

Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, an enhanced incentive for an environmental technology business under section 3335 of this title, or an enhanced incentive for workforce training under section 3336 of this title, the Council shall calculate the value of an incentive for an award year as follows:

(1) Calculate new revenue growth. To calculate new revenue growth, the Council shall use the cost-benefit model created pursuant to section 3326 of this title to determine the amount by which the new revenue generated by the proposed economic activity to the State exceeds the costs of the activity to the State.

(2) Calculate the business's potential share of new revenue growth. Except as otherwise provided for an environmental technology business in section 3335 of this title, to calculate the business's potential share of new revenue growth, the Council shall multiply the new revenue growth determined under subdivision (1) of this subsection by 80 percent.

(3) Calculate the incentive percentage. To calculate the incentive percentage, the Council shall divide the business's potential share of new revenue growth by the sum of the business's annual payroll performance requirements.

(4) Calculate qualifying payroll. To calculate qualifying payroll, the Council shall subtract from the payroll performance requirement the projected value of background growth in payroll for the proposed economic activity.

(5) Calculate the value of the incentive. To calculate the value of the incentive, the Council shall multiply qualifying payroll by the incentive percentage.

(6) Calculate the amount of the annual installment payments. To calculate the amount of the annual installment payments, the Council shall:

(A) divide the value of the incentive by five; and

(B) adjust the value of the first installment payment so that it is proportional to the actual number of days that new qualifying employees are employed in the first year of hire.

§ 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING LABOR MARKET AREA

(a) The Council may increase the value of an incentive for a business that is located in a labor market area in which:

(1) the average annual unemployment rate is greater than the average annual unemployment rate for the State; or

(2) the average annual wage is less than the average annual wage for the State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

(1) \$1,500,000.00 for one or more initial approvals; and

(2) \$1,000,000.00 for one or more final approvals.

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than \$500,000.00 upon application to, and approval of, the Emergency Board.

(d) In evaluating the Council's request, the Board shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(e) The Council shall provide the Board with testimony, documentation, company-specific data, and any other information the Board requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

(1) is subject to income taxation in Vermont; and

(2) seeks an incentive for economic activity in Vermont that the Secretary of Commerce and Community Development certifies is primarily research, design, engineering, development, or manufacturing related to one or more of the following:

(A) waste management, including waste collection, treatment, disposal, reduction, recycling, and remediation;

(B) natural resource protection and management, including water and wastewater purification and treatment, air pollution control and prevention or remediation, soil and groundwater protection or remediation, and hazardous waste control or remediation;

(C) energy efficiency or conservation;

(D) clean energy, including solar, wind, wave, hydro, geothermal, hydrogen, fuel cells, waste-to-energy, or biomass.

(b) The Council shall consider and administer an application from an environmental technology business pursuant to the provisions of this subchapter, except that:

(1) the business's potential share of new revenue growth shall be 90 percent; and

(2) to calculate qualifying payroll, the Council shall:

(A) determine the background growth rate in payroll for the applicable business sector in the award year;

(B) multiply the business's full-time payroll for the award year by 20 percent of the background growth rate; and

(C) subtract the product from the payroll performance requirement for the award year.

#### § 3336. ENHANCED INCENTIVE FOR WORKFORCE TRAINING

(a) A business whose application is approved may elect to claim the incentive specified for an award year as an enhanced training incentive by:

(1) notifying the Council of its intent to pursue an enhanced training incentive and dedicate its incentive funds to training through the Vermont Training Program; and

(2) applying for a grant from the Vermont Training Program to perform training for one or more new employees who hold qualifying jobs.

(b) If a business is awarded a grant for training under this section, the Agency of Commerce and Community Development shall disburse grant funds for on-the-job training of 75 percent of wages for each employee in training or 75 percent of trainer expense, and the business shall be responsible for the remaining 25 percent of the applicable training costs.

(c) A business that successfully completes its training shall submit a written certificate of completion to the Agency of Commerce and Community Development which shall notify the Department of Taxes.

(d) Upon notification by the Agency, and if the Department determines that the business has earned the incentive for the award year, it shall:

(1) disburse to the business a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subsection (b) of this section;

(2) disburse to the Agency of Commerce and Community Development a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subsection (b) of this section; and

(3) disburse the remaining value of the incentive in annual installments pursuant to section 3337 of this title.

#### § 3337. EARNING AN INCENTIVE

(a) Earning an incentive; installment payments.

(1) A business with an approved application earns the incentive specified for an award year if, within the applicable time period provided in this section, the business:

(A) maintains or exceeds its base payroll and base employment;

(B) meets or exceeds the payroll performance requirement specified for the award year; and

(C) meets or exceeds the jobs performance requirement specified for the award year, or the capital investment performance requirement specified for the award year, or both.

(2) A business that earns an incentive specified for an award year is eligible to receive an installment payment for the year in which it earns the incentive and for each of the next four years in which the business:

(A) maintains or exceeds its base payroll and base employment;

(B) maintains or exceeds the payroll performance requirement specified for the award year; and

(C) if the business earns an incentive by meeting or exceeding the jobs performance target specified for the award year, maintains or exceeds the jobs performance requirement specified for the award year.

(b) Award year one.

(1) For award year one, a business has from the date it commences its proposed economic activity through December 31 of that year, plus two



additional years, to meet the performance requirements specified for award year one.

(2) A business that does not meet the performance requirements specified for award year one within this period becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(c) Award years two and three.

(1) For award year two and award year three, beginning on January 1 of the award year, a business has three years to meet the performance requirements specified for the award year.

(2) A business that does not meet the performance requirements specified for award year two or for award year three within three years becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(d) Extending the earning period in award years one and two. Notwithstanding subsection (b) of this section:

(1) Upon request, the Council may extend the period to earn an incentive for award year one or award year two if it determines:

(A) a business did not earn the incentive for the award year due to facts or circumstances beyond its control; and

(B) there is a reasonable likelihood the business will earn the incentive within the extended period.

(2) The Council may extend the period to earn an incentive:

(A) for award year one, by two years, reviewed annually; or

(B) for award year two, by one year.

(3) If the Council extends the period to earn an incentive, it shall recalculate the value of the incentive using the cost-benefit model and shall adjust the amount of the incentive as is necessary to account for the extension.

(e) Award year four.

(1) Beginning on January 1 of award year four, a business that remains eligible to earn incentives has two years to meet the performance requirements specified for award year four.

(2) A business that does not meet the performance requirements specified for award year four within two years becomes ineligible to earn incentives for award year four and award year five.

(f) Award year five.

(1) Beginning on January 1 of award year five, a business that remains eligible to earn incentives has one year to meet the performance requirements specified for award year five.

(2) A business that does not meet the performance requirements specified for award year five by the end of that award year becomes ineligible to earn the incentive specified for that award year.

(g) Carrying forward growth that exceeds targets. If a business exceeds one or more of the payroll performance requirement, the jobs performance requirement, or the capital investment performance requirement specified for an award year, the business may apply the excess payroll, excess jobs, and excess capital investment toward the performance requirement specified for a future award year, provided that the business maintains the excess payroll, excess jobs, or excess capital investment into the future award year.

§ 3338. CLAIMING AN INCENTIVE; ANNUAL FILING WITH DEPARTMENT OF TAXES

(a) On or before April 30 following each year of the utilization period, a business with an approved application shall submit an incentive claim to the Department of Taxes.

(b) A business shall include the information the Department requires, including the information required in section 5842 of this title and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment for which the business is eligible.

(c) The Department may consider an incomplete claim to be timely filed if the business files a complete claim within the additional time allowed by the Department in its discretion.

(d) Upon finalizing its review of a complete claim, the Department shall:

(1) notify the business and the Council whether the business is entitled to an installment payment for the applicable year; and

(2) make an installment payment to which the business is entitled.

(e) The Department shall not pay interest on any amounts it holds or pays for an incentive or installment payment pursuant to this subchapter.

§ 3339. RECAPTURE; REDUCTION; REPAYMENT

(a) Recapture.

(1) The Department of Taxes may recapture the value of one or more installment payments a business has claimed, with interest, if:

(A) the business fails to file a claim as required in section 3338 of this title; or

(B) during the utilization period, the business experiences:

(i) a 90 percent or greater reduction from base employment; or

(ii) if it had no jobs at the time of application, a 90 percent or greater reduction from the sum of its job performance requirements.

(2) If the Department determines that a business is subject to recapture under subdivision (1) of this subsection, the business becomes ineligible to earn or claim an additional incentive or installment payment for the remainder of the utilization period.

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of this subsection as follows:

(A) under subdivision (1)(A) of this subsection, no later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, no later than three years from date the business experiences the reduction from base employment, or three years from the last day of the utilization period, whichever occurs first.

(b) Reduction; recapture. If a business fails to make capital investments that equal or exceed the sum of its capital investment performance requirements by the end of the award period:

(1) The Department shall:

(A) calculate a reduced incentive by multiplying the combined value of the business's award period incentives by the same proportion that the business's total actual capital investments bear to the sum of its capital investment performance requirements; and

(B) reduce the value of any remaining installment payments for which the business is eligible by the same proportion.

(2) If the value of the installment payments the business has already received exceeds the value of the reduced incentive, then:

(A) the business becomes ineligible to claim any additional installment payments for the award period; and

(B) the Department shall recapture the amount by which the value of the installment payments the business has already received exceeds the value of the reduced incentive.

(c) Tax liability.

(1) A person who has the duty and authority to remit taxes under this title shall be personally liable for an installment payment that is subject to recapture under this section.

(2) For purposes of this section, the Department of Taxes may use any enforcement or collection action available for taxes owed pursuant to chapter 151 of this title.

§ 3340. REPORTING

(a) On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic Development, Housing and General Affairs, and on Appropriations, and to the Joint Fiscal Committee.

(b) The Council and the Department shall include in the joint report:

(1) the total amount of incentives authorized during the preceding year;

(2) with respect to each business with an approved application:

(A) the date and amount of authorization;

(B) the calendar year or years in which the authorization is expected to be exercised;

(C) whether the authorization is active; and

(D) the date the authorization will expire; and

(3) the following aggregate information:

(A) the number of claims and incentive payments made in the current and prior claim years;

(B) the number of qualifying jobs; and

(C) the amount of new payroll and capital investment.

(c) The Council and the Department shall present data and information in the joint report in a searchable format.

(d) Notwithstanding any provision of law to the contrary, an incentive awarded pursuant to this subchapter shall be treated as a tax expenditure for purposes of chapter 5 of this title.

§ 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS INFORMATION

(a) The Vermont Economic Progress Council and the Department of Taxes shall use measures to protect proprietary financial information, including reporting information in an aggregate form.

(b) Information and materials submitted by a business concerning its income taxes and other confidential financial information 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 Joint Fiscal Committee or a standing committee of the General Assembly, 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 information or any information that would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(c) Nothing in this section 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.

§ 3342. ANNUAL PROGRAM CAP

(a) In each calendar year the Vermont Economic Progress Council may approve one or more incentives under this subchapter, the total value of which shall not exceed:

(1) \$15,000,000.00 for one or more initial approvals; and

(2) \$10,000,000.00 for one or more final approvals.

(b) The Council may increase the cap imposed in subdivision (a)(2) of this section by not more than \$5,000,000.00 upon application to, and approval of, the Emergency Board.

(c) In evaluating the Council's request, the Board shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(d) The Council shall provide the Board with testimony, documentation, company-specific data, and any other information the Board requests to

demonstrate that increasing the cap will create an opportunity for return on investment to the State.

Sec. H.2. 10 V.S.A. § 531(d)(2) is amended to read:

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that, except for an award under an enhanced ~~training~~ incentive for workforce training as provided in ~~32 V.S.A. § 5930b(h)~~ 32 V.S.A. § 3336, 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

Sec. H.3. 21 V.S.A. § 1314(e)(1) is amended to read:

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of ~~32 V.S.A. chapter 151, subchapter 11E~~ 32 V.S.A. chapter 105, subchapter 2; but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

\* \* \*

Sec. H.4. 32 V.S.A. § 3102(e)(11) is amended to read:

(11) To the Joint Fiscal Office or its agent, provided that the disclosure relates to a successful business applicant under ~~section 5930a~~ chapter 105, subchapter 2 of this title and the ~~tax~~ incentive it has claimed and is reasonably necessary for the Joint Fiscal Office or its agent to perform the duties authorized by the Joint Fiscal Committee or a standing committee of the General Assembly under ~~subsection 5930a(h)~~ that subchapter; to the Auditor of Accounts for the performance of duties under section 163 of this title; to the

Department of Economic Development for the purposes of subsection 5922(f) of this title; and to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under ~~sections 5930a and 5930b~~ chapter 105, subchapter 2 of this title and the ~~tax~~ incentive it has claimed and is reasonably necessary for the ~~council~~ Council to perform its duties under ~~sections 5930a and 5930b~~ that subchapter.

Sec. H.5. 32 V.S.A. § 5401(10) is amended to read:

(10) “Nonresidential property” means all property except:

\* \* \*

~~(H) Real property, excluding land, consisting of unoccupied new facilities, or unoccupied facilities under renovation or expansion, owned by a business that has obtained the approval of the Vermont Economic Progress Council under section 5930a of this title that is less than 75 percent complete, not in use as of April 1 of the applicable tax year, and for a period not to exceed two years. [Repealed.]~~

~~(I) Real property consisting of the value of remediation expenditures incurred by a business that has obtained the approval of the Vermont Economic Progress Council under section 5930a of this title for the construction of new, expanded or renovated facilities on contaminated property eligible under the redevelopment of contaminated properties program pursuant to 10 V.S.A. § 6615a(f), including supporting infrastructure, on sites eligible for the United States Environmental Protection Agency “Brownfield Program,” for a period of 10 years. [Repealed.]~~

\* \* \*

Sec. H.6. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

(a) Tax agreements and exemptions affecting the education property tax grand list. A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

(1) A prior agreement, meaning that it was:

(A) a tax stabilization agreement for any purpose authorized under 24 V.S.A. § 2741 or comparable municipal charter provisions entered into or proposed and voted by the municipality before July 1, 1997, or a property tax exemption adopted by vote pursuant to chapter 125 of this title or comparable municipal charter provisions before July 1, 1997; or

(B) an agreement relating to property sold or transferred by the New England Power Company of its Connecticut River system and its facilities along the Deerfield River which was warned before September 1, 1997.

~~(2) A tax stabilization agreement relating to industrial or commercial property entered into under 24 V.S.A. § 2741, or comparable municipal charter provisions or an exemption for the purposes of economic development adopted by vote under sections 3834 (factories; quarries; mines), 3836 (private homes and dwellings), 3837 (airports), or 3838 (hotels) of this title or comparable municipal charter provisions after June 30, 1997 if subsequently approved by the Vermont Economic Progress Council pursuant to this subsection and section 5930a of this title. An agreement or exemption may be approved by the Vermont Economic Progress Council only if it has first been approved by the municipality in which the property is located with respect to the municipal tax liability of the property in that municipality. Any agreement or exemption approved by the Vermont Economic Progress Council may not affect the education tax liability of the property in a greater proportion than the agreement or exemption affects the municipal tax liability of the property. A municipality's approval of an agreement or exemption under this subsection may be made conditional upon approval of the agreement or exemption by the Vermont Economic Progress Council. The legislative body of the municipality in which the property subject to the agreement or exemption is located or the business that is subject to the agreement or exemption may request the Vermont Economic Progress Council to approve an agreement or exemption pursuant to section 5930a of this title. The Council shall also report to the General Assembly on the terms of the agreement or exemption, and the effect of the agreement or exemption on the education property tax grand list of the municipality and of the State. If so approved by the Council, an agreement or exemption shall be effective to reduce the property tax liability of the municipality under this chapter beginning April 1 of the year following approval.~~

(3) An agreement relating to affordable housing, which ~~may be submitted to the council for its approval under subdivision (2) of this subsection, or alternatively~~ may be approved under this subdivision by the Commissioner of Taxes upon recommendation of the Commissioner of Housing and Community Affairs provided the agreement provides either for new construction housing projects or rehabilitated preexisting housing projects and secures federal financial participation which may include projects financed with federal low income housing tax credits.

\* \* \*



(b) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under this chapter for the duration of the agreement or exemption without extension or renewal, and for a maximum of 10 years, ~~subject to the provisions of subsection 5930b(f) of this title.~~ A municipality's property tax liability under this chapter shall be reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonresidential rate for the tax year.

(c) Tax agreements not affecting the education property tax grand list. A tax agreement shall not affect the education property tax grand list if it is:

(1) A tax exemption adopted by vote of a municipality after July 1, 1997 under chapter 125 of this title, or voted under a comparable municipal charter provision or other provision of law for property owned by nonprofit organizations used for public, pious, or charitable purposes, ~~other than economic development exemptions voted under section 3834, 3836, 3837, or 3838 of this title and approved by the Vermont Economic Progress Council,~~ or exemptions of property of a nonprofit volunteer fire, rescue, or ambulance organization adopted by vote of a municipality.

(2) A tax stabilization agreement relating to agricultural property, ~~forest land~~ forestland, open space land, or alternate energy generating plants entered into after July 1, 1997 by a municipality under 24 V.S.A. § 2741.

(3) A tax stabilization agreement relating to commercial or industrial property entered into after July 1, 1997 by a municipality under 24 V.S.A. § 2741, or a property tax exemption for purposes of economic development adopted by vote after July 1, 1997, ~~which has not been approved by the Vermont Economic Progress Council to affect the education grand list under subsection (a)(2) of this section and section 5930a of this title. In granting tax stabilization agreements for commercial or industrial property under 24 V.S.A. § 2741, a municipality shall consider any applicable guidelines established for the approval of such stabilization agreements by the Vermont Economic Progress Council established in subsection 5930a(c) of this title.~~

\* \* \*

Sec. H.7. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

\* \* \*

(u) ~~The statutory purpose of the Vermont employment growth incentive Vermont Employment Growth Incentive Program in section 5930b chapter 105, subchapter 2 of this title is to provide a cash incentive to encourage quality job growth in Vermont~~ encourage a business to add incremental and qualifying payroll, jobs, and capital investments by sharing with the business a portion of the revenue generated by the new payroll, new jobs, and new capital investments, thereby generating net new revenues to the State.

\* \* \*

Sec. H.8. 32 V.S.A. § 5930ll(a)(1) is amended to read:

(1) ~~“Full-time job” has the same meaning as defined in subdivision 5930b(a)(9) of this title~~ means a permanent position filled by an employee who works at least 35 hours per week.

Sec. H.9. 32 V.S.A. § 9741(39) is amended to read:

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

Sec. H.10. EXTENSION OF CURRENT VEGI STATUTE; TRANSITION

Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 2 of No. 52 of the Acts of 2011, and as further amended by 2012 Acts and Resolves No. 143, Sec. 20, is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act. Unless extended by act of the General Assembly, as of ~~July 1, 2017~~ January 1, 2018, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to ~~July 1, 2017~~ January 1, 2018 may remain in effect until used and shall be governed by the provisions of 32 V.S.A chapter 105.

Sec. H.11. PROSPECTIVE REPEAL OF CURRENT VEGI STATUTE

32 V.S.A. §§ 5930a and 5930b are repealed.

Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD INCENTIVES

Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a

Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after January 1, 2022.

Sec. H.13. VERMONT EMPLOYMENT GROWTH INCENTIVE  
PROGRAM REVIEW

(a) On or before August 15, 2016, the Vermont Economic Progress Council shall convene a Vermont Employment Growth Incentive Program Review Group.

(b) The Group shall consist of the following members:

(1) the Executive Director of the Vermont Economic Progress Council;

(2) a representative of the Vermont Regional Development Corporations appointed by the Secretary of Commerce and Community Development;

(3) a representative of the business community designated by the Governor; and

(4) a member of the public designated jointly by the Speaker of the House and the Senate Committee on Committees.

(c) The Group shall review the following questions relating to the Vermont Employment Growth Incentive Program:

(1) whether the enhanced incentives available under the program are appropriate and necessary, including:

(A) an analysis of the growth in the environmental technology sector in Vermont as defined in the enhanced incentive for environmental technology business and whether growth in this sector obviates the need for the current enhancement; and

(B) whether the State should forego additional net fiscal benefit under the enhancements and whether the policy objectives of the enhancements are met;

(2) whether and how to include a mechanism in the Program for equity investments in incentive recipients;

(3) whether and under what circumstances the Department of Taxes should have, and should exercise, the authority to recapture the value of incentives paid to a business that is subsequently sold or relocated out of the State, or that eliminates qualifying jobs after receiving an incentive;

(4) how to most effectively ensure, through the application and award process, that recipients of VEGI incentives are in compliance with all federal and State water quality and air quality laws and regulations;

(5) the size, industry, and profile of the businesses that historically have experienced, and are forecast to experience, the most growth in Vermont, and whether the Program should be more targeted to these businesses;

(6) changes to the Program to ensure incentives will benefit the creation and growth of more small businesses; and

(7) whether additional applicant and program data reporting and transparency could be accomplished without damage to applicant businesses.

(d) On or before January 15, 2018, the Group shall report its findings, conclusions, recommendations, and supporting data for legislative action to the House Committees on Commerce and Economic Development, on Ways and Means, and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Appropriations.

Sec. H.14. VERMONT EMPLOYMENT GROWTH INCENTIVE  
PROGRAM; TECHNICAL WORKING GROUP REVIEW

(a) The Joint Fiscal Committee shall convene a Vermont Employment Growth Incentive Program Technical Working Group that shall consist of the following members, as designated by the Committee:

(1) the legislative economist or another designee from the Joint Fiscal Office;

(2) a policy analyst from the Agency of Commerce and Community Development;

(3) an economic and labor market information chief from the Department of Labor; and

(4) a fiscal analyst from the Department of Taxes or the State economist.

(b) The Group shall meet not more than twice and shall review the following questions relating to the Vermont Employment Growth Incentive Program:

(1) whether the cost-benefit model is the most current and appropriate tool for evaluating fiscal impacts of the Program and whether it is effectively utilized;

(2) whether the inputs to the cost-benefit model should be adjusted for those applicants who assert that but for the incentive the scale or timing of the project would change;

(3) whether the Program can integrate the use of business-specific background growth rates in addition to, or in place of, industry-specific

background growth rates; and, if industry-specific background growth rates are recommended, a methodology to review, calculate, and set those rates routinely; and

(4) whether differential rates in annual average wages or annual average unemployment, defined by labor market area, are appropriate triggers for an incentive enhancement for projects located in, or lower wage threshold for jobs created in, qualifying labor market areas, and whether the margins of error in annual labor market area wage and unemployment rates are within an acceptable range of tolerance for this use.

(c) On or before November 15, 2016 the Group shall submit a report of its findings and conclusions to the Joint Fiscal Committee, the VEGI Program Review Group, and the General Assembly.

#### Sec. H.15. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM; QUALIFYING JOB; BENEFITS; REVIEW

On or before December 15, 2016, the Vermont Economic Progress Council shall consider and report its recommendations to the House Committees on Commerce and Economic Development, on Ways and Means, and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Appropriations, on quantifiable standards for the type, quality, and value of employee benefits that an applicant must offer in order for a new job to count as a “qualifying job” for purposes of the Vermont Employment Growth Incentive Program.

\* \* \* Blockchain Technology \* \* \*

Sec. I.1. 12 V.S.A. § 1913 is added to read:

#### § 1913. BLOCKCHAIN ENABLING

(a) In this section, “blockchain technology” means a mathematically secured, chronological, and decentralized consensus ledger or database, whether maintained via Internet interaction, peer-to-peer network, or otherwise.

(b) Presumptions and admissibility.

(1) Extrinsic evidence of authenticity as a condition precedent to admissibility in a Vermont court is not required for a record maintained by a valid application of blockchain technology.

(2) The following presumptions apply:

(A) A fact or record verified through a valid application of blockchain technology is authentic.

(B) The date and time of the recordation of the fact or record established through such a blockchain is the date and time that the fact or record was added to the blockchain.

(C) The person established through such a blockchain as the person who made such recordation is the person who made the recordation.

(3) A presumption does not extend to the truthfulness, validity, or legal status of the contents of the fact or record.

(4) A person against whom the fact operates has the burden of producing evidence sufficient to support a finding that the presumed fact, record, time, or identity is not authentic as set forth on the date added to the blockchain, but the presumption does not shift to a person the burden of persuading the trier of fact that the underlying fact or record is itself accurate in what it purports to represent.

(c) Without limitation, the presumption established in this section shall apply to a fact or record maintained by blockchain technology to determine:

(1) contractual parties, provisions, execution, effective dates, and status;

(2) the ownership, assignment, negotiation, and transfer of money, property, contracts, instruments, and other legal rights and duties;

(3) identity, participation, and status in the formation, management, record keeping, and governance of any person;

(4) identity, participation, and status for interactions in private transactions and with a government or governmental subdivision, agency, or instrumentality;

(5) the authenticity or integrity of a record, whether publicly or privately relevant; and

(6) the authenticity or integrity of records of communication.

(d) The provisions of this section shall not create or negate:

(1) an obligation or duty for any person to adopt or otherwise implement blockchain technology for any purpose authorized in this section; or

(2) the legality or authorization for any particular underlying activity whose practices or data are verified through the application of blockchain technology.

\* \* \* Regulation of Lodging Accommodations \* \* \*

Sec. J.1. STUDY; INTERNET-BASED LODGING

On or before January 15, 2017, the Department of Taxes, the Department of Health, the Department of Tourism and Marketing, the Department of Financial Regulation, and the Division of Fire Safety within the Department of Public Safety, engaging interested stakeholders as necessary, shall:

(1) review the provisions of law within their subject matter jurisdiction, and enforcement of those provisions if any, applicable to Internet-based lodging accommodations businesses; and

(2) report its findings, conclusions, and any recommendations for administrative action or legislative action, or both, 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.

\* \* \* State Workforce Development Board \* \* \*

Sec. K.1. 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~~ Development Board:

\* \* \*

#### § 541a. STATE WORKFORCE ~~INVESTMENT~~ DEVELOPMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § ~~2824~~ 3111, the Governor shall establish a State Workforce ~~Investment Development~~ Board to assist the Governor in the execution of his or her duties under the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014 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:

\* \* \*

(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~~ Innovation and Opportunity Act of 1998 2014, 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 in conformance with the federal Workforce Innovation and Opportunity Act and who serve at his or her pleasure, unless otherwise indicated:

(1) the Commissioner of Labor;

(2) two members of the Vermont House of Representatives appointed by the Speaker of the House;

~~(2)~~(3) two members of the Vermont Senate appointed by the Senate Committee on Committees;

~~(3)~~(4) the President of the University of Vermont ~~or designee;~~

~~(4)~~(5) the Chancellor of the Vermont State Colleges ~~or designee;~~

~~(5)~~(6) the President of the Vermont Student Assistance Corporation ~~or designee;~~

~~(6)~~(7) a representative of an independent Vermont college or university;

~~(7) the Secretary of Education or 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 a State labor federations federation;

(11) two representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § ~~2801(52)~~ 3102(71);

(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)~~ 3102(68);

(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)~~ 3151(b), or if no official has that responsibility, ~~a representative~~ representatives in the State with ~~expertise~~ responsibility relating to these programs and activities;



(14) the Commissioner of Economic Development;

(15) ~~the Commissioner of Labor~~ the Secretary of Commerce and Community Development;

(16) the Secretary of Human Services ~~or designee;~~

(17) the Secretary of Education;

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

~~(18)~~(19) 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~~ in-demand sectors and employment opportunities ~~of~~ in 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) A member of the State Board may send a designee that meets the requirements of subdivision (B) of this subdivision (1) to any State Board meeting who shall count towards a quorum and shall be allowed to vote on behalf of the Board member for whom he or she serves as a designee.

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

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

\* \* \*

(6) Reimbursement.

\* \* \*

(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~~ through funds available for that purpose under the Workforce ~~Investment~~ Innovation and Opportunity Act of 1998 2014.

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

\* \* \*

(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~~ 3112 or 3113.

(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~~ 3112 or 3113 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 State Workforce Investment Development 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 EDUCATION AND TRAINING

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

\* \* \*

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

\* \* \*

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce ~~Investment~~ Development Board, shall develop award criteria and may grant awards to the following:

\* \* \*

#### § 544. VERMONT STRONG INTERNSHIP PROGRAM

\* \* \*

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

\* \* \*

Sec. K.2. 10 V.S.A. § 531(a)(1) is amended to read:

(a)(1) The Secretary of Commerce and Community Development, in consultation with the State Workforce ~~Investment~~ Development 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 employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.

Sec. K.3. 16 V.S.A. § 1542(b) is amended to read:

(b) A regional advisory board, with the consent of the State Workforce ~~Investment~~ Development Board, may delegate its responsibilities to the grantee that performs workforce development activities in the region pursuant to 10 V.S.A. § 542. In this case, the grantee shall become the regional advisory board unless and until the school board that operates the career technical center requests that the regional advisory board be reconstituted pursuant to subsection (a) of this section.

\* \* \* Vermont Creative Network \* \* \*

#### Sec. L.1. VERMONT CREATIVE NETWORK

(a) Creation. The Vermont Arts Council, an independent nonprofit corporation, in collaboration with statewide partners, shall perform the duties specified in this section and establish the Vermont Creative Network, which shall be:

(1) a communications, advocacy, and capacity-building entity that strengthens Vermont's creative sector, utilizes it to enhance Vermonters' quality of life, increases the State's economic vitality; and

(2) based on a collective impact model and shall use Results Based Accountability as a planning and assessment tool.

(b) Outcomes and Indicators.

(1) The outcomes of the Vermont Creative Network are as follows:

(A) The Vermont creative sector enhances Vermonters' quality of life and has a positive economic impact on the State.

(B) Participants in Vermont's creative sector thrive as significant contributors to the State's general and economic well-being.

(C) Participants in Vermont's creative sector effectively share their talents with a broad range of Vermonters and visitors throughout the State.

(D) The creative sector focuses its collective energy on planning and development to advance the creative sector and its contributions to Vermonters' quality of life and the State's economic well-being.

(E) Participants in Vermont's creative sector collaborate to identify, advocate on behalf of, and promote common interests.

(2) Indicators to measure the success of these outcomes include the following:

(A) advancement of quality of life measures;

(B) improvements in planning and development;

(C) increases in workforce development;

(D) increases in economic activity;

(E) inclusion of creativity and innovation in the Vermont brand;

(F) increases in access and equity;

(G) increases in sustainability; and

(H) cross-pollination with other sectors.

(c) Duties. With oversight and support from the Vermont Arts Council, the Vermont Creative Network shall perform the following duties:

(1) On or before June 30, 2017, the Vermont Creative Network shall create, and may update and revise as necessary, a strategic plan that:

(A) identifies and addresses the needs of the creative sector and gaps in the creative sector's infrastructure;

(B) includes a plan to inventory Vermont's creative sector and creative industries based on existing data, studies, and analysis, including:

(i) existing assets, infrastructure, and resources;

(ii) the potential for new creators to enter the local economy, the methods to secure appropriate space and other infrastructure, and the opportunities and barriers to creative labor;

(iii) the types of creative products, services, and industries available in Vermont, and the financial viability of each; and

(iv) the current and potential markets in which Vermont creators can promote, distribute, and sell their products and services.

(2) The Vermont Creative Network shall support regional creativity zones.

(3) The Vermont Creative Network shall identify methods and opportunities to strengthen the links within the sector, including:

(A) advocacy for the use of local arts and cultural resources by Vermont schools, businesses, and institutions;

(B) support for initiatives that improve direct marketing of arts, culture, and creativity to consumers; and

(C) identifying creative financing opportunities for the creative sector.

(d) Authority. To accomplish the goals and perform the duties in this section, the Vermont Creative Network may:

(1) create a Network steering team;

(2) hire or assign staff;

(3) seek and accept funds from private and public entities; and

(4) utilize technical assistance, loans, grants, or other means approved by the Network steering team.

(e) Report.

(1) On or before January 15, 2017, the Vermont Arts Council shall submit a report concerning the activities of the Vermont Creative Network to the Governor and to the General Assembly.

(2) The report shall include a summary of work, including progress toward meeting the program outcomes, information regarding any meetings of the Network steering team, an accounting of all revenues and expenses related to the Network, and recommendations regarding future Network activity.

Sec. L.2. ALLOCATION OF APPROPRIATIONS TO VERMONT ARTS COUNCIL

Of the amounts appropriated from the General Fund to the Vermont Arts Council in Fiscal Year 2017, the Council shall allocate the amount of \$35,000.00 to perform the duties specified in Sec. L.1 of this act (Vermont Creative Network).

Secs. M.1.–M.2. [Reserved.]

Secs. N.1–N.2. [Reserved.]

\* \* \* Vermont Sustainable Jobs Fund \* \* \*

Sec. O.1. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

(a) There is created a Sustainable Jobs Fund Program to create quality jobs that are compatible with Vermont's natural and social environment.

(b) The Vermont Economic Development Authority shall incorporate a nonprofit corporation pursuant to the provisions of subdivision 216(14) of this title to administer the Sustainable Jobs Fund Program, and to fulfill the purposes of this chapter by means of loans or grants to eligible applicants for eligible activities, provided that any funds contributed to the Program by the Authority under subsection (c) of this section shall be used for lending purposes only.

(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the Authority may contribute not more than \$1,000,000.00 to the capital of the corporation formed under this section, and the Board of Directors of the corporation formed under this section shall consist of:

(A) the Secretary of Commerce and Community Development or his or her designee;

(B) the Secretary of Agriculture, Food and Markets or his or her designee;

(C) a director appointed by the Governor; and

(D) eight independent directors, no more than two of whom shall be State government employees or officials, and who shall be selected as

vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the Board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the Governor shall serve for more than three terms.

(C) The director appointed by the Governor shall serve at the pleasure of the Governor and may be removed at any time with or without cause.

(3) A director of the Board who is or is appointed by a State government official or employee shall not be eligible to hold the position of Chair, Vice Chair, Secretary, or Treasurer of the Board.

~~(d) The Vermont Economic Development Authority may hire or assign a program director to administer, manage, and direct the affairs and business of the Board, subject to the policies, control, and direction of the corporation formed under this section. [Repealed.]~~

(e) The Agency of Commerce and Community Development shall have the authority and responsibility for the administration and implementation of the Program.

(f) The Vermont Sustainable Jobs Fund Program shall work collaboratively with the Agency of Agriculture, Food and Markets to assist the Vermont slaughterhouse industry in supporting its efforts at productivity and sustainability.

Sec. O.2. 2002 Acts and Resolves No. 142, Sec. 254(a) is amended to read:

~~(a) All authority and responsibility for the administration and implementation of the sustainable jobs fund and the sustainable jobs program established by chapter 15A of Title 10 is transferred from the Vermont economic development authority to the agency of commerce and community development, secretary's office. The agency shall be the successor to all rights and obligations of the authority in any matter pertaining to the fund and the program on and after July 1, 2002. [Repealed.]~~

Secs. P.1–P.2. [Reserved.]

\* \* \* Tax Study \* \* \*

Sec. Q.1. [Reserved.]

Sec. Q.2. VERMONT TAX STUDY

(a) The Joint Fiscal Office, with assistance from the Office of Legislative Council, and under the direction of the Joint Fiscal Committee, shall conduct a study of Vermont State taxes.

(b) The study shall:

(1) Analyze historical trends since 2005 in Vermont taxes as compared to other states, and compare the percentage of Vermont revenue from each State-level source to the percentage of revenue from each state-level source in other states.

(2) Analyze State tax burdens per capita, per income level, or by incidence on typical Vermont families of a variety of incomes, and on typical Vermont business enterprises of a variety of sizes and types, and analyze trends in the taxpayer revenue base.

(3) Analyze cross-border tax policies and competitiveness with neighboring states, including impacts on the pattern of retailing, the location of retail activity, and retail market share.

(4) Review the simplicity, equity, stability, predictability and performance of the Vermont's major State revenue sources.

(c) Based upon the data resulting from the study in subsection (b) of this section, the Joint Fiscal Office shall, as part of the study or separately, prepare a review of the future Vermont economic and demographic trends and implications for Vermont's tax structure as regards revenue, equity, and competitiveness.

(d) The Vermont Department of Taxes shall cooperate with and provide assistance as needed to the Joint Fiscal Office.

(e) The Joint Fiscal Office shall submit the study, including recommendations for further research or analysis, to the Joint Fiscal Committee on or before January 15, 2017.

\* \* \* Financial Literacy Commission \* \* \*

Sec. R.1. 9 V.S.A. § 6002(b)(7) is amended to read:

(7) ~~a representative~~ two representatives, each from a nonprofit entity that provides financial literacy and related services to persons with low income:

(A) one appointed by the Governor; and

(B) one appointed by the Office of Economic Opportunity from among candidates proposed by the Community Action Agencies;

\* \* \*



\* \* \* Vermont Enterprise Fund \* \* \*

Sec. S.1. [Reserved.]

Sec. S.2. [Reserved.]

Sec. S.3. [Reserved.]

\* \* \* Workforce Housing; Pilot Projects;  
Down Payment Assistance Program \* \* \*

Sec. T.1. [Reserved.]

Sec. T.2. AFFORDABLE HOUSING; STUDY

On or before December 15, 2016, the Agency of Commerce and Community Development shall report to the House Committees on Commerce and Economic Development and on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs on the following:

(1) A review of existing statutes and programs, such as property tax reallocation, that may serve as tools to update existing housing stock.

(2) Data from the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, and the Natural Resources Board with respect to priority housing projects.

(A) For each such project, these agencies shall provide in the report:

(i) Whether the project received an exemption under 10 V.S.A. chapter 151 (Act 250).

(ii) The amount of the fee savings under Act 250.

(iii) The amount of the fee savings under permit programs administered by the Agency of Natural Resources.

(iv) The cost under 10 V.S.A. § 6093 to mitigate primary agricultural soils and a comparison to what that cost of such mitigation would have been if the project had not qualified as a priority housing project.

(B) Based on this data, the report shall summarize the benefits provided to priority housing projects.

(C) As used in this subdivision (2), “primary agricultural soils” and “priority housing project” have the same meaning as in 10 V.S.A. § 6001.

(3) The results of a process led by the Executive Director of the Vermont Economic Progress Council to engage stakeholders, including representatives of the private lending industry; the private housing

development industry; a municipality that has an Tax Increment Financing District; a municipality that has a designated downtown, growth center, or neighborhood development area; a municipality that has a priority housing project; the Department of Housing and Community Development; the Department of Economic Development; the Department of Taxes; and the Vermont Housing and Conservation Board, to investigate alternative municipal infrastructure financing to enable smaller communities to build the needed infrastructure to support mixed-income housing projects in communities around the State.

Sec. T.3. 10 V.S.A. § 303 is amended to read:

§ 303. DEFINITIONS

As used in this chapter:

(1) “Board” means the Vermont Housing and Conservation Board established by this chapter.

(2) “Fund” means the Vermont Housing and Conservation Trust Fund established by this chapter.

(3) “Eligible activity” means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation, or development of residential dwelling units ~~which~~ that are affordable to:

(i) lower income Vermonters; or

(ii) for owner-occupied housing, Vermonters whose income is less than or equal to 120 percent of the median income based on statistics from State or federal sources;

\* \* \*

Sec. T.4. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

\* \* \*

(g)(1) In any fiscal year, the allocating agency may award up to:

(A) \$400,000.00 in total first-year credit allocations to all applicants for rental housing projects, for ~~a total~~ an aggregate limit of \$2,000,000.00 over any given five-year period that credits are available under this subdivision (A);

(B) \$300,000.00 in total first-year credit allocations for owner-occupied unit financing or down payment loans consistent with the allocation plan, including for new construction and manufactured housing, for ~~a total~~ an aggregate limit of \$1,500,000.00 over any given five-year period that credits are available under this subdivision (B).

~~(2) In fiscal years 2016, 2017, and 2018, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section for a total aggregate limit of \$375,000.00 over the five-year period that credits are available under this subdivision.~~

In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding-year deemed allocations shall not exceed \$3,500,000.00.

~~(h) The aggregate limit for all credit allocations available under this section in any fiscal year is \$3,875,000.00.~~

(1) In fiscal year 2016 through fiscal year 2022, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section.

(2) In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding-year deemed allocations shall not exceed \$625,000.00.

Secs. U–Y. [Reserved.]

\* \* \* Effective Dates \* \* \*

#### Sec. Z.1. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

- (1) Secs. A.2–A.7 (Vermont Economic Development Authority).
- (2) Sec. B.1 (cooperatives; electronic voting).
- (3) Sec. E.4 (technical correction to business registration statute).
- (4) Sec. G.1 (Medicaid for working people with disabilities).
- (5) Sec. Q.2 (tax study).

(b) The following sections shall take effect on July 1, 2016:

- (1) Sec. D.1 (Vermont Training Program).
- (2) Secs. F.1–F.9 (Vermont State Treasurer).

- (3) Secs. H.10 (extension of sunset) and H.13–H.15 (program reviews).
- (4) Sec. I.1 (blockchain technology).
- (5) Sec. J.1 (Internet-based lodging accommodations study).
- (6) Secs. K.1–K.3 (State Workforce Development Board).
- (7) Secs. L.1–L.2 (Vermont Creative Network).
- (8) Secs. O.1–O.2 (Vermont Sustainable Jobs Fund).
- (9) Secs. T.2–T.4 (workforce housing study; VHCB; down payment assistance).

(c) The following sections shall take effect on July 1, 2017:

- (1) Secs. C.1–C.2 (regional planning and development).
- (2) Secs. E.1–E.2 (conversion, merger, share exchange, and domestication of a corporation).

(d)(1) Notwithstanding 1 V.S.A. § 214, Sec. E.3 (technical corrections to LLC Act) shall take effect retroactively as of July 1, 2015, and apply only to:

- (A) a limited liability company formed on or after July 1, 2015; and
- (B) except as otherwise provided in subdivision (4) of this subsection, a limited liability company formed before July 1, 2015 that elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this act.

(2) Sec. E.3 does not affect an action commenced, a proceeding brought, or a right accrued before July 1, 2015.

(3) Except as otherwise provided in subdivision (4) of this subsection, Sec. E.3 shall apply to all limited liability companies on and after July 1, 2016.

(4) For the purposes of applying Sec. E.3 to a limited liability company formed before July 1, 2015, for the purposes of applying 11 V.S.A. § 4023 and subject to 11 V.S.A. § 4003, language in the company’s articles of organization designating the company’s management structure operates as if that language were in the operating agreement.

(For text see House Journal April 7, 2016 )

## H. 877

An act relating to transportation funding

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

First: In Sec. 1, 23 V.S.A. § 3003(e), by striking out “~~less one percent for shrinkage, loss by evaporation, or otherwise,~~” and inserting in lieu thereof the following: less ~~one~~ 0.5 percent for shrinkage, loss by evaporation, or otherwise,

Second: In Sec. 2, 23 V.S.A. § 3015, in subdivision (2), in the third sentence, by striking out “~~less one percent for shrinkage, loss by evaporation or otherwise,~~” and inserting in lieu thereof the following: less ~~one~~ 0.5 percent for shrinkage, loss by evaporation, or otherwise,

Third: In Sec. 3, 23 V.S.A. § 3107, by striking out “~~less one percent for shrinkage, loss by evaporation, or otherwise,~~” and inserting in lieu thereof the following: less ~~one~~ 0.5 percent for shrinkage, loss by evaporation, or otherwise,

Fourth: After Sec. 1, 23 V.S.A. § 3003(e), by inserting a Sec. 1a to read as follows:

Sec. 1a. 23 V.S.A. § 3003(e) is amended to read:

(e) A distributor may use as the measure of the tax so levied and assessed the gross quantity of diesel fuel purchased, imported, produced, refined, manufactured, and compounded by the distributor, ~~less 0.5 percent for shrinkage, loss by evaporation, or otherwise,~~ instead of the quantity sold, distributed, or used.

Fifth: After Sec. 2, 23 V.S.A. § 3015, by inserting a Sec. 2a to read as follows:

Sec. 2a. 23 V.S.A. § 3015(2) is amended to read:

(2) Except as provided in subdivision 3002(9) of this title, the user’s tax shall be determined by multiplying the number of gallons of fuels used in Vermont in motor vehicles operated by the user at the rate per gallon stated in section 3003 for vehicles weighing or registered for 26,001 pounds or more. The taxable gallonage shall be computed on the basis of miles travelled within the State as compared to total miles travelled within and without the State, with the actual method of computation prescribed by the Commissioner. A distributor may use as the measure of the tax so levied and assessed the gross quantity of fuel purchased, imported, produced, refined, manufactured, and compounded by the distributor, ~~less 0.5 percent for shrinkage, loss by evaporation or otherwise,~~ instead of the quantity sold, distributed, or used.

From this amount of tax due, there shall be deducted the tax on fuel purchased in this State on which the tax has been previously paid by the user, provided the tax-paid purchases are supported by copies of the sales invoices showing the amount of tax paid. Such copies shall be retained by the taxpayer for a period of not less than three years and shall be available for inspection by the Commissioner or his or her designated agents. If the computation shows additional tax to be due, it shall be remitted with the report filed under section 3014 of this title.

Sixth: After Sec. 3, 23 V.S.A. § 3107, by inserting a Sec. 3a to read as follows:

Sec. 3a. 23 V.S.A. § 3107 is amended to read:

§ 3107. ALTERNATIVE BASIS FOR COMPUTING TAX

A distributor may use as the measure of the tax so levied and assessed the gross quantity of motor fuel purchased, imported, produced, refined, manufactured, and compounded by the distributor, ~~less 0.5 percent for shrinkage, loss by evaporation, or otherwise,~~ instead of the quantity sold, distributed, or used.

Seventh: In Sec. 4, 32 V.S.A. § 8903 (purchase and use tax cap), by striking out subdivision (a)(2) (purchase tax cap) in its entirety, and inserting in lieu thereof the following:

(2) For any other motor vehicle that is used primarily for commercial or trade purposes, it shall be six percent of the taxable cost of the motor vehicle or ~~\$1,850.00~~ \$2,075.00 for each motor vehicle, whichever is smaller, ~~except that pleasure cars which that~~ are purchased, leased, or otherwise acquired for use in short-term rentals shall be subject to taxation under subsection (d) of this section.

Eighth: In Sec. 4, 32 V.S.A. § 8903 (purchase and use tax cap), by striking out subdivision (b)(2) (use tax cap) in its entirety, and inserting in lieu thereof the following:

(2) For any other motor vehicle that is used primarily for commercial or trade purposes, it shall be six percent of the taxable cost of a the motor vehicle, or ~~\$1,850.00~~ \$2,075.00 for each motor vehicle, whichever is smaller, by a person at the time of first registering or transferring a registration to such motor vehicle payable as hereinafter provided, ~~except no.~~ No use tax shall be payable hereunder if the tax imposed by subsection (a) of this section has been paid, or the vehicle is a pleasure car ~~which that~~ was purchased, leased, or otherwise acquired for use in short-term rentals, in which case the vehicle shall be subject to taxation under subsection (d) of this section.

Ninth: In Sec. 8, 23 V.S.A. § 304, in subdivision (b)(1), after “upon payment of an annual fee of ~~\$45.00~~” by striking out “~~\$50.00~~” and inserting in lieu thereof \$48.00

Tenth: By striking out Sec. 14, 23 V.S.A. § 361, in its entirety and inserting in lieu thereof the following:

Sec. 14. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

The annual fee for registration of any motor vehicle of the pleasure car type, ~~and all vehicles powered by electricity,~~ shall be ~~\$69.00~~ \$74.00, and the biennial fee shall be ~~\$127.00~~ \$136.00.

Eleventh: After Sec. 14, by adding a Sec. 14a to read as follows:

Sec. 14a. 23 V.S.A. § 361a is added to read:

§ 361a. PLUG-IN ELECTRIC HYBRID VEHICLE AND  
ELECTRIC-POWERED PLEASURE CARS

(a) As used in this section:

(1) “Electric vehicle” means a vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system, such as storage batteries or other portable electrical energy storage devices, provided that:

(A) the vehicle is capable of drawing recharge energy from a source off the vehicle, such as residential electric service; and

(B) the vehicle does not have an onboard combustion engine or generator system as a means of providing electrical energy.

(2) “Plug-In Electric Hybrid Vehicle (PHEV)” means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both an internal combustion engine or heat engine using consumable fuel and a rechargeable energy storage system such as a battery, capacitor, hydraulic accumulator, or flywheel that is capable of recharging its battery from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(b) The annual fee for registration of an electric vehicle shall be \$114.00, and the biennial fee shall be \$210.00.

(c) The annual fee for registration of a plug-in electric hybrid vehicle shall be \$94.00, and the biennial fee shall be \$173.00.

Twelfth: In Sec. 15, by striking out “\$45,000.00” and inserting in lieu thereof \$55,320.00

Thirteenth: In Sec. 33, 23 V.S.A. § 517, in the second sentence, after “payment of a”, by striking out “\$25.00” and inserting in lieu thereof \$6.00

Fourteenth: After Sec. 36, 23 V.S.A. § 617, by inserting a Sec. 36a to read as follows:

Sec. 36a. ANATOMICAL GIFT; OPERATORS’ LICENSES; REPORT

On or before October 15, 2016, the Commissioner of Motor Vehicles shall submit a report to the House Committee on Ways and Means, the Senate Committee on Finance, and the House and Senate Committees on Transportation on the number of persons who have authorized an anatomical gift at the time of issuance of a driver’s license or nondriver identification card pursuant to 18 V.S.A. § 5250e. This report shall include a proposal for implementing in a manner that would have a revenue-neutral result a discount on the license and identification card fees owed under 23 V.S.A. § 115 and 23 V.S.A. chapter 9 for persons who have authorized an anatomical gift.

Fifteenth: In Sec. 42, 23 V.S.A. § 1392, in subdivision (14)(C), in the last sentence, after “The permit fee shall be \$10.00”, by striking out “\$13.00” and inserting in lieu thereof \$15.00

Sixteenth: In Sec. 42, 23 V.S.A. § 1392, in subdivision (14)(D), in the last sentence, after “The permit fee shall be \$10.00”, by striking out “\$13.00” and inserting in lieu thereof \$15.00

Seventeenth: In Sec. 45, 23 V.S.A. § 2023(e) (transfer of vehicle to surviving spouse), by striking out subsection (e) in its entirety, and inserting in lieu thereof the following:

(e) Notwithstanding other provisions of the law, whenever the estate of an individual who dies intestate consists principally of an automobile, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the same shall automatically and by virtue hereof pass to the surviving spouse. Registration and titling of Upon request, the Department shall register and title the vehicle in the name of the surviving spouse, ~~shall be effected by payment of a transfer fee of \$7.00 and no fee shall be assessed.~~ This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(1) Notwithstanding other provisions of the law, and except as provided in subdivision (2) of this subsection, whenever the estate of an individual consists in whole or in part of a motor vehicle, and the person's will or other testamentary document does not specifically address disposition of motor



vehicles, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the motor vehicle shall automatically pass to the surviving spouse. ~~Registration and titling of~~ Upon request, the Department shall register and title the vehicle in the name of the surviving spouse, shall be effected by payment of a transfer fee of \$7.00 and no fee shall be assessed. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(2) This subsection shall apply to no more than two motor vehicles, and shall not apply if the motor vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

Eighteenth: After Sec. 57, by striking out the reader assistance and by striking out Sec. 58, Effective Date, in its entirety and inserting in lieu thereof a new reader assistance and a new Sec. 58 to read as follows:

\* \* \* Effective Dates \* \* \*

#### Sec. 58. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Secs. 1, 2, and 3 (0.5 percent diesel fuel and gas shrinkage allowance) shall take effect on June 1, 2016.

(c) Secs. 1a, 2a, and 3a (elimination of diesel fuel and gas shrinkage allowance) shall take effect on June 1, 2017.

(d) Sec. 14a (hybrid and electric vehicle registration) shall take effect on July 1, 2017.

(e) The remaining sections shall take effect on July 1, 2016.

(For text see House Journal March 29, 2016 )

**Committee of Conference Report**

**S. 114**

An act relating to the Open Meeting Law

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

**S. 114 An act relating to the Open Meeting Law**

Respectfully report that they have met and considered the same and recommend that the House recede from its proposal of amendment:

Rep. Martin

Rep. Townsend

Rep. LaClair

*Committee on the part of the House*

Sen. Pollina

Sen. Benning

Sen. Collamore

*Committee on the part of the Senate*