

# Senate Calendar

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TUESDAY, APRIL 19, 2016

**SENATE CONVENES AT: 9:30 A.M.**

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**ACTION CALENDAR**

**SPECIAL ORDER**

**Tuesday, April 19, 2016 9:30 A.M.**

**Resolution for Action**

**S.R. 12.**

Senate resolution amending the permanent rules of the Senate.

**PENDING QUESTION:** Shall the Senate adopt the resolution?

**Text of resolution:**

***Resolved by the Senate:***

That the permanent rules of the Senate are amended as follows:

First: Senate Rule 102 is added to read:

102. Ethics:

(a) The Committee on Committees shall, at the beginning of the biennium or as soon as possible thereafter, establish an Ethics Panel to receive and investigate allegations of ethical violations of senators, except for those complaints covered under Rule 101, and to recommend to the Senate any disciplinary action against a senator for an ethical violation, if the Panel deems it necessary.

(b) The Panel shall be comprised of five members of the Senate including at least one Senator from each major political party. The Panel shall elect a chair. All records and documents of the Ethics Panel shall be maintained in the Senate Secretary's Office.

(c) The Rules Committee shall develop and adopt a policy and procedure for receiving and reviewing allegations of ethical violations of Senators and procedures for when information and documents are confidential and public.

(d) At the end of each biennium, the Ethics Panel shall report to the Senate the number of complaints filed and the disposition of those complaints.

Second: Senate Rule 103 is added to read:

103. Disclosure:

On or before the 10th day of the beginning of the biennium, each senator shall submit to the Secretary a disclosure form prepared by the Secretary, which form may be updated as necessary. The form shall be signed by the senator and be publicly available. A senator shall update the senator's disclosure form as circumstances require.

**CONSIDERATION POSTPONED**

**Wednesday, April 20, 2016**

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 829.**

An act relating to water quality on small farms.

**PENDING QUESTION:** Shall the Senate adopt the proposal of amendment of the Committee on Agriculture?

(For text of proposal of amendment, see Senate Journal of April 15, 2016, page 878)

**UNFINISHED BUSINESS OF THURSDAY, APRIL 14, 2016**

**Third Reading**

**H. 74.**

An act relating to safety protocols for social and mental health workers.

**NEW BUSINESS**

**Third Reading**

**H. 559.**

An act relating to an exemption from licensure for visiting team physicians.

**H. 845.**

An act relating to legislative review of certain report requirements.

**Second Reading**

**Favorable**

**H. 399.**

An act relating to the Department for Children and Families' Registry Review Unit.

**Reported favorably by Senator Collamore for the Committee on Health and Welfare.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal of January 21, 2016, page 54 and January 22, 2016 page 64)

**Favorable with Recommendation of Amendment**

**S. 184.**

An act relating to establishing a State Ethics Commission.

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

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

\* \* \* Former Legislators; Lobbying Restriction \* \* \*

Sec. 1. 2 V.S.A. § 266 is amended to read:

§ 266. PROHIBITED CONDUCT

\* \* \*

(b) A legislator, for one year after leaving office, shall not be a lobbyist in this State.

(c) As used in this section, “candidate’s committee,” “contribution,” and “legislative leadership political committee” shall have the same meanings as in 17 V.S.A. § 2901 chapter 61 (campaign finance).

\* \* \* Former Executive Officers; Postemployment Restrictions \* \* \*

Sec. 2. 3 V.S.A. § 267 is added to read:

§ 267. EXECUTIVE OFFICERS; POSTEMPLOYMENT RESTRICTIONS

(a) Prior participation while in State employ.

(1) An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private entity before any public body or the General Assembly or its committees regarding any particular matter in which:

(A) the State is a party or has a direct and substantial interest; and

(B) the Executive officer had participated personally and substantively while in State employ.

(2) The prohibition set forth in subdivision (1) of this subsection applies to any matter the Executive officer directly handled, supervised, or managed or gave substantial input, advice, or comment or benefited from, either through discussing, attending meetings on, or reviewing materials prepared regarding the matter.

(b) Prior official responsibility. An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private

entity before any public body or the General Assembly or its committees regarding any particular matter in which the officer had exercised any official responsibility.

(c) Public body enforcement. A public body shall disqualify a former Executive officer from his or her appearance or participation in a particular matter if the officer's appearance or participation is prohibited under this section.

(d) Definitions. As used in this section:

(1) "Executive officer" means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(2) "Private entity" means any person, corporation, partnership, joint venture, or association, whether organized for profit or not for profit, except one specifically chartered by the State of Vermont or that relies upon taxes for at least 50 percent of its revenues.

(3) "Public body" means any agency, department, division, or office and any board or commission of any such entity, or any independent board or commission, in the Executive Branch of the State.

\* \* \* State Office and Legislative Candidates; Disclosure Form \* \* \*

Sec. 3. 17 V.S.A. § 2414 is added to read:

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;  
DISCLOSURE FORM

(a) Each candidate for State office, State Senator, or State Representative shall file with the officer with whom consent of candidate forms are filed, along with his or her consent, a disclosure form prepared by the Secretary of State that contains the following information in regard to the candidate's previous calendar year:

(1) Each source, but not amount, of personal income totaling \$10,000.00 or more, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address, and if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients;

(B) aggregated investment income, described generally as "investments;" and

(C) a lease or contract with the State held or entered into by the candidate or a company in which the candidate holds a controlling interest.

(2) Any board, commission, association, or other entity on which the candidate serves and a description of that position.

(3) Any company in which the candidate holds a controlling interest.

(b)(1) A senatorial district clerk or representative district clerk who receives a disclosure form under this section shall forward a copy of the disclosure to the Secretary of State within three business days of receiving it.

(2) The Secretary shall post a copy of any disclosure forms he or she receives under this section on his or her official State website.

(c) A candidate who fails to file a disclosure form as required by this section shall not have his or her name printed on the primary ballot, if applicable, or the general election ballot, except if the candidate wins the primary as a write-in candidate, he or she shall have one week from the date of the primary to file the disclosure form in order to be placed on the general election ballot.

Sec. 4. [Deleted.]

\* \* \* Campaign Finance Investigations; Reports to Ethics Commission \* \* \*

Sec. 5. 17 V.S.A. § 2904 is amended to read:

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

\* \* \*

(5) Nothing in this subsection is intended to prevent the Attorney General or a State's Attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter.

\* \* \*



Sec. 6. 17 V.S.A. § 2904a is added to read:

§ 2904a. REPORTS TO STATE ETHICS COMMISSION

Upon his or her receipt of a complaint made in regard to a violation of this chapter or of any rule made pursuant to this chapter, or upon his or her investigation of such an alleged violation without receiving a complaint, the Attorney General or a State's Attorney shall:

(1) Forward a copy of the complaint or a description of the investigation to the State Ethics Commission established in 3 V.S.A. chapter 31. The Attorney General or State's Attorney shall provide this information to the Commission within 10 days of his or her receipt of the complaint or the start of the investigation.

(2) Report to the Commission regarding his or her decision as to whether to bring an enforcement action as a result of that complaint or investigation. The Attorney General or State's Attorney shall make this report within 10 days of that decision.

Sec. 7. 3 V.S.A. Part 1, chapter 31 is added to read:

CHAPTER 31. GOVERNMENTAL ETHICS

Subchapter 1. General Provisions

§ 1201. DEFINITIONS

As used in this chapter:

(1) "Candidate" and "candidate's committee" shall have the same meanings as in 17 V.S.A. § 2901.

(2) "Commission" means the State Ethics Commission established under subchapter 3 of this chapter.

(3) "Executive officer" means:

(A) a State officer; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(4) "Lobbyist" shall have the same meaning as in 2 V.S.A. § 261.

(5) "Political committee" and "political party" shall have the same meanings as in 17 V.S.A. § 2901.

(6) "State officer" means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

§ 1202. STATE CODE OF ETHICS

(a) The Department of Human Resources shall create and maintain a State Code of Ethics in accordance with section 315 of this title.

(b) In consultation with the Commissioner of Human Resources, each State officer may supplement the State Code of Ethics for the specific needs of his or her office.

Subchapter 2. Disclosures

§ 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE

(a) Biennially, each Executive officer shall file with the State Ethics Commission a disclosure form that contains the following information in regard to the officer's previous calendar year:

(1) Each source, but not amount, of personal income totaling \$10,000.00 or more, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address, and if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients;

(B) aggregated investment income, described generally as "investments;" and

(C) a lease or contract with the State held or entered into by the officer or a company in which the officer holds a controlling interest.

(2) Any board, commission, association, or other entity on which the officer serves and a description of that position.

(3) Any company in which the officer holds a controlling interest.

(b) An officer shall file his or her disclosure on or before January 15 of the odd-numbered year or, if he or she is appointed after January 15, within 10 days after that appointment.

§ 1212. COMMISSION MEMBERS; BIENNIAL DISCLOSURE

(a) Biennially, each member of the State Ethics Commission shall file with the Executive Director of the Commission a disclosure form that contains the information that Executive officers are required to disclose under section 1211 of this subchapter.

(b) A member shall file his or her disclosure on or before January 15 of the first year of his or her appointment or, if the member is appointed after January 15, within 10 days after that appointment, and shall file subsequent disclosures biennially thereafter.

§ 1213. DISCLOSURES; GENERALLY

(a) The Executive Director of the Commission shall prepare on behalf of the Commission any disclosure form required to be filed with it, and shall make those forms available on the Commission's website.

(b) The Executive Director shall post a copy of any disclosure form the Commission receives on the Commission's website.

Subchapter 3. State Ethics Commission

§ 1221. STATE ETHICS COMMISSION

(a) Creation. There is created within the Executive Branch an independent commission named the State Ethics Commission to accept, review, make referrals regarding, and track complaints of alleged violations of the State Code of Ethics, of governmental conduct regulated by law, and of the State's campaign finance law set forth in 17 V.S.A. chapter 61; to provide ethics training; and to issue advisory opinions regarding ethical conduct.

(b) Membership.

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

(A) a chair of the Commission, who shall be appointed by the Chief Justice of the Supreme Court;

(B) one member appointed by the Vermont affiliate of the American Civil Liberties Union;

(C) one member appointed by the League of Women Voters of Vermont;

(D) one member appointed by the Vermont Bar Association; and

(E) one member appointed by the Executive Director of the Human Rights Commission.

(2) A member shall not:

(A) hold any office in the Legislative, Executive, or Judicial Branch of State government or otherwise be employed by the State;

(B) hold or enter into any lease or contract with the State, or have a controlling interest in a company that holds or enters into a lease or contract with the State;

(C) be a lobbyist;

(D) be a candidate; or

(E) hold any office in a candidate's committee, a political committee, or a political party.

(3) A member may be removed for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(4)(A) A member shall serve a term of three years and until a successor is appointed. A term shall begin on January 1 of the year of appointment and run through December 31 of the last year of the term. Terms of members shall be staggered so that not all terms expire at the same time.

(B) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(C) A member shall not serve more than two terms. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subdivision (C).

(c) Executive Director.

(1) The Commission shall be staffed by an Executive Director, who shall be appointed by and serve at the pleasure of the Commission and who shall be a part-time exempt State employee.

(2) The Executive Director shall provide administrative support as requested by the Commission, in addition to any other duties required by this chapter.

(d) Confidentiality. The Commission and the Executive Director shall maintain the confidentiality required by this chapter.

(e) Meetings. Meetings of the Commission may be called by the Chair and shall be called upon the request of any other two Commission members.

(f) Reimbursement. Each member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

## § 1222. COMMISSION MEMBER DUTIES AND PROHIBITED CONDUCT

(a) Conflicts of interest.

(1) Prohibition; recusal.

(A) A Commission member shall not participate in any Commission matter in which he or she has a conflict of interest and shall recuse him- or herself from participation in that matter.

(B) The failure of a Commission member to recuse him- or herself as described in subdivision (A) of this subdivision (1) may be grounds for the Commission to discipline or remove that member.

(2) Disclosure of conflict of interest.

(A) A Commission member who has reason to believe he or she has a conflict of interest in a Commission matter shall disclose that he or she has that belief and disclose the nature of the conflict of interest. Alternatively, a Commission member may request that another Commission member recuse him- or herself from a Commission matter due to a conflict of interest.

(B) Once there has been a disclosure of a member's conflict of interest, members of the Commission shall be afforded the opportunity to ask questions or make comments about the situation to address the conflict.

(3) Postrecusal procedure. A Commission member who has recused him- or herself from participating on a Commission matter shall not sit or deliberate with the Commission on that matter or otherwise act as a Commission member on that matter, but may participate in that matter as a member of the public.

(4) Definition. As used in this subsection, "conflict of interest" means an interest of a member that is in conflict with the proper discharge of his or her official duties due to a significant personal or financial interest of the member, a person within the member's immediate family, or the member's business associate. "Conflict of interest" does not include any interest that is not greater than that of any other persons generally affected by the outcome of a matter.

(b) Gifts. A Commission member shall not accept a gift given by virtue of his or her membership on the Commission.

§ 1223. PROCEDURE FOR HANDLING COMPLAINTS

(a) Accepting complaints. On behalf of the Commission, the Executive Director shall accept complaints from any source regarding alleged violations of the State Code of Ethics, of governmental conduct regulated by law, or of the State's campaign finance law set forth in 17 V.S.A. chapter 61.

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection.

(1) State Code of Ethics.

(A) If the complaint alleges a violation of the State Code of Ethics, the Executive Director shall refer the complaint to the Commissioner of Human Resources.

(B) The Commissioner shall report back to the Executive Director regarding the final disposition of a complaint referred under this subdivision (A) within 10 days of that final disposition.

(2) Governmental conduct regulated by law. If the Executive Director finds that a State officer or employee may have committed a violation of governmental conduct regulated by law, that a former legislator may have violated 2 V.S.A. § 266(b), or that a former Executive officer may have violated 3 V.S.A. § 267, the Executive Director shall submit the complaint to the Commission for its review.

(3) Campaign finance.

(A) If the complaint alleges a violation of campaign finance law, the Executive Director shall refer the complaint to the Attorney General or to the State's Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall report back to the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under this subdivision (A) as set forth in 17 V.S.A. § 2904a.

(4) Legislative and Judicial Branches.

(A) If the complaint is in regard to conduct committed by a State Senator, the Executive Director shall refer the complaint to the Senate Ethics Panel.

(B) If the complaint is in regard to conduct committed by a State Representative, the Executive Director shall refer the complaint to the House Ethics Panel.

(C) If the complaint is in regard to conduct committed by a judicial officer, the Executive Director shall refer the complaint to the Judicial Conduct Board.

(D) If any of the complaints described in subdivisions (A)-(C) of this subdivision (4) also allege that a crime has been committed, the Executive Director shall also refer the complaint to the Attorney General and the State's Attorney of jurisdiction.

(5) Closures. The Executive Director shall close any complaint that he or she does not submit or refer as set forth in subdivisions (1)-(4) of this subsection.

(c) Commission reviews and referrals.

(1) For any complaint regarding an alleged violation of governmental conduct regulated by law that the Executive Director submits to it under subdivision (b)(2) of this section, the Commission shall meet to review the complaint. This meeting shall not be open to the public and is exempt from the requirements of the Open Meeting Law.

(2)(A) If, after its review, the Commission finds that there may have been a violation of governmental conduct regulated by law, it shall refer the complaint to the Attorney General and the State's Attorney of jurisdiction.

(B) If, after its review, the Commission finds that there has not been a violation of governmental conduct regulated by law, it shall close the complaint.

(d) Confidentiality. Except for complaints regarding alleged campaign finance law violations referred under subdivision (b)(3) of this section, complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1224. COMMISSION ETHICS TRAINING

At least annually, in collaboration with the Department of Human Resources, the Commission shall make available to legislators, State officers, and State employees training on issues related to governmental ethics.

§ 1225. EXECUTIVE DIRECTOR ADVISORY OPINIONS

(a)(1) The Executive Director may issue to an Executive officer or other State employee, upon his or her request, an advisory opinion regarding any provision of this chapter or any issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission in preparing an advisory opinion.

(b) An advisory opinion issued under this section shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1226. COMMISSION REPORTS

Annually, on or before January 15, the Commission shall report to the General Assembly regarding the following issues:

(1) Complaints. The number and a summary of the complaints made to it, separating the complaints by topic, and the disposition of those complaints,

including any prosecution, enforcement action, or dismissal. This summary of complaints shall not include any personal identifying information.

(2) Advisory opinions. The number and a summary of the advisory opinions the Executive Director issued, separating the opinions by topic. This summary of advisory opinions shall not include any personal identifying information.

(3) Recommendations. Any recommendations for legislative action to address governmental ethics or provisions of campaign finance law.

\* \* \* Implementation \* \* \*

#### Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS

The provisions of Secs. 1 and 2 of this act that restrict employment shall not apply to any employment in effect on the effective date of those sections.

#### Sec. 9. DEPARTMENT OF HUMAN RESOURCES; STATE CODE OF ETHICS CREATION

The Department of Human Resources shall create the State Code of Ethics described in 3 V.S.A. § 1202 in Sec. 7 of this act on or before January 1, 2017.

#### Sec. 10. IMPLEMENTATION OF THE STATE ETHICS COMMISSION

(a) The State Ethics Commission, created in Sec. 7 of this act, is established on January 1, 2017.

(b) Members of the Commission shall be appointed on or before October 15, 2016 in order to prepare as they deem necessary for the establishment of the Commission, including the hiring of the Commission's Executive Director. Terms of members shall officially begin on January 1, 2017.

(c)(1) In order to stagger the terms of the members of the State Ethics Commission as described in 3 V.S.A. § 1221(b)(4)(A), in Sec. 7 of this act, the initial terms of those members shall be as follows:

(A) the Chief Justice of the Supreme Court shall appoint the Chair for a three-year term;

(B) the Vermont affiliate of the American Civil Liberties Union shall appoint a member for a two-year term;

(C) the League of Women Voters of Vermont shall appoint a member for a one-year term;

(D) the Vermont Bar Association shall appoint a member for a three-year term; and



(E) the Executive Director of the Human Rights Commission shall appoint a member for a two-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Commission member terms shall be as set forth in 3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act.

Sec. 11. CREATION OF STAFF POSITION FOR STATE ETHICS COMMISSION

(a) One (1) part-time exempt Executive Director position is created in the State Ethics Commission set forth in Sec. 7 of this act by using an existing position in the position pool.

(b) The amount of \$1.00 is appropriated to fund the position described in subsection (a) of this section.

Sec. 12. 3 V.S.A. § 260 is amended to read:

§ 260. LOCATION OF OFFICES

\* \* \*

(c) The principal office of each of the following boards and divisions shall be located in Montpelier: Aeronautics Board, Division for Historic Preservation, Board of Libraries, ~~and~~ Division of Recreation, and State Ethics Commission.

\* \* \*

Sec. 13. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the State Ethics Commission established in Sec. 7 of this act in accordance with 3 V.S.A. § 260 set forth in Sec. 12 of this act. This space shall be allocated on or before October 15, 2016.

\* \* \* Municipal Conflicts of Interest \* \* \*

Sec. 14. GENERAL ASSEMBLY RECOMMENDATION; ISSUES RELATING TO ETHICS AND CONFLICTS OF INTEREST IN MUNICIPALITIES

(a) The General Assembly recommends that municipalities use existing statutory authority to address municipal issues relating to ethics and conflicts of interest. Provisions of law addressing those issues include the following:

(1) 24 V.S.A. § 1202, regarding the ability of a local board to use the Municipal Administrative Procedure Act set forth in 24 V.S.A. chapter 36,

which includes compliance with 12 V.S.A. § 61(a), regarding disqualifications for interest for persons acting in a judicial capacity;

(2) 24 V.S.A. § 1984, regarding the ability of the voters of a town, city, or incorporated village to adopt a conflict of interest policy for their elected and appointed officials;

(3) 24 V.S.A. § 2291(20), regarding the ability of a town, city, or incorporated village to establish a conflict of interest policy to apply to all elected or appointed officials in the municipality; and

(4) 24 V.S.A. § 4461(a), regarding the requirement that an appropriate municipal panel adopt rules of ethics with respect to conflicts of interest as part of its development review procedure.

(b) On or before January 1, 2017, the Vermont League of Cities and Towns shall report to the General Assembly on the number of towns that are using the statutory authority described in subsection (a) of this section, and which of those authorities are used.

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

#### Sec. 15. EFFECTIVE DATES

This act shall take effect as follows:

(1) The following sections shall take effect on July 1, 2016:

(A) Sec. 1, 2 V.S.A. § 266 (former legislators; lobbying; prohibited employment); and

(B) Sec. 2, 3 V.S.A. § 267 (former Executive officers; prohibited employment).

(2) The following sections shall take effect on January 1, 2017:

(A) Sec. 6, 17 V.S.A. § 2904a (Attorney General or State's Attorney; campaign finance; reports to State Ethics Commission); and

(B) Sec. 7, 3 V.S.A. Part 1, chapter 31 (governmental ethics).

(3) Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form) shall take effect on January 1, 2018.

(4) This section and all other sections shall take effect on passage.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: By adding a new section to be Sec. 13a to read:

Sec. 13a. STATE ETHICS COMMISSION FUNDING SOURCE;  
SURCHARGE; REPEAL

(a) Surcharge.

(1) In fiscal year 2017 and thereafter, a surcharge of up to 2.3%, but no greater than the cost of the activities of the State Ethics Commission set forth in Sec. 7 of this act, on the per position portion of the charges authorized in 3 V.S.A. § 2283(b)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the activities of the State Ethics Commission set forth in Sec. 7 of this act.

(b) Repeal. This section shall be repealed on June 30, 2018.

Second: In Sec. 11 (creation of staff position for State Ethics Commission), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) [Deleted.]

(Committee vote: 6-0-1)

**Amendment to the recommendation of amendment of the Committee on Government Operations to S. 184 to be offered by Senators Pollina, Benning, Bray, Collamore, and White**

Senators Pollina, Benning, Bray, Collamore, and White move to amend the recommendation of amendment of the Committee on Government Operations by adding a section to be Sec. 10a to read:

Sec. 10a. STATE ETHICS COMMISSION; RECOMMENDATIONS  
REGARDING CONTRIBUTIONS FROM STATE  
CONTRACTORS

(a) On or before September 1, 2017, the State Ethics Commission shall recommend to the General Assembly whether the State should prohibit

campaign contributions to candidates for State office and to State officers from persons who contract with the State or who bid on such a contract.

(b) If the Commission determines that the General Assembly should enact such a prohibition, the Commission's recommendation shall include the following information:

(1) Whether there should be a minimum contract amount that would trigger the prohibition.

(2) The duration of the prohibition.

(3) Whether the prohibition should apply both to persons who bid for a contract and persons who are awarded a contract. If the Commission recommends that persons who bid for a contract should be included in the prohibition, the Commission shall also recommend whether to include prequalified vendors in the prohibition and, if so, the manner in which the prohibition would apply.

(4) If a contractor or prospective contractor is a business entity, whether any principals of the business—such as an individual who has a controlling interest in it—should be included in the prohibition, and whether any family members of an individual who is a contractor, prospective contractor, or principal should be included in the prohibition.

(5) Any other information the Commission considers relevant.

### **Favorable with Proposal of Amendment**

#### **H. 249.**

An act relating to intermunicipal services.

**Reported favorably with recommendation of proposal of amendment by Senator Collamore for the Committee on Government Operations.**

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

Sec. 1. 24 V.S.A. § 4345b is added to read:

#### § 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

(a)(1) Prior to exercising the authority granted under this section, a regional planning commission shall:

(A) draft bylaws specifying the process for entering into, method of withdrawal from, and method of terminating service agreements with municipalities; and

(B) hold one or more public hearings within the region to hear from interested parties and citizens regarding the draft bylaws.

(2) At least 30 days prior to any hearing required under this subsection, notice of the time and place and a copy of the draft bylaws, with a request for comments, shall be delivered to the chair of the legislative body of each municipality within the region. The regional planning commission shall make copies available to any individual or organization requesting a copy.

(3) The regional planning commission may make revisions to the draft bylaws at any time prior to adoption of the bylaws. If revisions are made to the draft bylaws, the regional planning commission shall hold a final hearing and shall deliver notice as required in subdivision (2) of this subsection.

(b)(1) The draft bylaws required under subsection (a) of this section shall be adopted by a vote of at least 67 percent of the commissioners of the regional planning commission in accordance with the voting procedures of the regional planning commission.

(2) The draft bylaws shall be considered duly adopted and shall take effect 35 days after a vote required under this subsection, unless, within 35 days of the date of adoption, the regional planning commission receives certification from the legislative bodies of a majority of the municipalities in the region vetoing the proposed bylaws. In such case, the bylaws shall be deemed repealed.

(c) Upon adoption of the bylaws under subsection (b) of this section, a regional planning commission may:

(1) promote cooperative arrangements and coordinate, implement, and administer service agreements among municipalities, including arrangements and action with respect to planning, community development, joint purchasing, intermunicipal services, infrastructure, and related activities; and

(2) exercise any power, privilege, or authority, as defined within a service agreement under subsection (d) of this section, capable of exercise by a municipality as necessary or desirable for dealing with problems of local or regional concern.

(d)(1) In exercising the powers set forth in subsection (c) of this section, a regional planning commission shall enter into a service agreement with one or more municipalities.

(2) Participation by a municipality shall be voluntary and only valid upon appropriate action by the legislative body of the municipality. To become effective, a service agreement shall be ratified by the regional planning

commission and the legislative bodies of the municipalities who are a party to the service agreement.

(3) A service agreement shall describe the services to be provided and the amount of funds payable by each municipality that is a party to the service agreement. Service of personnel, use of equipment and office space, and other necessary services may be accepted from municipalities as part of their financial support.

(4) Any modification to a service agreement shall not become effective unless approved by the legislative body of the municipalities who are a party to the service agreement.

(e) A regional planning commission shall not have the following powers under this section:

(1) essential legislative functions;

(2) taxing authority; or

(3) eminent domain.

(f)(1) Funds provided for regional planning under section 4341a or 4346 of this chapter shall not be used to provide services under a service agreement without prior written authorization from the State agency or other entity providing the funds.

(2) A commission shall not use municipal funds or grants provided for regional planning services under this chapter to cover the costs of providing services under any service agreement under this section.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 17, 2016, page 218)

## **H. 297.**

An act relating to the sale of ivory or rhinoceros horn.

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

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

Sec. 1. 10 V.S.A. chapter 175 is added to read:

CHAPTER 175. IVORY AND RHINOCEROS HORN

§ 7701. SALE OF IVORY OR RHINOCEROS HORN

(a) Definitions. As used in this chapter:

(1) "Ivory" means any tusk composed of ivory from an elephant or mammoth, or any piece thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product.

(2) "Ivory product" means any item that contains, or is wholly or partially made from, any ivory.

(3) "Raw ivory" means any ivory the surface of which, polished or unpolished, is unaltered or minimally changed by carving.

(4) "Rhinoceros horn" means the horn, or any piece thereof, of any species of rhinoceros.

(5) "Rhinoceros horn product" means any item that contains, or is wholly or partially made from, any rhinoceros horn.

(6) "Total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products" means the fair market value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products, or the actual price paid for the ivory, ivory products, rhinoceros horn, and rhinoceros horn products, whichever is greater.

(7) "Worked ivory" means ivory that has been embellished, carved, marked, or otherwise altered so that it can no longer be considered raw ivory.

(b) Prohibition. Except as authorized under subsections (c) and (f) of this section, a person in this State shall not import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

(c) Exceptions.

(1) The prohibitions of this section shall not apply to:

(A) Employees or agents of the federal government or the State undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law.

(B) The import of legally acquired ivory, ivory products, rhinoceros horn, or rhinoceros horn products:

(i) expressly authorized by federal law, license, or permit; or

(ii) as part of a personal or household move into the State.

(C) The sale of legally acquired ivory or ivory products provided that the item is accompanied by a sworn statement that complies with subsection (d) of this section.

(2) In connection with any action alleging violation of this section, any person claiming the benefit of any exception under this section shall have the burden of proving that the exception is applicable and was valid and in force at the time of the alleged violation.

(d) Ivory certification.

(1) In order to sell an ivory item or ivory product on or after July 1, 2017, a person shall certify the ivory or ivory product with a sworn statement as required by this subsection.

(2) A sworn statement under this subsection shall:

(A) include a statement, under pains and penalties of perjury, certifying ownership of the item and attesting that the ivory or ivory product has been legally acquired and its sale will not violate any federal or State law.

(B) include a detailed description of the item, the approximate age of the item, and a picture; and

(C) be notarized by a Vermont notary public prior to July 1, 2017.

(3)(A) A sworn statement under this subsection shall not certify multiple pieces of ivory or ivory products, unless the pieces, taken together, are part of a larger product and are to be sold together.

(B) A person shall not notarize his or her own sworn statement under this subsection.

(C) Upon sale of the ivory or ivory product, the sworn statement shall be transferred with the item to the new owner. A subsequent owner is authorized to sell the ivory or ivory product, if they maintain the original sworn statement required by this subsection.

(e) Presumption of intent to sell. The possession in this State of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in a retail or wholesale outlet commonly used for the buying or selling of similar products shall constitute presumptive evidence of possession with intent to sell under this section. Nothing in this subsection shall preclude a finding of intent to sell based on any evidence that may serve independently to establish intent to sell. The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product alone shall not constitute possession with intent to sell.



(f) Authorized conveyance to beneficiaries. A person may convey ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product that is part of an estate or other items being conveyed to lawful beneficiaries upon the death of the owner of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

(g) Enforcement; civil penalties.

(1) This section may be enforced by a law enforcement officer as defined in 20 V.S.A. § 2358.

(2) A person who violates this section commits a civil violation and shall be assessed a civil penalty as follows:

(A) For a first offense, \$1,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(B) For a second or subsequent offense, \$5,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(3) The penalties provided in this section shall be in addition to any penalty that may be imposed under federal law.

(h) Educational information. The Secretary of Natural Resources shall maintain on its website information regarding the prohibition of the sale and purchase of ivory and rhinoceros horns in this State.

Sec. 2. 4 V.S.A. § 1102(b) is amended to read:

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

\* \* \*

(27) Violations of 10 V.S.A. § 7701, relating to the sale or import of ivory or rhinoceros horn.

### Sec. 3. REPORT ON IVORY AND RHINOCEROS HORN PROHIBITION

On or before January 15, 2022, the Secretary of Natural Resources, after consultation with the U.S. Fish and Wildlife Service, shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding the implementation of 10 V.S.A. § 7701, including a summary of:

(1) enforcement activities taken by the State, including the outcome of any items seized;

(2) the financial impact of the prohibition of the sale of ivory and rhinoceros horns on Vermont businesses;

(3) what actions other states have taken with regard to the sale of ivory and rhinoceros horns; and

(4) recommendations regarding necessary changes to Vermont law, including the extension or repeal of the prohibition.

#### Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except that subsection (d) shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 18, 2016, page 248 and February 19, 2016 page 255)

### **H. 512.**

An act relating to adequate shelter of dogs and cats.

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

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

First: In Sec. 2, 13 V.S.A. § 365, by striking out subsection (f) and inserting in lieu thereof the following:

(f) Tethering of dog.

(1) ~~A~~ Except as provided under subdivision (2) of this subsection, a dog chained to a shelter must maintained outdoors on a tether shall be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(2)(A) A dog regularly used in training or participation in competitive or recreational sled dog activities and housed outdoors in close proximity with other dogs may, if necessary for the safety of the dog, be maintained on a tether three times the length of the dog, as measured from the tip of its nose to the base of its tail.

(B) If a tethering method involves the use of a trolley and cable and allows the dog to move freely along the length of the cable, the tether shall be long enough to allow the dog to lie down within its shelter without discomfort.

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming

entangled or twisted. The tether shall be attached to a well-fitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method. Unless the dog is tethered to a trolley and cable system in accordance with subdivision (2)(B) of this subsection, the tether shall be attached to the anchor at a height no greater than that of the dog's withers while standing.

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. 24 V.S.A. § 1943 is added to read:

§ 1943. ANIMAL CRUELTY INVESTIGATION ADVISORY BOARD

(a) An Animal Cruelty Investigation Advisory Board is created within the Department of Public Safety to advise the Governor, the General Assembly, and the Commissioner of Public Safety on issues involving the cooperation and coordination of all agencies that exercise animal welfare responsibilities. The Governor shall appoint the following to serve on the Board:

- (1) the Commissioner of Public Safety or designee;
- (2) the Executive Director of State's Attorneys and Sheriffs or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Commissioner of Fish and Wildlife or designee;
- (5) two members to represent the interests of organizations dedicated to promoting the welfare of animals;
- (6) three members to represent the interests of law enforcement;
- (7) a member to represent the interests of humane officers working with companion animals;
- (8) a member to represent the interests of humane officers working with large animals (livestock);
- (9) a member to represent the interests of dog breeders and associated groups;
- (10) a member to represent the interests of veterinarians;
- (11) a member to represent the interests of the Criminal Justice Training Council;
- (12) a member to represent the interests of sportsmen and women; and
- (13) a member to represent the interests of town health officers.

(b) The Board shall elect a chair and a vice chair which shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of eight members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall have the following duties:

(1) undertake an ongoing formal review process of animal cruelty investigations and practices with a goal of developing a systematic, collaborative approach to providing the best services to Vermont's animals, given monies available;

(2) work with the Department of Public Safety to study the feasibility of designating one law enforcement agency to receive, dispatch, and document the outcome of animal cruelty complaints, and with the assistance of the Vermont Sheriffs' Association, develop a uniform response protocol for assigning complaints to the appropriate local law enforcement agencies;

(3) to ensure that investigations of serious animal cruelty complaints are systematic and documented, develop written standard operating procedures and checklists to support the objective investigation of cruelty complaints that include objective measures of both environmental and clinical evidence of cruelty;

(4) ensure that requests for voluntary compliance are made in writing, with clear requests and timelines, and include a timeline for the investigator to perform a follow-up visit to confirm actions taken;

(5) develop a guide for animal cruelty prosecution, including a review of current sentencing recommendations for State's Attorneys;

(6) research the feasibility of developing and implementing an animal cruelty prevention and education program for offenders to be used as a part of offenders' sentencing;

(7) explore potential private and public sources of funding for animal cruelty investigations, including animal care expenses;

(8) develop trainings, protocols, procedures, and guidance documents for agencies engaging in animal welfare responsibilities;

(9) develop an animal cruelty investigation certification program for humane officers in accordance with 13 V.S.A. § 356, and provide a means by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years preceding July 1, 2016 shall be eligible for certification without completion of the certification program requirements;

(10) develop recommendations for providing liability protection and reducing uncompensated costs to animal shelters and animal welfare groups that assist law enforcement authorities in animal cruelty investigations;

(11) explore changing the annual deadline for dog licensure under 20 V.S.A. § 3582 to better align with the time of year dogs require annual veterinary care; and

(12) determine what should appropriately constitute an enforcement action triggering the obligation of the Agency of Agriculture to assist law enforcement pursuant to 13 V.S.A. § 354(a).

(d) The Board shall meet no fewer than six times a year to undertake its duties as outlined in subsection (a) of this section. The Board shall present its findings and recommendations in brief summary to the House and Senate Committees on Judiciary annually on or before January 15.

Sec. 4. 20 V.S.A. § 2365b is added to read:

§ 2365b. ANIMAL CRUELTY RESPONSE TRAINING

As part of basic training in order to become certified as a Level Two and Level Three law enforcement officer, a person shall receive a two-hour training module on animal cruelty investigations as approved by the Vermont Criminal Justice Training Council and the Animal Cruelty Investigation Advisory Board.

Sec. 5. 13 V.S.A. § 356 is added to read:

§ 356. HUMANE OFFICER REQUIRED TRAINING

All humane officers, as defined in subdivision 351(4) of this title shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.

Sec. 6. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;  
SEARCHES AND SEIZURES; FORFEITURE

(a) The Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry. Law enforcement may consult with the Secretary in person or by electronic means, and the Secretary shall assist law enforcement in determining whether the practice, animal condition, or both represent acceptable livestock or poultry husbandry practices.

\* \* \*

Sec. 7. DEPARTMENT OF CORRECTIONS; ANIMAL CARE PILOT PROGRAM

The Commissioner of Corrections shall implement a pilot program in at least one correctional facility that would permit qualified inmates to provide temporary care, on-site, for animals on a weekly or more frequent basis. The program shall be established on or before January 1, 2017, and the Commissioner shall report on this program, with recommendations as to whether it could be expanded to care for animals that have been seized or relinquished in cruelty or neglect investigations, to the Joint Committee on Justice Oversight on or before November 1, 2017.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 9, 2016, page 176)

**H. 595.**

An act relating to potable water supplies from surface waters.

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

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

Sec. 1. 10 V.S.A. § 1978(a) is amended to read:

(a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules shall include the following:

\* \* \*

(15) Provisions authorizing the use by a residential dwelling of surface water as a source of a potable water supply permitted under this chapter.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. SURFACE WATER SOURCE; POTABLE WATER SUPPLY

The Secretary shall approve the use of a surface water as the source of a potable water supply under this chapter if the following conditions are satisfied:

(1) the building or structure using the surface water as a source is a single-family residence occupied by the owner of record;

(2) only one single-family residence shall be served by a potable water supply using a surface water as a source;

(3) a single-family residence with a potable water supply using a surface water as a source shall not be used as the site of a home occupation that employs persons other than family members and is visited by the public in a manner or duration that would presume the need for use of a potable water supply;

(4) a professional engineer shall design the potable water supply using a surface water as a source, including a treatment system for the surface water;

(5) only surface waters that meet criteria adopted by the Secretary by rule are eligible as the source of a potable water supply permitted under this chapter; and

(6) the applicant or permit holder shall comply with other criteria and requirements adopted by the Secretary by rule for potable water supplies using a surface water as a source.

### Sec. 3. SURFACE WATER SOURCE; RULEMAKING

The Secretary shall adopt rules to implement 10 V.S.A. § 1981 on or before July 1, 2017.

Sec. 4. 10 V.S.A. § 1982 is added to read:

### § 1982. TESTING OF NEW GROUNDWATER SOURCES

(a) As used in this section, “groundwater source” means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Prior to use of a new groundwater source as a potable water supply, where testing is not otherwise required, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, the

Vermont Realtors, the Vermont Association of Professional Home Inspectors, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsection (b) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to conduct the test;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

Sec. 5. AGENCY OF NATURAL RESOURCES; GROUNDWATER  
SOURCE TESTING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2016. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2017.

Sec. 6. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The ~~commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the certificate; or



(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

\* \* \*

(f) A laboratory certified to conduct testing of groundwater sources or water supplies ~~from~~ under 10 V.S.A. § 1982 or other statute for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall submit the results of groundwater analyses to the ~~department of health~~ Department of Health and the ~~agency of natural resources~~ Agency of Natural Resources in a format required by the ~~department of health~~ Department of Health.

Sec. 7. 10 V.S.A. § 1283(b) is amended to read:

(b) Disbursements under this subsection may be made for emergency purposes or to respond to other than emergency situations; provided, however, that disbursements in response to an individual situation which is not an emergency situation shall not exceed \$100,000.00 for costs attributable to each of the subdivisions of this subsection, unless the Secretary has received the approval of the General Assembly, or the Joint Fiscal Committee, in case the General Assembly is not in session. Furthermore, the balance in the Fund shall not be drawn below the amount of \$100,000.00, except in emergency situations. If the balance of the Fund becomes insufficient to allow a proper response to one or more emergencies that have occurred, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. Within these limitations, disbursements from the Fund may be made:

\* \* \*

(7) to pay costs of management oversight provided by the State for investigation and cleanup efforts conducted by voluntary responsible parties ~~where those responsible parties have contributed monies to the Fund pursuant to a written agreement under subsection (f) of this section;~~

\* \* \*

Sec. 8. 10 V.S.A. § 6615c is added to read:

§ 6615c. INFORMATION REQUESTS

(a)(1) When the Secretary has reasonable cause to believe that the Secretary has identified a person who may be subject to liability for a release or threat of release under section 6615 of this title, the Secretary may require the person to furnish information related to:

(A) The type, nature, and quantity of any commercial chemical product or hazardous material that has been or is being used, generated, treated, stored, or disposed of at a facility or transported to a facility.

(B) The nature or extent of a release or threatened release of a hazardous material from a facility.

(C) Financial information related to the ability of a person to pay for or to perform a cleanup or information surrounding the corporate structure, if any, of such person who may be subject to liability for a release or threat of release under section 6615 of this title.

(2) A person served with an information request shall respond within 10 days of receipt of the request or by the date specified by the Secretary in the request.

(b)(1) A person who has received a request under subsection (a) of this section shall, at the discretion of the Secretary, either:

(A) grant the Secretary access, at reasonable times, to any facility, establishment, place, property, or location to inspect and copy all documents or records relating to information that was related to the request; or

(B) copy and furnish to the Secretary all such information at the option and expense of the person or provide a written explanation that the information has already been provided to the Secretary and a reference to the permit, enforcement action, or other matter under which the Secretary obtained the requested information.

(2) A person responding to a request under subsection (a) of this section may assert any privilege under statute, rule, or common law that is recognized in the State of Vermont to limit access to such information, including the attorney-client privilege. A person responding to a request for information under this section shall not assert privileges related to business confidentiality, including trade secrets, in order to withhold requested information. Any information that is privileged shall be provided to the Secretary with the privileged material redacted. The Secretary may require that a person asserting a privilege under this section provide an index of all privileged information.

(c) The Secretary may require any person who has or may have knowledge of any information listed in subdivisions (a)(1) of this section to appear at the

offices of the Secretary and may take testimony and require the production of records that relate to a release or threatened release of a hazardous material.

(d) Any request for information under this section shall be served personally or by certified mail.

(e) A response to a request under this section shall be personally certified by the person responding to the request that:

(1) the response is accurate and truthful; and

(2) the person has not omitted responsive information or will provide the responsive information according to a production schedule approved by the Secretary.

(f) Information that qualifies for the trade secret exemption under 1 V.S.A. § 317(c)(9) and other financial information submitted under this section shall be confidential and shall not be subject to inspection and copying under the Public Records Act. A person subject to an information request under this section shall be responsible for proving that submitted information qualifies for the trade secret exemption under 1 V.S.A. § 317(c)(9). The following information is not trade secret information or financial information for the purposes of this subsection:

(1) the trade name, common name, or generic class or category of the hazardous material;

(2) the physical properties of the hazardous material, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees Celsius;

(3) the hazards to health and the environment posed by the hazardous material, including physical hazards and potential acute and chronic health hazards;

(4) the potential routes of human exposure to the hazardous material at the facility;

(5) the location of disposal of any waste stream at the facility;

(6) any monitoring data or analysis of monitoring data pertaining to disposal activities;

(7) any hydrogeologic or geologic data; or

(8) any groundwater monitoring data.

(g) As used in this section, "information" means any written or recorded information, including all documents, records, photographs, recordings, e-mail, or correspondence.

Sec. 9. 10 V.S.A. § 6615d is added to read:

§ 6615d. NATURAL RESOURCE DAMAGES; LIABILITY;  
RULEMAKING

(a) Definitions. As used in this section:

(1) “Baseline condition” means the condition or conditions that would have existed at the area of assessed damages had the release of hazardous material not occurred.

(2) “Damages” means the amount of money sought by the Secretary for the injury, destruction, or loss of natural resources.

(3) “Destruction” means the total and irreversible loss of natural resources.

(4) “Injury” means a measurable adverse long-term or short-term change in the chemical or physical quality or viability of a natural resource resulting either directly or indirectly from exposure to a release of hazardous material or exposure to a product of reactions from a release of hazardous materials.

(5) “Loss” means a measurable adverse reaction of a chemical or physical quality of viability of a natural resource.

(6) “Natural resources” means fish, wildlife, biota, air, surface water, groundwater, wetlands, drinking water supplies, or State-held public lands.

(7) “Natural resource damage assessment” means the process of collecting, compiling, and analyzing information, statistics, or data through prescribed methodologies to determine the damages for injuries to natural resources.

(8) “Restoring,” “restoration,” “rehabilitating,” or “rehabilitation” means actions undertaken to return an injured natural resource to its baseline condition, as measured in terms of the injured resource’s physical, chemical, or biological properties or the services it had previously provided, when such actions are in addition to a response action.

(b) Authorization. The Secretary may assess damages against any person found to be liable under section 6615 of this title for a release or threatened release of hazardous material for injury to, destruction of, or loss of natural resources from the release or threatened release. The measure of damages that may be assessed for natural resources damages shall include the cost of restoring or rehabilitating injured, damaged, or destroyed natural resources, compensation for the interim injury to or loss of natural resources pending recovery, and any reasonable costs of the Secretary in conducting a natural resources damage assessment.

(c) Rulemaking; methodology. The Secretary shall adopt rules to implement the requirements of this section, including a methodology by which the Secretary shall assess and value natural resources damages. The rules shall include:

(1) requirements or acceptable standards for the preassessment of natural resources damages, including requirements for:

(A) notification of the Secretary or other necessary persons;

(B) authorized emergency response to natural resources damages, and

(C) sampling or screening of the potentially injured natural resources;

(2) requirements for the a natural resources damages assessment plan to ensure that the natural resources damage assessment is performed in a designed and systematic manner, including:

(A) the categories of reasonable and necessary costs that may be incurred as part of the assessment plan;

(B) the methodologies for identifying and screening costs;

(C) the types of assessment procedures available to the Secretary, when the available procedures are authorized, and the requirements of the available procedures;

(D) how injury or loss shall be determined and how injury or loss is quantified; and

(E) how damages are determined;

(3) requirements for post-natural resources damages assessment, including:

(A) the documentation that the Secretary shall produce to complete the assessment;

(B) how the Secretary shall seek recovery; and

(C) when and whether the Secretary shall require a restoration plan; and

(4) other requirements deemed necessary by the Secretary for implementation of the rules.

(d) Exceptions. The Secretary shall not seek to recover natural resources damages under this section when the person liable for the release or threatened release:

(1) demonstrates that the alleged natural resources damages were identified as a potential irreversible or irretrievable environmental effect on natural resource damages in an application for, renewal of, review of, or other environmental assessment of a permit, certification, license or other required authorization;

(2) the Secretary authorized the identified effect on natural resources in an issued permit, certification, license, or other authorization; and

(3) the person liable for the release or threatened release was operating within the terms of its permit, certification, license, or other authorization.

(e) Limitations. The natural resources damages authorized under this section and the requirements for assessment under the rules authorized by this section shall not limit the authority of the Secretary of Natural Resources to seek or recover natural resource damages under other State law, federal law, or common law.

Sec. 10. NATURAL RESOURCES DAMAGES; COMMENCEMENT;  
ADOPTION

(a) The Secretary of Natural Resources shall consult with interested parties in the adoption of rules under 10 V.S.A. § 6615d.

(b) The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 6615d on or before January 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 6615d on or before November 1, 2017.

(c) On or before February 15, 2017, the Secretary of Natural Resources shall submit to the Senate and House Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources a copy of the draft rules for natural resource damages required under 10 V.S.A. § 6615d for review.

(d) The Secretary of Natural Resources shall not seek natural resources damages under 10 V.S.A. § 6615d until the rules required under 10 V.S.A. § 6615d(c) are effective.

Sec. 11. 10 V.S.A. § 8005(b) is amended to read:

(b) Access orders and information requests.

(1) A Superior Court judge shall issue an access order when access has been refused and the investigator, by affidavit, describes the property to be examined and identifies:

(A) a provision of a permit that authorizes the inspection; or

(B) the property as being scheduled for inspection in accordance with a neutral inspection program adopted by the Secretary or the Natural Resources Board; or

(C) facts providing reasonable grounds to believe that a violation exists and that an examination of the specifically described property will be of material aid in determining the existence of the violation.

(2) A Superior Court shall issue an order requiring compliance with an information request submitted pursuant to section 6615c of this title when:

(A) the person served with the request fails to respond to the request in the time frame identified by the Secretary;

(B) the Secretary submits, by affidavit, facts providing reasonable grounds that a release or threatened release has taken place; and

(C) the information will be of material aid in responding to the release or threatened release.

(3) Issuance of an access order shall not negate the Secretary's authority to initiate criminal proceedings in the same matter by referring the matter to the Office of the Attorney General or a State's Attorney.

## Sec. 12. AGENCY OF NATURAL RESOURCES' WORKING GROUP ON TOXIC CHEMICAL USE IN THE STATE

(a) Formation. On or before July 1, 2016, the Secretary of Natural Resources shall establish a working group of interested parties to develop recommendations for how to improve the ability of the State to:

(1) prevent citizens and communities in the State from being exposed to toxic chemicals, hazardous materials, or hazardous wastes;

(2) identify and regulate the use of toxic chemicals or hazardous materials that currently are unregulated by the State; and

(3) inform communities and citizens in the State of potential exposure to toxic chemicals, including contamination of groundwater, public drinking water systems, and private potable water supplies

(b) Duties. The Working Group shall:

(1) recommend actions the State of Vermont could take to improve how data is collected and what data is collected regarding the location of sites where toxic chemicals, hazardous materials, or hazardous waste is used, stored, or managed; and the proximity of these sites to both public and private water supplies;

(2) recommend actions the State of Vermont could take to improve what information is made available to the public, and how it is made publically available, regarding the risks to private and public drinking water supplies and groundwater from toxic chemicals, hazardous materials, or hazardous waste;

(3) recommend actions the State of Vermont could take to improve the identification process and consistency of listing and regulating hazardous materials, hazardous waste, and toxic chemicals regulated within DEC and the Department of Health, to ensure the State is adequately identifying chemicals that pose a threat to human health, and that it has the necessary tools to prevent and respond to chemical threats to human health;

(4) recommend actions the State of Vermont could take to improve the prevention, detection, and response to the contamination of public drinking water supplies and groundwater from toxic chemicals, hazardous materials, or hazardous waste;

(5) identify potential fiscal issues related to its recommendations, and make recommendations on actions the State of Vermont could take to better fund existing programs and any recommended improvements; and

(6) develop recommended legislative changes that may be needed to implement recommendations and strategies.

(c) The Working Group shall submit a report to the Senate and House Committees on Natural Resources and Energy and to the House Committee on Fish, Wildlife and Water Resources with its findings and recommendations on or before January 15, 2017.

### Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 1 (ANR authorization to adopt surface water rules), 3 (surface water source rules; potable water supply), 6 (certification of laboratories), 7 (Environmental Contingency Fund), 8 (ANR information requests), 9–10 (natural resources damages), 11 (ANR enforcement), and 12 (ANR working group on toxic chemicals) shall take effect on passage.

(b) Secs. 4–5 (testing of new groundwater sources) shall take effect on passage, except that 10 V.S.A. § 1982(b) (the requirement to test new groundwater sources) shall take effect on January 1, 2017.

(c) Sec. 2 (permitting of surface water sources) shall take effect July 1, 2017.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2016, page 429)



## H. 761.

An act relating to cataloguing and aligning health care performance measures.

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

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

### Sec. 1. GREEN MOUNTAIN CARE BOARD; PERFORMANCE MEASURES

The Green Mountain Care Board, in consultation with the Vermont Medical Society, shall survey and catalogue all existing performance measures required of primary care providers in Vermont, including the Centers for Medicare and Medicaid Services' quality measures. The Board shall develop a plan to align performance measures across programs that impact primary care. The plan's goal shall be to reduce the administrative burden of reporting requirements for providers while balancing the need to evaluate quality of and access to care adequately. The Board shall submit the plan to the Senate Committee on Health and Welfare and to the House Committee on Health Care on or before January 15, 2017.

### Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 23, 2016, page 269)

## H. 854.

An act relating to timber trespass.

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

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

Sec. 1. 13 V.S.A. chapter 77 is amended to read:

### CHAPTER 77. TREES AND PLANTS

#### § 3601. DEFINITIONS

As used in this chapter:

(1) “Diameter breast height” or “DBH” means the diameter of a standing tree at four and one-half feet from the ground.

(2) “Harvest” means the cutting, felling, or removal of timber.

(3) “Harvest unit” means the area of land from which timber will be harvested or the area of land on which timber stand improvement will occur.

(4) “Harvester” means a person, firm, company, corporation, or other legal entity that harvests timber.

(5) “Landowner” means the person, firm, company, corporation, or other legal entity that owns or controls the land or owns or controls the right to harvest timber on the land.

(6) “Landowner’s agent” means a person, firm, company, corporation, or other legal entity representing the landowner in a timber sale, timber harvest, or land management.

(7) “Stump diameter” means the diameter of a tree stump remaining after cutting, felling, or destruction.

(8) “Forest products” means logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; or bark.

(9) “Timber” means:

(A) trees of every size, nature, kind, and description; and

(B) sprouts from which trees may grow, seedlings, saplings, bushes, or shrubs that have been planted or cultivated by a person who owns or controls the property where they are located.

§ 3602. UNLAWFUL CUTTING OF TREES VALUATION OF TREES OR TIMBER

~~(a) Any person who cuts, fells, destroys to the point of no value, or substantially damages the potential value of a tree without the consent of the owner of the property on which the tree stands shall be assessed a civil penalty in the following amounts for each tree over two inches in diameter that is cut, felled, or destroyed who is entitled to damages pursuant to section 3606 of this title or who is entitled to restitution for a violation of section 3606a of this title may provide an assessment of the value, based upon the kind, condition, location, and use of the timber cut down, destroyed, removed, injured, damaged, or carried away or, in the alternative, may assess the value of the timber as follows:~~

(1) if ~~the~~ a tree is no more than six inches in stump diameter or DBH, ~~not more than \$25.00~~ \$50.00;

(2) if ~~the~~ a tree is more than six inches and not more than ten inches in stump diameter or DBH, ~~not more than \$50.00~~ \$100.00;

(3) if ~~the~~ a tree is more than 10 inches and not more than 14 inches in stump diameter or DBH, ~~not more than \$150.00~~ \$300.00;

(4) if ~~the~~ a tree is more than 14 inches and not more than 18 inches in stump diameter or DBH, ~~not more than \$500.00~~ \$750.00;

(5) if ~~the~~ a tree is more than 18 inches and not more than 22 inches in stump diameter or DBH, ~~not more than \$1,000.00~~ \$1,500.00;

(6) if ~~the~~ a tree is greater than 22 inches in stump diameter or DBH, ~~not more than \$1,500.00~~ \$2,000.00;

(7) for a bush or shrub, \$50.00.

~~(b) In calculating the diameter and number of trees cut, felled, or destroyed under this section, a law enforcement officer may rely on a written damage assessment completed by a professional arborist or forester.~~

#### § 3603. MARKING HARVEST UNITS

~~A~~ As a best management practice, a landowner who authorizes timber harvesting or who in fact harvests timber shall ~~shall~~ should clearly and accurately mark the harvest unit with ~~flagging or other temporary and~~ visible means ~~the harvest unit~~. Each mark of a harvest unit shall be visible from the next and shall not exceed 100 feet apart. ~~The marking of a harvest unit shall be completed prior to commencement of a timber harvest. If a violation as described in section 3602 of this title occurs due to the failure of a landowner to mark a harvest unit, the landowner who failed to mark a harvest unit in accordance with the requirements of this subsection shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.~~

#### § 3604. EXEMPTIONS

The cutting, felling, or destruction of a tree or the harvest of timber by the following ~~is exempt from the requirements of sections 3602, 3603, and 3606~~ shall not be subject to a civil action under section 3606 of this title or a criminal penalty under section 3606a of this title:

(1) The Agency of Transportation, or its representatives, conducting brush removal on State highways or Agency maintained trails ~~vegetation management~~.

(2) A municipality conducting brush removal subject to the requirements of 19 V.S.A. § 904.

(3) A utility conducting vegetation ~~maintenance~~ management within the boundaries of the utility's established right-of-way.

(4) ~~A harvester harvesting timber that a landowner has authorized for harvest within a harvest unit that has been marked by a landowner under section 3603 of this title. A landowner who harvests timber on his or her own property shall not be a "harvester" for the purposes of this subdivision. [Repealed.]~~

(5) A railroad conducting vegetation ~~maintenance or brush removal in the railroad right-of-way~~ management.

(6) A licensed surveyor establishing boundaries between abutting parcels under 27 V.S.A. § 4.

§ 3606. ~~TREBLE DAMAGES FOR CONVERSION OF TREES OR DEFACING MARKS ON LOGS~~ TRESPASS; CIVIL ACTION

(a) ~~If~~ In addition to any other civil liability or criminal penalty allowed by law, if a person cuts down, fells, destroys, removes, injures, damages, or carries away any tree or trees, brush, or shrubs ~~timber~~ placed or growing for any use or purpose whatsoever, or ~~timber, wood, or underwood~~ forest products standing, lying, or growing belonging to another person, without ~~leave permission~~ permission from the owner of ~~such trees, the timber, wood, or underwood or forest product~~, or cuts out, alters, or defaces the mark of a log or other valuable ~~timber, in a river or other place~~ forest product, the party injured may recover of such person, in an action on this statute, ~~treble damages or for each tree the same amount that would be assessed as a civil penalty under section 3602 of this title, whichever is greater~~ for the value of the timber or forest product, and any damage caused to the land or improvements thereon as a result of such action. The injured party or landowner may rely on an assessment of damages based on the kind, condition, location, and use of the timber or forest product by the injured party or landowner, or alternatively, may elect to rely on the values established under section 3602 of this title.

(b) ~~However, if it appears on trial that the defendant acted through mistake,~~ If the defendant in an action brought pursuant to subsection (a) of this section establishes by a preponderance of the evidence that he or she had good reason to believe that the trees, timber, wood, or underwood or forest products belonged to him or her, or that he or she had a legal right to perform the acts complained of, the plaintiff shall recover single damages only, with costs.

~~(c) For purposes of As used in this section, “damages” shall include any damage caused to the land or improvements thereon as a result of a person cutting, felling, destroying to the point of no value, substantially reducing the potential value, removing, injuring, damaging, or carrying away a trees, timber, wood, or forest products without the consent permission of the owner of the property on which the tree timber stands. If a person cuts down, destroys, or carries away a tree or trees placed or growing for any use or purpose whatsoever or timber, wood, or underwood standing, lying, or growing belonging to another person due to the failure of the landowner or the landowner’s agent to mark the harvest unit properly, as required under section 3603 of this title, a cause of action for damages may be brought against the landowner.~~

§ 3606a. TRESPASS; CRIMINAL PENALTY

(a) No person shall knowingly or recklessly:

(1) cut down, fell, destroy, remove, injure, damage, or carry away any timber or forest product placed or growing for any use or purpose whatsoever, or timber or forest product lying or growing belonging to another person, without permission from the owner of the timber or forest product; or

(2) deface the mark of a log, forest product, or other valuable timber in a river or other place.

(b) Any person who violates subsection (a) of this section shall:

(1) for a first offense, be imprisoned not more than one year or fined not more than \$20,000.00, or both; or

(2) for a second or subsequent offense, be imprisoned not more than two years or fined not more than \$50,000.00, or both.

Sec. 2. 4 V.S.A. § 1102(b) is amended to read:

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

\* \* \*

~~(21) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units. [Repealed.]~~

Sec. 3 . EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2016, page 376)

## H. 860.

An act relating to on-farm livestock slaughter.

### **Reported favorably with recommendation of proposal of amendment by Senator Starr for the Committee on Agriculture.**

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

Sec. 1. 6 V.S.A. § 3311a is amended to read:

§ 3311a. LIVESTOCK; INSPECTION; LICENSING; PERSONAL  
SLAUGHTER; ITINERANT SLAUGHTER

(a) As used in this section:

(1) “Assist in the slaughter of livestock” means the act of slaughtering or butchering an animal and shall not mean the farmer’s provision of a site on the farm for slaughter, provision of implements for slaughter, or the service of disposal of the carcass or offal from slaughter.

(2) “Sanitary conditions” means a site on a farm that is:

(A) clean and free of contaminants; and

(B) located or designed in a way to prevent:

(i) the occurrence of water pollution; and

(ii) the adulteration of the livestock or the slaughtered meat.

(b) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter by an individual of livestock that the individual raised for the individual’s exclusive use or for the use of members of his or her household and his or her nonpaying guests and employees.

(c) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter of livestock that occurs in a manner that meets all of the following requirements:

(1) an individual purchases livestock from a farmer that raised the livestock;

(2) the farmer is registered with the Secretary, on a form provided by the Secretary, as selling livestock for slaughter under this subsection;

(3) the individual who purchased the livestock performs the act of slaughtering the livestock;

~~(3)~~(4) the act of slaughter occurs, after approval from the farmer who sold the livestock, on a site on the farm where the livestock was purchased;

~~(4)~~(5) the slaughter is conducted under sanitary conditions;

~~(5)~~(6) the farmer who sold the livestock to the individual does not assist in the slaughter of the livestock;

~~(6)~~(7) no more than the following number of livestock per year are slaughtered under this subsection:

(A) ~~40~~ 15 swine;

(B) ~~three~~ five cattle;

(C) ~~25~~ 40 sheep or goats; or

(D) any combination of swine, cattle, sheep, or goats, provided that no more than ~~3,500~~ 6,000 pounds of the live weight of livestock are slaughtered per year; ~~and~~

~~(7)~~(8) the farmer who sold the livestock to the individual maintains a record of each slaughter conducted under this subsection and reports to the Secretary, on a form provided by the Secretary, on or before the 15th day of each month regarding all slaughter activity conducted under this subsection in the previous month calendar quarter. If a farmer fails to report slaughter activity conducted under this subsection, the Secretary, in addition to any enforcement action available under this chapter or chapter 1 of this title, may suspend the authority of the farmer to sell animals to an individual for slaughter under this subsection; and

(9) the slaughtered livestock may be halved or quartered by the individual who purchased the livestock but solely for the purpose of transport from the farm.

\* \* \*

Sec. 2. 2013 Acts and Resolves No. 83, Sec. 13 is amended to read:

Sec. 13. REPEAL; LIVESTOCK SLAUGHTER EXEMPTIONS

6 V.S.A. § 3311a (livestock slaughter inspection and license exemptions) shall be repealed on July 1, ~~2016~~ 2019.

Sec. 3. EDUCATION AND OUTREACH; ON-FARM SLAUGHTER

The Secretary of Agriculture, Food and Markets, in consultation with interested parties, shall conduct outreach and education regarding the availability of and requirements for livestock slaughter under 6 V.S.A. § 3311a(c). The education and outreach may include educational materials,

workshops, or classes regarding compliance with the requirements of 6 V.S.A. § 3311a(c).

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(No House amendments)

**H. 861.**

An act relating to regulation of treated article pesticides.

**Reported favorably with recommendation of proposal of amendment by Senator Zuckerman for the Committee on Agriculture.**

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

Sec. 1. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter unless the context clearly requires otherwise:

\* \* \*

(4) “Economic poison” shall have the meaning stated in subdivision 911(5) of this title.

(5) “Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms, which the ~~secretary~~ Secretary declares as being injurious to health or environment. Pest shall not mean any viruses, bacteria, or other micro-organisms on or in living ~~man~~ humans or other living animals.

(6) “Pesticide” for the purposes of this chapter shall be used interchangeably with “~~economic poison~~” poison.”

(7) “Treated article” means a pesticide or class of pesticides exempt under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

Sec. 2. 6 V.S.A. § 1102 is amended to read:

§ 1102. PESTICIDE ADVISORY COUNCIL ESTABLISHED

(a) The Pesticide Advisory Council is established and attached to the Agency of Agriculture, Food and Markets. Members of the Council, except those public members appointed by the Governor, shall be qualified



individuals who, by experience and training, are knowledgeable in one or more areas associated with pest control. The Secretary, or Commissioner as the case may be, shall represent each Department or Agency on the Council:

- (1) The Department of Fish and Wildlife.
- (2) The Department of Environmental Conservation.
- (3) The Agency of Agriculture, Food and Markets.
- (4) The Department of Forests, Parks and Recreation.
- (5) The Department of Health.
- (6) The Agency of Transportation.
- (7) One physician from the College of Medicine of the University of Vermont nominated by its dean.
- (8) One representative in the area of entomology, plant pathology, or weed control from the University of Vermont Extension Service to be named by the director.
- (9) One representative in the area of pesticide research from the Vermont Agricultural Experiment Station named by the dean of the College of Agriculture and Life Sciences of the University of Vermont.
- (10) Two members appointed by the Governor. In choosing these members, the ~~governor~~ Governor shall consider people who have knowledge and qualities that could be useful in pursuing the goals and functions of the Council. One of these members shall have practical experience in commercial agricultural production and shall be appointed in consultation with the Secretary.

\* \* \*

(d) The functions of the Council are:

- (1) To review insect, plant disease, weed, nematode, rodent, noxious wildlife, and other pest control programs within the State and to assess the effect of such programs on human health and comfort, natural resources, water, wildlife, and food and ~~fi~~fiber production; and, where necessary, make recommendations for greater safety and efficiency.
- (2) To serve as the advisory group to State agencies having responsibilities for the use of pesticides as well as to other State agencies and departments.
- (3) To advise the Executive Branch of State government with respect to legislation concerning the use of various pest control measures.

(4) To suggest programs, policies, and legislation for wise and effective pesticide use that lead to an overall reduction in the use of pesticides in Vermont consistent with sound pest or vegetative management practices.

(5) To recommend studies necessary for the performance of its functions as established under this section.

(6) To recommend targets with respect to the State goal of achieving an overall reduction in the use of pesticides consistent with sound pest or vegetative management practices, and to issue an annual report to the General Assembly, detailing the State's progress in reaching those targets and attaining that goal. The targets should be designed to enable evaluation of multiple measures of pesticide usage, use patterns, and associated risks. Targets should take into consideration at a minimum the following:

(A) reducing the amount of acreage where pesticides are used;

(B) reducing the risks associated with the use of pesticides;

(C) increasing the acreage managed by means of integrated pest management techniques;

(D) decreasing, within each level of comparable risk, the quantity of pesticides applied per acre; and

(E) making recommendations regarding the implementation of other management practices that result in decreased pesticide use.

(7) To recommend to the Secretary policies, proposed rules, or legislation for the regulation of the use of a treated article when the Council determines that use of the treated article will have a hazardous or long-term deleterious effect on the environment in Vermont, presents a likely risk to human health, or is dangerous. In developing recommendations under this subdivision, the Council shall review:

(A) alternatives available to a user of a treated article; and

(B) the potential effects on the environment or risks to human health from use of the available alternatives to a treated article.

(e) The Council shall meet semiannually, once in the fall and once in the spring. Meetings at other times may be called by the Governor, by the Chair, or by a member of the Council. Attendance at Council meetings shall not be required of the Commissioners of Departments within the Agency of Natural Resources, or their designees; however, at least one of these Commissioners, or the Commissioner's designee, shall attend each meeting of the Council. ~~Council~~ The Council's proceedings shall be open to the public and its

deliberations shall be recorded and made available to the public, along with its work product.

Sec. 3. 6 V.S.A. § 1105a is added to read:

§ 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST MANAGEMENT PRACTICES

(a) The Secretary of Agriculture, Food and Markets, upon the recommendation of the Pesticide Advisory Council, may adopt by rule:

(1) best management practices, standards, procedures, and requirements relating to the sale, use, storage, or disposal of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(2) requirements for the response to or corrective actions for exigent circumstances or contamination from a treated article that presents a threat to human health or the environment;

(3) requirements by the Secretary for the examination or inspection of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(4) requirements for persons selling treated articles to keep or make available to the Secretary records of sale of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous; or

(5) requirements for reporting of incidents resulting from accidental contamination from or misuse of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous.

(b) At least 30 days prior to prefilng a rule authorized under subsection (a) of this section with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate Committee on Agriculture and the House Committee on Agriculture and Forest Products for review.

Sec. 4. 6 V.S.A. § 1104(3) is amended to read:

(3) Adopt standards, procedures, and requirements relating to the display, sale, use, application, treatment, storage, or disposal of economic

poisons or their waste products and limit the conditions under which the same may be sold, used, treated, stored, or disposed of. The use of pesticides which the ~~secretary~~ Secretary finds to have a hazardous or ~~long-term~~ long-term deleterious effect on the environment shall be restricted, and permits shall be required for their use in accordance with regulations adopted by the ~~secretary~~ Secretary. Specific uses of certain pesticides deemed to ~~be unwise or~~ present a likely risk to human health or be dangerous shall be restricted by regulation or by ordering the deletion of certain uses for registered pesticides from the label on pesticide products to be marketed in the ~~state~~ State. Approved methods for the safe display, storage, and shipping of poisonous pesticides shall be prescribed and enforced. Procedures for the disposal of pesticides which are illegal, obsolete, surplus, or in damaged containers shall be adopted and enforced with the cooperation of the ~~agency of natural resources~~ Agency of Natural Resources;

#### Sec. 5. CONSISTENCY OF TREATED ARTICLE REQUIREMENTS

The Secretary of Agriculture, Food and Markets shall not establish requirements, best management practices, standards, or procedures under 6 V.S.A. § 1105a for a treated article, class of treated articles, or release from a treated article when, and to the extent that, the sale, use, storage, disposal, inspection, recordkeeping, reporting, or corrective action of a treated article, class of treated article, or release from a treated article is regulated by another agency, department, board, or instrumentality of the State under rule, order, practice, procedure, or exercise of statutory authority.

#### Sec. 6. EFFECTIVE DATE

The act shall take effect on July 1, 2016.

(Committee vote: 3-1-1)

(No House amendments)

### NOTICE CALENDAR

#### Second Reading

#### Favorable

#### H. 608.

An act relating to solid waste management.

**Reported favorably by Senator Riehle for the Committee on Natural Resources and Energy.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 11, 2016, page 186)

## Favorable with Proposal of Amendment

### H. 112.

An act relating to access to financial records in adult protective services investigations.

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

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

Sec. 1. 33 V.S.A. § 6911 is amended to read:

#### § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a)(1) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

~~(1)(A)~~ The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee; for purposes of review of expungement petitions filed pursuant to section 4916c of this title; the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

~~(2)(B)~~ Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the

victim or his or her representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

(2) Notwithstanding subdivision (1)(A) of this subsection, financial information made available to an adult protective services investigator pursuant to section 6915 of this title may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services pursuant to subdivision (1)(B) of this subsection, and may also be disclosed to the Commissioner of Financial Regulation when the investigation relates to financial exploitation of a vulnerable adult.

\* \* \*

Sec. 2. 33 V.S.A. § 6915 is added to read:

§ 6915. ACCESS TO FINANCIAL INFORMATION

(a) As used in this chapter:

(1) “A person having custody or control of the financial information” means:

(A) a bank as defined in 8 V.S.A. § 11101;

(B) a credit union as defined in 8 V.S.A. § 30101;

(C) a broker-dealer or investment advisor, as those terms are defined in 9 V.S.A. § 5102; or

(D) a mutual fund as defined in 8 V.S.A. § 3461.

(2) “Capacity” means an individual’s ability to make and communicate a decision regarding the issue that needs to be decided.

(3) “Financial information” means an original or copy of, or information derived from:

(A) a document that grants signature authority over an account held at a financial institution;

(B) a statement, ledger card, or other record of an account held at a financial institution that shows transactions in or with respect to that account;

(C) a check, clear draft, or money order that is drawn on a financial institution or issued and payable by or through a financial institution;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a financial institution and another person's account held at a financial institution;

(E) any information that relates to a loan account or an application for a loan;

(F) information pertaining to an insurance or endowment policy, annuity contract, contributory or noncontributory pension fund, mutual fund, or security, as defined in 9 V.S.A. § 5102; or

(G) evidence of a transaction conducted by electronic or telephonic means.

(4) "Financial institution" means any financial services provider licensed, registered, or otherwise authorized to do business in Vermont, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(b) A person having custody or control of the financial information of a vulnerable adult shall make the information or a copy of the information available to an adult protective services investigator upon receipt of a court order or receipt of the investigator's written request.

(1) The request shall include a statement signed by the account holder, if he or she has capacity, or the account holder's guardian with financial powers or agent under a power of attorney consenting to the release of the information to the investigator.

(2) If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and his or her guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

(A) The account holder is an alleged victim of abuse, neglect, or financial exploitation.

(B) The alleged victim lacks the capacity to consent to the release of the financial information.

(C) Law enforcement is not involved in the investigation or has not requested a subpoena for the information.

(D) The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the information.

(E) Immediate enforcement activity that depends on the information would be materially and adversely affected by waiting until the alleged victim regains capacity.

(F) The Commissioner of Disabilities, Aging, and Independent Living has personally reviewed the request and confirmed that the conditions set forth in subdivisions (A) through (E) of this subdivision (2) have been met and that disclosure of the information is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

(c) If a guardian refuses to consent to the release of the alleged victim's financial information, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

(d) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial information, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial information.

(e) The investigator shall include a copy of the written request in the alleged victim's case file.

(f) The person having custody or control of the financial information shall not require the investigator to provide details of the investigation to support the request for production of the information.

(g) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision 6911(a) (1)(B) of this title and shall not be used against the alleged victim.

(h) The person having custody or control of the financial information shall provide the information to the investigator as soon as possible but, absent extraordinary circumstances, no later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the information.

(i) A person who in good faith makes an alleged victim's financial information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.



(j) The person having custody or control of the financial information of an alleged victim may charge the Department of Disabilities, Aging, and Independent Living no more than the actual cost of providing the information to the investigator and shall not refuse to provide the information until payment is received. A financial institution shall not charge the Department for the information if the financial institution would not charge if the request for the information had been made directly by the account holder.

Sec. 3. 8 V.S.A. § 10204 is amended to read:

#### § 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

\* \* \*

(25) Reports or disclosure of financial or other information to the Department of Disabilities, Aging, and Independent Living, pursuant to 33 V.S.A. §§ 6903(b) ~~and~~, 6904, and 6915.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to access to financial information in adult protective services investigations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 9, 2016, page 325-329)

#### **H. 171.**

An act relating to restrictions on the use of electronic cigarettes.

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

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

First: In Sec. 1, 7 V.S.A. § 1003(d), in subdivision (1)(B), following “in a locked container”, by striking out “that is not located on a sales counter”

Second: In Sec. 2, 18 V.S.A. § 1421, in subsection (a), following “tobacco substitutes”, by inserting as defined in 7 V.S.A. § 1001

Third: In Sec. 7, 23 V.S.A. § 1134b, in subsection (a), following “tobacco substitute”, by inserting as defined in 7 V.S.A. § 1001

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 15, 2016, page 378-381)

#### **H. 280.**

An act relating to amending the State Board of Education rules on school lighting requirements.

**Reported favorably with recommendation of proposal of amendment by Senator Baruth for the Committee on Education.**

The Committee recommends that the Senate propose to the House to amend the bill in subsection (b) by striking out “August 1, 2015” and inserting in lieu thereof August 1, 2016.

(Committee vote: 5-1-0)

(No House amendments)

#### **H. 570.**

An act relating to hunting, fishing, and trapping.

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

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

First: In Sec. 2, 10 V.S.A. § 4611, by amending the title of the section as follows:

§ 4611. SALE OF ~~SALMON, TROUT, AND BLACK BASS~~ FISH

Second: In Sec. 6, 10 V.S.A. § 4503, in the second sentence, after “4781, 4783,” and before “4784” by striking out “and” and inserting or

Third: In Sec. 7, 10 V.S.A. § 4514, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(1) Big game

no more than \$2,000.00  
and no less than \$200.00  
for the first offense and no  
less than \$500.00  
each for a second or  
subsequent offense

Fourth: In Sec. 13, 10 V.S.A. § 4745, and in the second sentence, after “~~deer~~big game under” and before “of this title” by striking out “sections 4826, and 4827” and inserting in lieu thereof the following: section 4826 or 4827

Fifth: By striking out Sec. 19 in its entirety and inserting in lieu thereof the following:

Sec. 19. 10 V.S.A. § 5401 is amended to read:

#### § 5401. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Secretary” means the Secretary of Natural Resources.

(3) “Species” ~~includes all subspecies of~~ means wildlife or wild plants and any subspecies or other group of wildlife or wild plants of the same species, the members of which may interbreed when mature. ~~The term generally refers to species whose continued existence as a viable component of the State’s wild fauna or flora is in jeopardy.~~

(4) “Wildlife” means any member of a nondomesticated species of the animal kingdom, whether reared in captivity or not, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and also including any part, product, egg, offspring, dead body, or part of the dead body of any such wildlife.

(5) “Plant” means any member of the plant kingdom, including seeds, roots, and other parts thereof. As used in this chapter, plants shall include fungi.

(6) “Endangered species” means a species listed ~~on the state endangered species list~~ as endangered under this chapter or ~~determined to be an “endangered species”~~ under the federal Endangered Species Act. ~~The term generally refers to species whose continued existence as a viable component of the State’s wild fauna or flora is in jeopardy.~~

(7) “Threatened species” means a species listed ~~on the State~~ as a threatened species ~~list~~ under this chapter or determined to be a “threatened species” under the federal Endangered Species Act.

(8) “Endangered Species Act” and “federal Endangered Species Act” means the Endangered Species Act of 1973, Public Law 93-205, as amended.

(9) “Habitat” means the physical and biological environment in which a particular species of plant or animal lives.

(10) “Conserve,” “conserving,” and “conservation” mean to use and the use of all methods and procedures ~~both~~ for maintaining or increasing:

(A) the number of individuals within a population of a species;

(B) the number of populations of a species; and

(C) populations of wildlife or wild plants to the optimum carrying capacity of the habitat, ~~and for maintaining those numbers.~~

(11) “Optimum carrying capacity” for a species means a population level of that species which, in that habitat, can ~~indefinitely~~ sustainably coexist with healthy populations of all wildlife and wild plant species normally present.

(12) “Methods” and “procedures” means all activities associated with ~~scientific~~ natural resources management, including, ~~without limitation,~~ scientific research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplanting. The terms also include the periodic or continuous protection of species or populations, where appropriate, and the regulated taking of individuals of the species or population in extraordinary cases where population pressures within a habitat cannot be otherwise relieved.

(13) ~~“Possession” of a member of a species means the state of possessing~~ means holding, controlling, exporting, importing, processing, selling, offering to sell, delivering, carrying, transporting, or shipping by any means a member of ~~that~~ a species.

(14) ~~“Taking,” “Take” or “taking”:~~

(A) ~~with~~ With respect to wildlife ~~means “taking” as defined in section 4001 of this title, and~~ designated a threatened or endangered species, means:

(i) pursuing, shooting, hunting, killing, capturing, trapping, harming, snaring, or netting wildlife;

(ii) an act that creates a risk of injury to wildlife, whether or not the injury occurs, including harassing, wounding, or placing, setting, drawing, or using any net or other device used to take animals; or

(iii) attempting to engage in or assisting another to engage in an act set forth under subdivision (i) or (ii) of this subdivision (14)(A).

(B) ~~with~~ With respect to ~~wild plants~~ a wild plant designated a threatened or endangered species, means uprooting, transplanting, gathering seeds or fruit, cutting, injuring, harming, or killing or any attempt to do the same or assisting another who is doing or is attempting to do the same.

(15) “Accepted silvicultural practices” means the accepted silvicultural practices defined by the Commissioner of Forests, Parks and Recreation, including the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont adopted by the Commissioner of Forests, Parks and Recreation.

(16) “Critical habitat” for a threatened species or endangered species means:

(A) a delineated location within the geographical area occupied by the species that:

(i) has the physical or biological features that are identifiable, concentrated, and decisive to the survival of a population of the species; and

(ii) is necessary for the conservation or recovery of the species; and

(iii) may require special management considerations or protection; or

(B) a delineated location outside the geographical area occupied by a species at the time it is listed under section 5402 of this title that:

(i)(I) was historically occupied by a species; or

(II) contains habitat that is hydrologically connected or directly adjacent to occupied habitat; and

(ii) contains habitat that is identifiable, concentrated, and decisive to the continued survival of a population of the species; and

(iii) is necessary for the conservation or recovery of the species.

(17) “Destroy or adversely impact” means, with respect to critical habitat, a direct or indirect activity that negatively affects the value of critical habitat for the survival, conservation, or recovery of a listed threatened or endangered species.

(18) “Farming” shall have the same meaning as used in subdivision 6001(22) of this title.

(19) “Forestry operations” means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operations” include the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.

(20) “Harming,” as used in the definition of “take” or “taking” under subdivision (14) of this section, means:

(A) an act that kills or injures a threatened or endangered species; or

(B) the destruction or imperilment of habitat that kills or injures a threatened or endangered species by significantly impairing continued survival or essential behavioral patterns, including reproduction, feeding, or sheltering.

Sec. 20. 10 V.S.A. § 5402 is amended to read:

#### § 5402. ENDANGERED AND THREATENED SPECIES LISTS

(a) The Secretary shall adopt by rule a ~~State-endangered~~ State endangered species list and a ~~State-threatened~~ State threatened species list. The listing for any species may apply to the whole State or to any part of the State and shall identify the species by its most recently accepted genus and species names and, if available, the common name.

(b) The Secretary shall determine a species to be endangered if it normally occurs in the State and its continued existence as ~~wildlife or a wild plant in the State~~ a sustainable component of the State’s wildlife or wild plants is in jeopardy.

(c) The Secretary shall determine a species to be threatened if:

(1) it is a sustainable component of the State’s wildlife or wild plants;

(2) it is reasonable to conclude based on available information that its numbers are significantly declining because of loss of habitat or human disturbance; and

(3) unless protected, it will become an endangered species.

(d) In determining whether a species is ~~endangered or threatened~~ or endangered, the Secretary shall consider:

(1) the present or threatened destruction, degradation, fragmentation, modification, or curtailment of the range or habitat of the species;

(2) any killing, harming, or over-utilization of the species for commercial, sporting, scientific, educational, or other purposes;

(3) disease or predation affecting the species;

- (4) the adequacy of existing regulation;
- (5) actions relating to the species carried out or about to be carried out by any governmental agency or any other person who may affect the species; ~~and~~
- (6) competition with other species, including nonnative invasive species;
- (7) the decline in the population;
- (8) cumulative impacts; and
- (9) other natural or ~~man-made~~ human-made factors affecting the continued existence of the species.

(e) In determining whether a species is ~~endangered or threatened~~ or endangered or whether to delist a species, the Secretary shall:

- (1) use the best scientific, commercial, and other data available;
- (2) at least 30 days prior to commencement of rulemaking, notify and consult with interested state or appropriate officials in Canada, appropriate State and federal agencies, other states having a common interest in the species, affected landowners, and any interested persons; and
- (3) notify the ~~governor~~ appropriate officials and agencies of Quebec or any state contiguous to Vermont in which the species affected is known to occur.

Sec. 21. 10 V.S.A. § 5402a is added to read:

§ 5402a. CRITICAL HABITAT; LISTING

(a) Except as provided for under subsection (f) of this section, the Secretary may, after the consultation required under subsection 5408(e) of this section, adopt or amend by rule a critical habitat designation list for threatened or endangered species. Critical habitat may be designated in any part of the State. The Secretary shall not be required to designate critical habitat for every State-listed threatened or endangered species. When the Secretary designates critical habitat, the Secretary shall identify the species for which the designation is made, including its most recently accepted genus and species names, and, if available, its common name.

(b) The Secretary shall designate only critical habitat that meets the definition of “critical habitat” under this chapter. In determining whether and where to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall, after consultation with and consideration of recommendations of the Secretary of Agriculture, Food and Markets, the Secretary of Transportation, the Secretary of Commerce and Community

Development, and the Commissioner of Forests, Parks and Recreation, consider the following:

- (1) the current or historic use of the habitat by the listed species;
  - (2) the extent to which the habitat is decisive to the survival and recovery of the listed species at any stage of its life cycle;
  - (3) the space necessary for individual and population growth of the listed species;
  - (4) food, water, air, light, minerals, or other nutritional or physiological requirements of the listed species;
  - (5) cover or shelter for the listed species;
  - (6) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; migration corridors; and overwintering;
  - (7) the present or threatened destruction, degradation, fragmentation, modification, or curtailment of the range or habitat of the listed species;
  - (8) the adequacy of existing regulation;
  - (9) actions relating to the listed species carried out or about to be carried out by any governmental agency or any other person that may affect the listed species;
  - (10) cumulative impacts; and
  - (11) natural or human-made factors affecting the continued existence of the listed species.
- (c) In determining whether to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall:
- (1) use the best scientific, commercial, and other data available;
  - (2) notify and consult with appropriate officials in Canada, appropriate State and federal agencies, other states having a common interest in the species, affected landowners, any municipality where the proposed designation is located, and any interested persons at least 60 days prior to commencement of rulemaking;
  - (3) notify the appropriate officials and agencies of Quebec and any state contiguous to Vermont in which the species affected is known to occur; and
  - (4) if a critical habitat designation is proposed in a growth center, new town center, or neighborhood development area designated under 24 V.S.A. chapter 76A, notify the Secretary of Commerce and Community Development and any municipality in which the designation is proposed.



(d) Prior to initiating rulemaking under this section to designate critical habitat, the Secretary shall notify the owner of record of any land on which critical habitat is proposed for designation. The Secretary shall make all reasonable efforts to work cooperatively with affected landowners.

(e) Where appropriate, the Secretary shall include well-established mitigation practices and best management practices in the critical habitat designation rule.

(f) The Secretary shall not designate critical habitat in a designated downtown or village center, designated under 24 V.S.A. chapter 76A.

Sec. 22. 10 V.S.A. § 5403 is amended to read:

§ 5403. PROTECTION OF ENDANGERED AND THREATENED SPECIES

(a) Except as authorized under this chapter, a person shall not:

(1) take, possess, or transport wildlife or wild plants that are members of an endangered or a threatened or endangered species; or

(2) destroy or adversely impact critical habitat.

(b) Any person who takes a threatened or endangered species shall report the taking to the Secretary.

(c) The Secretary may, with advice of the Endangered Species Committee and after the consultation required under subsection 5408(e) of this section, adopt rules for the protection and, conservation, or recovery of endangered and threatened species. The rules may establish application requirements for an individual permit or general permits issued under this section, including requirements that differ from the requirements of subsection 5408(h) of this title.

~~(e)~~(d) The Secretary may bring ~~a civil~~ an environmental enforcement action against any person who violates subsection (a) or (b) of this section or rules adopted under this chapter in accordance with chapters 201 and 211 of this title.

~~(d)~~(e) Instead of bringing ~~a civil~~ an environmental enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may refer violations of this chapter to the Commissioner of Fish and Wildlife for criminal enforcement.

~~(e)~~(f) A In a criminal enforcement action, a person who knowingly violates a requirement of this chapter or a rule of the Secretary adopted under subsection (b)(c) of this section related to taking, possessing, transporting, buying, or selling a threatened or endangered species shall be fined not more

~~than \$500.00~~ in accordance with section 4518 of this title, and the person shall pay restitution under section 4514 of this title.

~~(f)~~(g) Any person who violates subsection (a) or (b) of this section by knowingly injuring a member of a threatened or endangered species or knowingly destroying or adversely impacting critical habitat and who is subject to criminal prosecution may be required by the court to pay restitution for:

(1) actual costs and related expenses incurred in treating and caring for the injured plant or animal to the person incurring these expenses, including the costs of veterinarian services and Agency of Natural Resources staff time; or

(2) reasonable mitigation and restoration costs such as: species restoration plans; habitat protection; and enhancement, transplanting, cultivation, and propagation ~~for plants~~.

Sec. 23. 10 V.S.A. § 5404 is amended to read:

#### § 5404. ENDANGERED SPECIES COMMITTEE

(a) A ~~Committee~~ committee on endangered species is created to be known as the “Endangered Species Committee,” and shall consist of nine members, including the Secretary of Agriculture, Food and Markets, the Commissioner of Fish and Wildlife, the Commissioner of Forests, Parks and Recreation, and six members appointed by the Governor from the public at large. Of the six public members, two shall be actively engaged in agricultural or silvicultural activities, two shall be knowledgeable concerning flora, and two shall be knowledgeable concerning fauna. Members appointed by the Governor shall be entitled to reimbursement for expenses incurred in the attendance of meetings, as approved by the Chair. The Chair of the Committee shall be elected from among and by the members each year. Members who are not employees of the State shall serve terms of three years, except that the Governor may make appointments for a lesser term in order to prevent more than two terms from expiring in any year.

(b) The Endangered Species Committee shall advise the Secretary on all matters relating to endangered and threatened species, including whether to alter the lists of endangered and threatened species ~~and~~, how to protect those species, and whether and where to designate critical habitat.

(c) The Agency of Natural Resources shall provide the Endangered Species Committee with necessary staff services.

Sec. 24. 10 V.S.A. § 5405 is amended to read:

#### § 5405. CONSERVATION PROGRAMS

The Secretary, with the advice of the Endangered Species Committee, may establish conservation programs and establish recovery plans for the conservation or recovery of threatened or endangered species of wildlife or plants or for the conservation or recovery of critical habitat. The programs may include the purchase of land or aquatic habitat and the formation of contracts for the purpose of management of wildlife or wild plant refuge areas or for other purposes.

Sec. 25. 10 V.S.A. § 5406 is amended to read:

§ 5406. COOPERATION BY OTHER AGENCIES

All agencies of this State shall review programs administered by them which may relate to this chapter and shall, in consultation with the Secretary, utilize their authorities only in a manner which does not jeopardize the threatened or endangered species, critical habitat, or the outcomes of conservation or recovery programs established by this chapter or by the Secretary under ~~his~~ his or her authority.

Sec. 26. 10 V.S.A. § 5407 is amended to read:

§ 5407. ENFORCEMENT AUTHORITY TO SEIZE THREATENED OR ENDANGERED SPECIES

In addition to other methods of enforcement authorized by law, the Secretary may direct under this section that wildlife or wild plants ~~which~~ that were seized because of violation of this chapter be rehabilitated, released, replanted, or transferred to a zoological, botanical, educational or scientific institution, and that the costs of the transfer and staff time related to a violation may be charged to the violator. The Secretary, with the advice of the Endangered Species Committee, may adopt rules for the implementation of this section.

Sec. 27. 10 V.S.A. § 5408 is amended to read:

§ 5408. LIMITATIONS AUTHORIZED TAKINGS; INCIDENTAL TAKINGS; DESTRUCTION OF CRITICAL HABITAT

(a) Authorized taking. Notwithstanding any provision of this chapter, after obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as the Secretary may, ~~prescribe by rule,~~ require as necessary to carry out the purposes of this chapter, the taking of a threatened or endangered species, the destruction of or adverse impact on critical habitat, or any act otherwise prohibited by this chapter if done for any of the following purposes:

- (1) scientific purposes;

(2) to enhance the propagation or survival of a threatened or endangered species; ~~economic hardship~~;

(3) zoological exhibition;

(4) educational purposes;

(5) noncommercial cultural or ceremonial purposes; or

(6) special purposes consistent with the purposes of the federal Endangered Species Act.

(b) Incidental taking. After obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as necessary to carry out the purposes of this chapter, the incidental taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat if:

(1) the taking is necessary to conduct an otherwise lawful activity;

(2) the taking is attendant or secondary to, and not the purpose of, the lawful activity;

(3) the impact of the permitted incidental take is minimized; and

(4) the incidental taking will not impair the conservation or recovery of any endangered species or threatened species.

(c) Transport through State. Nothing in this chapter shall prevent a person who holds a proper permit from the federal government or any other state from transporting a member of ~~an endangered or a threatened or endangered~~ species from a point outside this State ~~to another point within or without this~~ through the State.

~~(d)~~(d) Possession. Nothing in this chapter shall prevent a person from possessing in this State wildlife or wild plants which are not determined to be “endangered” or “threatened” under the federal Endangered Species Act where the possessor is able to produce substantial evidence that the wildlife or wild plant was first taken or obtained in a place without violating the law of that place, provided that an importation permit may be required under section 4714 of this title or the rules of the Department of Fish and Wildlife.

~~(d)~~(e) Interference with agricultural or silvicultural practices. No rule adopted under this chapter shall cause undue interference with ~~normal agricultural or~~ farming, forestry operations, or accepted silvicultural practices. This section shall not be construed to exempt any person from the provisions of the ~~federal Endangered Species Act~~ requirements of this chapter. The Secretary shall not adopt rules that affect farming, forestry operations, or accepted silvicultural practices without first consulting the Secretary of

Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation.

(f) Consistency with State law. Nothing in this chapter shall be interpreted to limit or amend the definitions and applications of necessary habitat in chapter 151 of this title or in 30 V.S.A. chapter 5.

~~(e)~~(g) Effect on federal law. Nothing in this section permits a person to violate any provision of federal law concerning federally protected threatened or endangered species.

(h) Permit application. An applicant for a permit under this section shall submit an application to the Secretary that includes the following information:

(1) a description of the activities that could lead to a taking of a listed threatened or endangered species or the destruction of or adverse impact on critical habitat;

(2) the steps that the applicant has or will take to avoid, minimize, and mitigate the impact to the relevant threatened or endangered species or critical habitat;

(3) a plan for ensuring that funding is available to conduct any required monitoring and mitigation, if applicable;

(4) a summary of the alternative actions to the taking or destruction of critical habitat that the applicant considered and the reasons that these alternatives were not selected, if applicable;

(5) the name or names and obligations and responsibilities of the person or persons that will be involved in the proposed taking or destruction of critical habitat; and

(6) any additional information that the Secretary may require.

~~(f)~~(i) Permit fees.

(1) Fees to be charged to a person applying to take a threatened or endangered species under this section shall be:

(A) ~~F~~o take for scientific purposes, to enhance the propagation or survival of the species, noncommercial cultural or ceremonial purposes, or for educational purposes or special purposes consistent with the federal Endangered Species Act, \$50.00;

(B) ~~F~~o take for a zoological or botanical exhibition ~~or to lessen an economic hardship~~, \$250.00 for each listed ~~animal or plant~~ wildlife or wild plant taken up to a maximum of \$25,000.00 ~~or, if the Secretary determines that~~

~~it is in the best interest of the species, the parties may agree to mitigation in lieu of a monetary fee; and~~

(C) for an incidental taking, \$250.00 for each listed wildlife or wild plant taken up to a maximum of \$25,000.00.

(2) The Secretary may require the implementation of mitigation strategies and may collect mitigation funds, in addition to the permit fees, in order to mitigate the impacts of a taking or the destruction of or adverse impact on critical habitat. Mitigation may include:

(A) a requirement to rectify the taking or adverse impact or to reduce the adverse impact over time;

(B) a requirement to manage or restore land within the area of the proposed activity or in an area outside the proposed area as habitat for the threatened or endangered species;

(C) compensation, including payment into the Threatened and Endangered Species Fund for the uses of that Fund, provided that any payment is commensurate with the taking or adverse impact proposed; or

(3) Fees ~~or~~ and mitigation payments collected under this subsection and interest on fees and mitigation payments shall be deposited in the Threatened and Endangered Species Fund ~~within the Fish and Wildlife Fund, which Fund is hereby created~~ and shall be used solely for expenditures of the Department of Fish and Wildlife related to threatened and endangered species. Expenditures may be made for monitoring, restoration, conservation, recovery, and the acquisition of property interests and other purposes consistent with this chapter. Where practical, the fees collected for takings shall be devoted to the conservation or recovery of the taken species or its habitat. Interest accrued on the Fund shall be credited to the Fund.

~~(g)~~(j) Permit term. A permit issued under this section shall be valid for the period of time specified in the permit, not to exceed five years. A permit issued under this section may be renewed upon application to the Secretary.

(k) Public notice. Prior to issuing a permit for an incidental taking and prior to the initial issuance or amendment of a general permit under this section, the Secretary shall provide for: public notice of no fewer than 30 days; opportunity for written comment; and opportunity to request a public informational hearing. The Secretary shall post permit applications, permit decisions, and the initial or amended general permits on the website of the Agency of Natural Resources. The Secretary also shall provide notice to interested persons who request notice of permit applications, permit decisions, and proposed general permits or proposed amendments to general permits.

(1) General permits.

(1) The Secretary may issue general permits for activities that will not affect the continued survival or recovery of a threatened or endangered species.

(2) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure compliance with the provisions of this statute.

(3) These terms and conditions may include the implementation of best management practices and the adoption of specific mitigation measures and required surveying, monitoring, and reporting.

(4) The Secretary may issue a general permit to take a threatened or endangered species or destroy or adversely impact critical habitat only if an activity or class of activities satisfies one or more of the following criteria:

(A) the taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat is necessary to address an imminent risk to human health;

(B) a proposed taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat would enhance the overall long-term survival of the species; or

(C) the Secretary has approved best management practices that are designed, when applied, to minimize to the greatest extent possible the taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat.

(5) On or before September 1, 2017, the Secretary shall issue a general permit for vegetation management and operational and maintenance activities conducted by a utility. The general permit shall have a five-year term. A one-time application for coverage by a utility shall be made for activities authorized by the general permit, and coverage under the general permit shall be for the term of the general permit. Until the general permit has been issued, no critical habitat designation for wild plants shall be made in utility right-of-way. As used in this subdivision (5), "utility" means an electric company, telecommunication company, pipeline operator, or railroad company.

(6) Prior to issuing an initial or amended general permit under this subsection, the Secretary shall:

(A) post a draft of the general permit on the Agency website;

(B) provide public notice of at least 30 days; and

(C) provide for written comments or a public hearing, or both.

(7) For applications for coverage under the terms of an issued general permit, the applicant shall provide notice on a form provided by the Secretary. The Secretary shall post notice of the application on the Agency website and shall provide an opportunity for written comment, regarding whether the application complies with the terms and conditions of the general permit, for ten days following receipt of the application.

(8) The Secretary may require any applicant for coverage under a general permit to submit additional information that the Secretary considers necessary and may refuse to approve coverage under the terms of a general permit until the information is furnished and evaluated.

(9) The Secretary may require any applicant for coverage under a general permit to seek an individual permit under this section if the applicant does not qualify for coverage.

(10) The Secretary may require a person operating under a general permit issued under this section to obtain an individual permit under this section if the person proposes to destroy or adversely impact critical habitat that was designated under section 5402a of this title after issuance of the general permit, unless existing best management practices approved under the general permit adequately protect the critical habitat or have been amended to do so prior to the critical habitat designation pursuant to section 5402a of this title.

Sec. 28. 10 V.S.A. § 5410 is amended to read:

§ 5410. LOCATION CONFIDENTIAL

(a) ~~All information~~ The Secretary shall not disclose information regarding the specific location of threatened or endangered species sites ~~shall be kept confidential in perpetuity~~ except that the Secretary shall disclose this information ~~to~~ regarding the location of the threatened or endangered species to:

(1) the owner of land upon which the species ~~has been~~ is located, ~~or to~~;

(2) a potential buyer of land upon which the species is located who has a bona fide contract to buy the land and applies to the Secretary for disclosure of threatened or endangered species information, ~~and to~~; or

(3) qualified individuals or organizations, public agencies and nonprofit organizations for scientific research or for preservation and planning purposes when the Secretary determines that the preservation of the species is not further endangered by the disclosure.

(b) When the Secretary issues a permit under this chapter to take a threatened or endangered species or destroy or adversely impact critical habitat



and when the Secretary designates critical habitat by rule under section 5402a of this title, the Secretary shall disclose only the municipality and general location where the threatened or endangered species or designated critical habitat is located. When the Secretary designates critical habitat under section 5402a of this title, the Secretary shall notify the municipality in which the critical habitat is located and shall disclose the general location of the designated critical habitat.

Sec. 29. STATUTORY REVISION

The Office of Legislative Council, in its statutory revision capacity, is directed to renumber the subdivisions of 10 V.S.A. § 5401 in numerical and alphabetical order and to correct any cross-references in statute to 10 V.S.A. § 5401 to reflect the renumbered subdivisions.

Sec. 30. FEE RECOMMENDATION; PERMIT TO DESTROY OR ADVERSELY IMPACT CRITICAL HABITAT

The consolidated Executive Branch fee report and request to be submitted on or before the third Tuesday of January 2018 pursuant to 32 V.S.A. § 605 shall include a recommendation from the Agency of Natural Resources of a fee for a permit under 10 V.S.A. § 5408 to destroy or adversely impact critical habitat of a State-listed threatened or endangered species. The recommendation shall include whether the owner of property where critical habitat is designated under 10 V.S.A. § 5402a should be required to pay a fee for a permit to destroy or adversely impact critical habitat on his or her property.

Sec. 31. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

\* \* \*

(w)(1) A permit or permit amendment shall not be required for a change to a sport shooting range, as defined in section 5227 of this title, if a jurisdictional opinion issued under subsection 6007(c) of this title determines that each of the following applies:

(A) The range was in operation before January 1, 2006 and has been operating since that date.

(B) The change is for the purpose of one or more of the following:

(i) To improve the safety of range employees, users of the range, or the public.

(ii) To abate noise from activities at the range. A qualified noise abatement professional may certify that a change in a sport shooting range is for this purpose and this certification shall be conclusive evidence that a purpose of the change is to abate noise from activities at the range.

(iii) To remediate, mitigate, or reduce impacts to air or water quality from the range or the deposit or disposal of waste generated by the range or its use, provided that the range has an environmental stewardship plan approved by the Department of Environmental Conservation, in accordance with chapter 159 of this title.

(2) Obtaining a certification described in subdivision (1)(B)(ii) of this subsection shall be at the option of the range's owner.

#### Sec. 32. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that Secs. 1 (regulation of fish), 2 (commercial sale of fish), and 3 (importation and stocking of fish) shall take effect on January 1, 2017.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 11, 2016, page 355-365)

#### **H. 571.**

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties.

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

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

\* \* \* 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><br><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.

\* \* \* Motor Vehicle Insurance and Credit History \* \* \*

#### Sec. 28. 8 V.S.A. § 4203(7) is added to read:

(7) An insurer engaged in writing private passenger motor vehicle insurance in Vermont shall not consider an applicant's or an insured's credit information, including a numerical credit-based insurance score or other credit

rating, in connection with underwriting such insurance. This subdivision shall not be construed to limit an insurer from obtaining or using its own payment history information or information contained in an insurance claims history report, a motor vehicle driver history report, or any other report from a motor vehicle registry when underwriting motor vehicle insurance.

\* \* \* 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), and Secs. 4–16 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes) 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.

And that after passage the title of the bill be amended to read: “An act relating to driver’s license suspensions and judicial, criminal justice, and insurance topics”

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2016, page 383-408)

#### **H. 622.**

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect.

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

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

Sec. 1. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

\* \* \*

(c) Any mandated reporter who reasonably suspects abuse or neglect of a child shall report in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed. ~~A mandated reporter who reasonably suspects abuse or neglect of a child, and who has written confirmation that the same incident of suspected abuse or neglect was already reported, is not required to report that same incident of suspected abuse or neglect if the mandated reporter is reasonably certain that there is no additional information to report.~~

\* \* \*

(h)(1) A person who violates subsection ~~(a)~~(c) of this section shall be fined not more than \$500.00.

(2) A person who violates subsection ~~(a)~~(c) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

(3) This section shall not be construed to prohibit a prosecution under any other provision of law.

(4) It shall be an affirmative defense to a charge under subsection (c) of this section that the mandated reporter did not report in accordance with subsection (c) because the person had written confirmation that the same incident of suspected abuse or neglect was already reported and the mandated reporter was reasonably certain that he or she had no additional information to report. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence. The affirmative defense shall not apply to a person who violates subsection (c) of this section with the intent to conceal abuse or neglect of a child.

(5) Prior to charging a mandated reporter under subsection (c) of this section, the prosecutor shall make a reasonable inquiry into whether the mandated reporter had written confirmation that the same incident of suspected abuse or neglect was already reported and whether the mandated reporter was reasonably certain that he or she had no additional information to report.

(i) Except as provided in subsection ~~(h)~~(j) of this section, a person may not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(j) A member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is:

(1) made to a member of the clergy acting in his or her capacity as spiritual advisor;

(2) intended by the parties to be confidential at the time the communication is made;

(3) intended by the communicant to be an act of contrition or a matter of conscience; and

(4) required to be confidential by religious law, doctrine, or tenet.

(k) When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection ~~(h)~~(j) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection ~~(h)~~(j) of this section.

## Sec. 2. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT COMMITTEE; 2016 INTERIM RESPONSIBILITIES; PRIVILEGED COMMUNICATIONS

During the 2016 legislative interim, the Joint Legislative Child Protection Oversight Committee shall:

(1) review issues related to patient privilege, confidentiality of patient records and information, and the statutes and rules governing professional conduct; and

(2) analyze the extent to which those professional obligations identified in subdivision (1) interfere with the ability of certain professional mandated reporters to cooperate with the Department for Children and Families, law enforcement, and prosecutors during an ongoing child protection assessment, investigation, or proceeding.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 11, 2016, page 187 and February 19, 2016, page 255)



## H. 677.

An act relating to the Restitution Unit.

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

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

Sec. 1. 13 V.S.A. § 7043(n) is amended to read:

(n)(1) Any monies owed by the State to an offender who is under a restitution order, including lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the Courts.

(2) The Office of the Treasurer shall, prior to delivery or payment of unclaimed property valued at \$50.00 or more to a claimant pursuant to 27 V.S.A. § 1255, determine whether the claimant has an outstanding restitution order.

(A) The Restitution Unit shall inform the Treasurer of persons with outstanding restitution orders. Each person subject to such an order shall be identified by name and Social Security or federal identification number.

(B) If any such claimant owes restitution, the Restitution Unit, after notice to the owner, may request and the Treasurer shall transfer unclaimed property of such owner valued at \$50.00 or more to the Restitution Unit to be applied to the amount of restitution owed. The notice shall advise the owner of the action being taken and, if he or she is not the person liable under the Restitution Judgment Order, the right to appeal the setoff; or advise the owner if the underlying conviction was vacated or is under appeal.

(3) When an offender is entitled to a tax refund, any restitution owed by the offender shall be withheld from the refund pursuant to 32 V.S.A. chapter 151, subchapter 12.

~~(3)~~(4)(A) For all Vermont lottery games, the Lottery Commission shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the Lottery Commission shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The Restitution Unit shall inform the Lottery Commission of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a lottery winner has an outstanding restitution order and an outstanding child support order, the lottery winnings shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

~~(4)~~(5) Unless otherwise provided, monies paid under this subsection shall be paid directly to the Restitution Unit.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 12, 2016, page 203)

## H. 690.

An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants.

### **Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Health and Welfare.**

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, 26 V.S.A. § 3402, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read:

(f) This chapter shall not be construed to limit or restrict in any way the right of a licensed practitioner of a health care profession regulated under this title from performing services within the scope of his or her professional practice.

And that after passage the title of the bill be amended to read:

An act relating to the practice of acupuncture by health care professionals acting within their scope of practice.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2016, page 431.)

## H. 857.

An act relating to timber harvesting.

### **Reported favorably with recommendation of proposal of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

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

\* \* \* General Policy and Enforcement Provisions \* \* \*

Sec. 1. 10 V.S.A. § 2600 is added to read:

#### § 2600. FINDINGS

The General Assembly finds that:

(1) Private and public forestlands:

(A) constitute unique and irreplaceable resources, benefits, and values of statewide importance;

(B) contribute to the protection and conservation of wildlife habitat, air, water, and soil resources of the State;

(C) mitigate the effects of climate change; and

(D) benefit the general health and welfare of the people of the State.

(2) The forest products industry, including maple sap collection:

(A) is a major contributor to and is valuable to the State's economy by providing jobs to its citizens;

(B) is essential to the manufacture of forest products that are used and enjoyed by the people of the State; and

(C) benefits the general welfare of the people of the State.

(3) Private and public forestlands are critical for and contribute significantly to the State's outdoor recreation and tourism economies.

(4) Forestry operations are adversely affected by the encroachment of urban, commercial, and residential land uses throughout the State that result in forest fragmentation and conversion and erode the health and sustainability of remaining forests.

(5) As a result of encroachment on forests, conflicts have arisen between traditional forestry land uses, and urban, commercial, and residential land uses convert forestland permanently to other uses, resulting in an adverse impact to the economy and natural environment of the State.

(6) The encouragement, development, improvement, and preservation of forestry operations will result in a general benefit to the health and welfare of the people of the State and the State's economy.

(7) The forest products industry, in order to survive, likely will need to change, adopt new technologies, and diversify into new products.

Sec. 2. 10 V.S.A. § 2601 is amended to read:

§ 2601. POLICY AND PURPOSES

(a) The conservation of the forests, timberlands, woodlands, and soil and recreational resources of the ~~state~~ State are hereby declared to be in the public interest. It is the policy of the ~~state~~ State to encourage economic management of its forests and woodlands, to sustain long-term forest health, integrity, and productivity, to maintain, conserve, and improve its soil resources, and to control forest pests to the end that forest benefits, including maple sugar production, are preserved for its people, floods and soil erosion are alleviated, hazards of forest fires are lessened, its natural beauty is preserved, its wildlife is protected, the development of its recreational interests is encouraged, the fertility and productivity of its soil are maintained, the impairment of its dams and reservoirs is prevented, its tax base is protected, and the health, safety, and general welfare of its people are sustained and promoted.

(b) The ~~department~~ Department shall implement the policies of this chapter by assisting ~~forest land~~ forestland owners and lumber operators in the cutting and marketing of forest growth, encouraging cooperation between forest owners, lumber operators, and the ~~state~~ State of Vermont in the practice of conservation and management of ~~forest lands~~ forestlands, managing, promoting, and protecting the multiple use of publicly owned forest and park lands; planning, constructing, developing, operating, and maintaining the system of ~~state~~ State parks; determining the necessity of repairs and replacements to all ~~department-owned~~ Department-owned buildings and causing urgent repairs and replacements to be accomplished, with the approval of the ~~secretary of administration~~ Secretary of Administration, if within the limits of specific appropriations or if approved by the ~~emergency board~~ Emergency Board; and providing advice and assistance to municipalities, other political subdivisions, ~~state~~ State departments and nongovernmental organizations in the development of wholesome and adequate community or institutional recreation programs.

(c) The Commissioner shall implement the policy established under this section when constructing the provisions of this chapter related to the management of forestlands and the construction of chapters 85 and 87 of this title.

Sec. 3. 10 V.S.A. § 2602 is amended to read:

§ 2602. DEFINITIONS

As used in this chapter:

(1) “Agency” means the ~~agency of natural resources~~ Agency of Natural Resources as created by 3 V.S.A. chapter 51 of Title 3;

(2) “Department” means the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation within the ~~agency of natural resources~~; Agency of Natural Resources.

(3) “Commissioner” means the ~~commissioner of the department of forests, parks and recreation~~; Commissioner of Forests, Parks and Recreation.

(4) “Secretary” means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources.

(5) “Forest product” mean logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

(6) “Forestry operation” means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.

(7) “Timber” means trees, saplings, seedlings, bushes, shrubs, and sprouts from which trees may grow, of every size, nature, kind, and description.

(8) “Timber harvest” means a forestry operation involving the harvest of timber.

Sec. 4. 10 V.S.A. § 2608 is amended to read:

§ 2608. ENFORCEMENT; PENALTIES; LIABILITY

(a) ~~Enforcement of the provisions of this chapter or any regulations or proclamations promulgated~~ rules adopted hereunder shall be in accordance with ~~the provisions of 3 V.S.A. § 2822(e)~~ chapter 201 or 211 of this title.

(b) ~~A person who violates any provision of this chapter or regulations or proclamations promulgated hereunder, or neglects or refuses to assist a fire warden when called upon to do so as provided in section 2644 of this title, shall be imprisoned not more than 30 days or fined not more than \$ 50.00, or both. Such person shall be liable for all damages resulting from a violation to be recovered in a civil action under this statute by the person injured.~~

\* \* \* Harvest Notification \* \* \*

Sec. 5. 10 V.S.A. § 2612a is added to read:

§ 2612a. HARVEST NOTIFICATION; PILOT PROGRAM

(a) Findings. The General Assembly finds that:

(1) The public will benefit from accountability of persons conducting timber harvests by providing a mechanism for the Department to distribute information and guidance to achieve compliance with existing laws and programs related to harvesting, including Use Value Appraisal eligibility requirements, and those that protect landowners, the environment, and the economy.

(2) Enforcement of compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont will be facilitated through notification and documentation of timber harvests.

(3) Owners of forestlands will benefit from proactive and timely delivery of guidance and resources that support successful forestry operations, including timber harvesting, provided by the Department, including the Vermont Voluntary Harvesting Guidelines.

(4) State knowledge of harvest locations will improve the understanding of factors affecting the forest economy, thereby informing opportunities to support it.

(b) Harvest notification; pilot. The Commissioner shall establish a harvest notification pilot program under which a landowner of property may notify the Commissioner prior to commencement of a timber harvest. The process established by the Commissioner shall allow for a harvest notification by electronic means, telephone, or paper submission.

(c) Requested information. The Commissioner shall designate the information to be submitted to the Department in a voluntary harvest notification. The requested information shall contain, at a minimum, the following information:

(1) the landowner's name; mailing address; physical address of residence; e-mail address, if any; and telephone number;

(2) the name of the harvester or contractor conducting the harvest and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(3) the name of the landowner's agent or consulting forester, if any, and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(4) the location of the timber harvest, including the town and the nearest public town highway used to access the timber harvest;

(5) the school property account number (SPAN) of the parcel where the timber harvest will occur;

(6) the estimated date the timber harvest will commence and the estimated date the harvest will be completed;

(7) the estimate of the acreage of the timber harvest area; and

(8) whether the parcel where the timber harvest will occur is enrolled in the use value appraisal program.

(d) Harvest number; technical assistance. Upon receipt of a complete harvest notification, the Commissioner shall assign a unique harvest number to the timber harvest and shall provide the landowner with technical guidance or information, including: a sample timber sale contract; voluntary harvesting guidelines; guidance on compliance with maintaining water quality protection during a timber harvest; and referral, where applicable, to appropriate natural resource professionals.

(e) Confidentiality. Information submitted by a landowner in a voluntary harvest notification under this section is confidential and exempt from public inspection under the Public Records Act.

Sec. 6. DEPARTMENT OF FORESTS, PARKS AND RECREATION;  
HARVEST NOTIFICATION UPDATE

On or before February 1, 2018, the Commissioner of Forests, Parks and Recreation shall testify before or submit written testimony to the House Committees on Natural Resources and Energy and on Agriculture and Forest Products and the Senate Committee on Natural Resources and Energy regarding implementation of the Harvest Notification Pilot Program established under 10 V.S.A. § 2612a. The testimony shall include:

(1) Summarize implementation of and participation in the Pilot Program, including the number of harvest notifications received.

(2) Summarize the technical assistance and information provided to landowners under the program.

(3) Summarize the effectiveness of the program in increasing compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont.

(4) Summarize whether the Pilot Program increased the amount or quality of information collected by the Department of Forests, Parks and Recreation regarding timber harvests in the State.

(5) Recommend whether harvest notification should be a voluntary or mandatory program.

Sec. 7. SUNSET; HARVEST NOTIFICATION PILOT PROGRAM

10 V.S.A. § 2612a (Harvest Notification Pilot Program) shall be repealed on June 30, 2018.

Sec. 8. 10 V.S.A. § 2613 is added to read:

§ 2613. HARVEST NOTIFICATION; RULEMAKING; REQUIREMENT

(a) On or before July 1, 2018, the Commissioner of Forests, Parks and Recreation shall adopt rules requiring a landowner of property where timber is or will be harvested to notify the Department of Forests, Parks and Recreation of the harvest. The rules shall:

(1) Specify the time period within which the landowner will be required to provide notice of the harvest.

(2) Identify the method or means by which the landowner shall provide notice. The rules shall allow for a harvest notification by electronic means, telephone, or paper submission.

(3) Establish exemptions from the harvest notification requirement based on the size of the harvest or other criteria.

(4) Identify the information to be submitted in a harvest notification, provided that the rules shall require the following information.

(A) the landowner's name; mailing address; physical address of residence; e-mail address, if any; and telephone number;

(B) the name of the harvester or contractor conducting the harvest and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number.

(C) the name of the landowner's agent or consulting forester, if any, and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(D) the location of the timber harvest, including the town and the nearest public town highway used to access the timber harvest;

(E) the school property account number (SPAN) of the parcel where the timber harvest will occur;

(F) the date the timber harvest commenced or will commence and the estimated date the harvest will be completed;

(G) the estimate of the acreage of the timber harvest area;



(H) whether the parcel where the timber harvest will occur is enrolled in the use value appraisal program;

(5) Specify whether a harvest identification number will be assigned to each harvest and whether the harvest identification number shall be posted at the harvest site.

(6) Specify the duration of any harvest identification number issued by the Commissioner.

(b) Beginning on July 1, 2018, a landowner of property where timber is or will be harvested shall submit to the Department of Forests, Parks and Recreation the harvest notification required by the rules adopted under subsection (a) of this section.

\* \* \* Maple Sugar Production on State Lands \* \* \*

Sec. 9. 10 V.S.A. § 2606b is amended to read:

§ 2606b. LICENSE OF ~~FOREST LANDS~~ FORESTLANDS FOR MAPLE SUGAR PRODUCTION

(a) The ~~general assembly~~ General Assembly finds and declares that:

(1) Maple sugaring is an important cultural tradition of Vermont life that should be maintained and encouraged.

(2) Maple sugaring is an important component of the agricultural and forest products economy in Vermont and is increasingly necessary for farmers that must diversify in order to continue to farm in Vermont.

(3) Maple sugaring is a sustainable use of ~~forest land~~ forestland.

(4) State ~~forest land~~ forestland should be managed and used for multiple uses, including maple sugar production.

(b) It is hereby adopted as ~~state~~ State policy to permit limited use of designated ~~state-owned~~ State-owned land under the jurisdiction of the ~~department~~ Department for maple sugar production.

(c) ~~Beginning on July 1, 2009, pursuant~~ Pursuant to guidelines developed jointly by the ~~department of forests, parks and recreation and the Vermont maple sugar makers' association~~ Department of Forests, Parks and Recreation, in consultation with the Vermont Maple Sugar Makers' Association, the ~~department shall~~ Department may issue licenses for the use of ~~state forest land~~ State forestland for the tapping of maple trees, the collection of maple sap, and the transportation of such sap to a processing site located off ~~state forest land~~ State forestland or to sites located on ~~state forest land~~ State forestland if approved by the ~~commissioner~~ Commissioner. All tapping of maple trees

authorized under a license shall be conducted according to the guidelines for tapping maple trees ~~agreed to established~~ by the ~~department and the Vermont maple sugar makers' association~~ Department of Forests, Parks and Recreation, in consultation with the Vermont Maple Sugar Makers' Association. Each person awarded a license under this section shall maintain and repair any road, water crossing, or work area according to requirements set by the ~~department~~ Department in the license. Each license shall include such additional terms and conditions set by the ~~department~~ Department as may be necessary to preserve forest health and to assure compliance with the requirements of this chapter and applicable rules. A license shall be issued for a fixed term not to exceed five years and shall be renewable for two five-year terms subsequent to the initial license. Subsequent renewals shall be allowed where agreed upon by the ~~department~~ Department and the licensee. The ~~department~~ Department shall have power to terminate or modify a license for cause, including damage to forest health.

\* \* \*

(f) ~~There shall be an annual license fee~~ A per tap license charge shall be imposed based on the number of taps installed in the license area. The per tap fee for a license issued under this section shall be one-quarter of the average of the per pound price of Vermont fancy grade syrup and the per pound price of Vermont commercial grade syrup as those prices are set on May 1 of each year. The fee set each May 1 shall apply to licenses issued by the department for the succeeding period beginning June 1 and ending May 31. The Commissioner shall establish this per tap license charge at a reasonable rate that reflects current market rates. Fees Charges collected under this section shall be deposited in the ~~forest parks revolving fund~~ Lands and Facilities Trust Fund established under section 2609 of this title and shall be used by the department to implement the license program established by this section 3 V.S.A. § 2807.

(g) ~~On or before January 15, 2010, the commissioner of forests, parks and recreation shall submit to the senate and house committees on natural resources and energy and the senate and house committees on agriculture a report regarding the implementation of the requirements of this section. The report shall include:~~

~~(1) A copy of the guidelines required by this section for issuing licenses for the use of state forest land for maple sap collection and production.~~

~~(2) A summary of the process used to identify parcels of state forest land suitable for licensing for maple sap collection and production and the process by which the department allocated licenses.~~

~~(3) A summary of the licenses issued for maple sap collection and production on state forest land.~~

~~(4) An estimate of the fees collected for licenses issued under this section.~~

~~(5) A copy of any rules adopted by or proposed for adoption by the commissioner to implement the requirements of this section. [Repealed.]~~

\* \* \* Working Group on Intergenerational Transfer of Forestland \* \* \*

Sec. 10. DEPARTMENT OF FORESTS, PARKS AND RECREATION;  
WORKING GROUP ON INTERGENERATIONAL TRANSFER OF  
FORESTLAND

(a) On or before August 1, 2016, the Commissioner of Forests, Parks and Recreation shall establish a working group of interested parties to develop recommendations for a statewide program to improve the capacity of providing successional planning technical assistance to forestland owners in Vermont. The working group shall:

(1) develop recommended priorities for succession planning for forestland owners;

(2) develop strategies for improving conservation investments or incentives that facilitate the intergenerational transfers of intact forestland;

(3) develop other strategies for lessening the impact of estate taxes or other pressures that could lead to the breaking up and subdivision of intact forest parcels;

(4) develop recommended legislative changes that may be needed to implement its recommendations and strategies; and

(5) identify fiscal issues related to its recommendations.

(b) On or before December 15, 2016, the Commissioner shall submit a report to the House Committees on Natural Resources and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and Finance that shall include the working group's findings and any recommendations for legislative action.

\* \* \* Forest Fire Wardens; Fire Suppression; Open Burning \* \* \*

Sec. 11. 10 V.S.A. chapter 83, subchapter 4 is amended to read:

Subchapter 4. Forest Fires and Fire Prevention

§ 2641. TOWN FOREST FIRE WARDENS; APPOINTMENT AND REMOVAL

(a) Upon approval by the ~~select board~~ selectboard and acceptance by the appointee, the ~~commissioner~~ Commissioner shall appoint a town forest fire warden for a term of five years or until a successor is appointed. A town forest fire warden may be reappointed for successive five-year terms by the Commissioner or until a successor is approved by the selectboard and appointed by the Commissioner. The warden may be removed for cause at any time by the ~~commissioner~~ Commissioner with the approval of the ~~select board~~ selectboard. A warden shall comply with training requirements established by the ~~commissioner~~ Commissioner.

(b) The ~~commissioner~~ Commissioner may appoint a forest fire warden for an unorganized town or gore, who shall ~~hold office until he or she resigns or is removed for cause~~ serve for a term of five years or until a successor is appointed. An appointed forest fire warden for an unorganized town or gore may be reappointed for successive five-year terms by the Commissioner until the Commissioner appoints and the unorganized town or gore approves a successor. The warden may be removed for cause at any time by the Commissioner with the approval of the unorganized town or gore. The forest fire warden of an unorganized town or gore shall have the same powers and duties as town forest fire wardens and shall be subject to the requirements of this subchapter.

(c) When there are woodlands within the limits of a city ~~or incorporated village~~, the chief of the fire department of such city ~~or village~~ shall act as the city or village forest fire warden with all the powers and duties of town forest fire wardens.

(d) When the ~~commissioner~~ Commissioner deems it difficult in any municipality for one warden to take charge of protecting the entire municipality from forest fires, he ~~or she~~ may appoint one or more deputy forest fire wardens. Such wardens under the direction of the fire warden shall have the same powers, duties, and pay and make the same reports through the fire warden to the ~~commissioner~~ Commissioner as forest fire wardens.

(e) The ~~commissioner~~ Commissioner may appoint special forest fire wardens who shall hold office during the pleasure of the ~~commissioner~~ Commissioner. Such fire wardens shall have the same powers and duties

throughout the ~~state~~ State as town forest fire wardens, except that all expenses and charges incurred on account of their official acts shall be paid from the appropriations for the ~~department~~ Department.

§ 2642. SALARY AND COMPENSATION OF TOWN FOREST FIRE  
WARDENS

(a) The salary of a town forest fire warden shall be determined by the selectboard members for time spent in the performance of the duties of his or her office, which shall be paid by the town. ~~He or she shall also receive from the town the sum of \$0.15 for each fire permit issued.~~ In addition thereto, he or she shall receive from the ~~commissioner~~ Commissioner ~~\$20.00~~ \$30.00 annually for ~~properly making out and submitting reports of fires in his or her district~~ fulfilling the requirements of section 2645 of this title and keeping the required ~~state~~ State records. He or she shall also receive from the ~~commissioner~~ Commissioner ~~\$15.00~~ \$30.00 per diem for attendance at each training ~~meeting called~~ required by the ~~commissioner~~ Commissioner. He or she shall also receive annually an amount of \$10.00 for each fire report that is submitted by the forest fire warden under section 2644 of this title.

(b) ~~The pay of a warden of an unorganized town or gore and his or her assistants, including patrolmen, and all expenses incurred by him or her in extinguishing forest fires, as provided for by the Commissioner, including employment of a person to assist him or her, on the approval of the Commissioner, shall be paid by the State from the monies annually available from taxes in the unorganized town and gore, and the Commissioner of Finance and Management shall issue his or her warrant therefor. [Repealed.]~~

(c) ~~A person employed by a warden to assist him or her in extinguishing a forest fire as authorized under section 2644 of this title, shall be paid at the same rate per hour as is paid for labor upon highways. A minimum of two hours' pay for the first hour or any portion thereof shall be allowed persons who are officially summoned to assist in the extinguishment of forest fires. When a warden employs men or women in extinguishing a fire in a municipality adjoining his or her own, the expense incurred shall be paid by the municipality in which the work was done at the rate of pay prevailing in the municipality where the laborers reside. A municipality wherein such warden resides shall forthwith pay the warden and assistants for their services, and the municipality may recover the expense thereof in a civil action on this statute from the municipality where the work was done. [Repealed.]~~

§ 2643. TOWN'S LIABILITY FOR ~~EXTINGUISHING~~ SUPPRESSION OF FOREST FIRES; STATE AID

(a) ~~For the purpose of extinguishing forest fires, a town shall not be held liable in any one year for an amount greater than ten percent of its grand list. A municipality in which a forest fire occurs shall pay the cost to suppress a forest fire that occurs on land that is not owned by the Agency of Natural Resources, including the costs of personnel and equipment. The Commissioner may, according to the Department fire suppression reimbursement policy, reimburse a municipality for all or a portion of the costs of suppressing a forest fire on land that is not owned by the Agency of Natural Resources.~~

(b) ~~The state shall reimburse a town for its forest fire suppression costs in excess of ten percent of its grand list and for one half its forest fire suppression costs up to and including ten percent of its grand list when the bills are presented to the commissioner by December 31 of each year with proper vouchers and in a form approved by him~~ For the purpose of suppressing forest fires on lands owned by the Agency of Natural Resources, the State shall reimburse a town for all its forest fire suppression costs at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy. If the total acreage of a forest fire is determined to be partially on land owned by the Agency of Natural Resources and partially on land owned by another party, the Commissioner shall, at a minimum, reimburse the town at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy for costs incurred by the municipality on land owned by the Agency of Natural Resources.

(c) For any forest fire on lands owned by the Agency of Natural Resources to be considered eligible for reimbursement from the State, a town forest fire warden shall have reported the forest fire to the Commissioner within 14 days of extinguishment of the fire as required under section 2644 of this title. For reimbursement of fire suppression costs for forest fires on land owned by the Agency of Natural Resources, the town forest fire warden and the Commissioner or designee shall approve the costs before submission to the municipality for payment. The town forest fire warden may submit to the State on an annual basis a request for reimbursement of fire suppression costs on lands owned by the Agency of Natural Resources. The State shall reimburse a town for all applicable forest fire suppression costs when the reimbursement request is presented in a form approved by the Commissioner to the Commissioner by December 31 of each year.

§ 2644. DUTIES AND POWERS OF FIRE WARDEN

(a) When a forest fire or fire threatening a forest is discovered in his or her town, the town forest fire warden shall enter upon any premises and take measures for its prompt control, suppression, and extinguishment. The town forest fire warden may call upon any person for assistance. ~~He or she may arrest without warrant any person found in the act of violating a provision of law or proclamation pertaining to forest fires.~~ The town forest fire warden may choose to share or delegate command authority to a chief engineer of a responding fire department or, in the chief's absence, the highest ranking assistant firefighter present during the fire.

(b) A town forest fire warden shall keep a record of his or her acts, ~~the amount of expenses incurred,~~ the number of fires and causes, the areas burned over, and the character and amount of damages done in the warden's jurisdiction. Within two weeks after the ~~discovery of such~~ extinguishment of a fire, ~~he or she~~ the town forest fire warden shall report the ~~same fire~~ to the ~~commissioner on forms which shall be furnished by him or her~~ Commissioner, but the making of ~~such~~ a report under this subsection shall not be a charge against the town.

(c) ~~During the danger season and subject to the approval or direction of the commissioner, a warden shall establish a patrol in dangerous localities, and the expense for the same shall be paid as expenses for fighting fires. Wardens shall receive the same pay for time spent in posting notices, patrolling or in making investigations of damages done that they receive for time spent in actual fire fighting. [Repealed.]~~

§ 2645. OPEN BURNING; PERMITS

(a) Except as otherwise provided in this section, a person shall not kindle or authorize another person to kindle a fire in the open air for the purpose of burning natural wood, brush, weeds, or grass ~~or rubbish of any kind except where there is snow on the site, without first obtaining permission from the fire warden or deputy warden of the town, stating when and where such fire may be kindled~~ without first obtaining permission from the town forest fire warden or deputy forest fire warden, stating when and where such fire may be kindled. Wood, brush, weeds, or grass may not be burned if they have been altered in any way by surface applications or injection of paints, stains, preservatives, oils, glues, or pesticides. Whenever such permission is granted, ~~such~~ the fire warden, within 12 hours, shall issue a written ~~permit~~ "Permit to Kindle" for record purposes stating when and where such fire may be kindled. ~~Permission shall not be required for the kindling of a fire in a location which is 200 feet or more from any woodland, timberland or field containing dry grass or other inflammable plant material contiguous to woodland. With the written approval~~

~~of the secretary, during periods of extreme fire hazard, the commissioner may notify town fire wardens that for a specified period no burning permits shall be issued. The wardens shall issue no permits during the specified period.~~

~~(b) Whenever the commissioner deems that the public safety of any town or portion of a town of this state does not require the protection provided by this section, he or she may cause the town fire warden of any such town to post notices to that effect in not less than five conspicuous places in such town. [Repealed.]~~

(c) The provisions of this section will not apply to:

~~(1) To areas posted in accordance with subsection (b) of this section the kindling of a fire in a location where there is snow surrounding the open burning site;~~

~~(2) To fires built in stone arches, outdoor fireplaces, or existing fire rings at state State recreational areas or fires built in stone arches, outdoor fireplaces, or fire rings on private property that are not located within woodland, timberland, or a field containing dry grass or other flammable plant material contiguous to woodland;~~

~~(3) To fires built in special containers used for burning brush, waste, grass or rubbish when conditions are deemed satisfactory to the town fire warden the kindling of a fire in a location that is 200 feet or more from: any woodland, timberland, or field containing dry grass or other flammable plant material contiguous to woodland; or~~

~~(4) To areas within cities or villages cities maintaining a fire department.~~

~~(d)(1) As used in this section, “natural wood” means:~~

~~(A) trees, including logs, boles, trunks, branches, limbs, and stumps;~~

~~(B) lumber, including timber, logs, or wood slabs, especially when dressed for use; and~~

~~(C) pallets that are used for the shipment of various materials, so long as such pallets are not chemically treated with any preservative, paint, or oil.~~

~~(2) “Natural wood” shall not mean other wood products such as sawdust, plywood, particle board, or press board.~~

~~(e) Nothing in this section shall be construed to limit the authority of the air pollution control officer to prohibit open burning in accordance with the rules adopted under chapter 23 of this title.~~

\* \* \*



§ 2648. SLASH REMOVAL

(a) A person may cut or cause to be cut forest growth only if all slash adjoining the right-of-way of any public highway, or the boundary lines of woodlots owned by adjoining property owners, is treated as follows:

(1) All slash shall be removed for a distance of 50 feet from the right-of-way of any public highway or from the boundary lines of woodlots owned by adjoining property owners.

(2) All slash shall be removed for a distance of 100 feet from standing buildings on adjoining property.

~~(b) Owners or operators of timber or woodlots shall leave the main logging roads through cut-over areas free from slash so that tractors may pass over these roads unobstructed in order to carry men and supplies and fire fighting equipment to fire suppression crews. [Repealed.]~~

(c) If in the opinion of the town forest fire warden there is no fire hazard as a result of a cutting, the warden may issue, upon request, a statement relieving the operator of the conditions required in this section.

Sec. 12. DEPARTMENT OF FORESTS, PARKS AND RECREATION;  
POLICY FOR REIMBURSEMENT OF FIRE SUPPRESSION  
COSTS

On or before January 1, 2017, the Commissioner of Forests, Parks and Recreation, in consultation with the Vermont League of Cities and Towns and other interested parties, shall develop a policy that provides the criteria the Department of Forests, Parks and Recreation shall use in determining whether and how to reimburse towns for the costs of fire suppression. The policy shall include criteria for:

(1) whether and how to reimburse a municipality for the costs of forest fire suppression incurred on lands not owned by the Agency of Natural Resources; and

(2) determining the rate a municipality shall be reimbursed for fire suppression costs incurred on lands owned by the Agency of Natural Resources.

Sec. 13. 10 V.S.A. § 2515 is added to read:

§ 2515. INTERCOMPACT LIABILITY—ARTICLE XV

The provisions of Article IX of this compact that relate to mutual aid in combating, controlling, or preventing forest fires shall be operative as between any state party to this compact and any other state that is party to a regional forest fire protection compact in another region provided that the legislature of

such other state shall have given its assent to the mutual aid provisions of this compact.

\* \* \* Forest Integrity; Municipal and Regional Planning \* \* \*

Sec. 14. 24 V.S.A. § 4302(c) is amended to read:

(c) In addition, this chapter shall be used to further the following specific goals:

\* \* \*

(6) To maintain and improve the quality of air, water, wildlife, forests, and other land resources.

\* \* \*

(C) Vermont's forestlands should be managed so as to maintain and improve forest blocks and habitat connectors.

\* \* \*

(9) To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and ~~forest lands~~ forestlands should be encouraged and should include maintaining low overall density.

\* \* \*

Sec. 15. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

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

\* \* \*

(10) "Land development" means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

\* \* \*

(34) "Forest block" means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

(35) “Forest fragmentation” means the division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation under subsection 4413(d) of this title.

(36) “Habitat connector” means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and uses exempt from regulation under subsection 4413(d) of this title. In a plan or other document issued pursuant to this chapter, a municipality or regional plan commission may use the phrase “wildlife corridor” in lieu of “habitat connector.”

(37) “Recreational trail” means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

Sec. 16. 24 V.S.A. § 4348a(a)(2) is amended to read:

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

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

(B) ~~indicating~~ Indicates those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title;

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

(D) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or

sequence of land development activities in relation to the provision of necessary community facilities and services;

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

(F) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the regional planning commission.

\* \* \*

Sec. 17. 24 V.S.A. § 4382(a)(2) is amended to read:

(2) A land use plan:

~~(A) consisting of, which shall consist of~~ a map and statement of present and prospective land uses, that:

~~(A) indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, and open spaces, areas reserved for flood plain, and areas identified by the State, the regional planning commission, or the municipality that require special consideration for aquifer protection; for wetland protection; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes;

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

(C) ~~identifying~~ Identifies those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

(D) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function

of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the municipality.

Sec. 18. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY

(a) Creation. There is created a Study Committee on Land Use Regulation and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands.

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

(1) a current member of the House of Representatives, appointed by the Speaker of the House;

(2) a current member of the Senate, appointed by the Committee on Committees;

(3) a current officer of a municipality, appointed by the Vermont League of Cities and Towns;

(4) a representative of the Vermont Association of Planning and Development Agencies, appointed by that Association;

(5) the Commissioner of Housing and Community Development or designee;

(6) the Chair of the Natural Resources Board or designee;

(7) the Commissioner of Forests, Parks and Recreation or designee;

(8) a representative of the Vermont Natural Resources Council, appointed by that Council, to represent the Council and to provide input from the Vermont Forest Roundtable;

(9) a representative of the Vermont Working Lands Enterprise Board established under 6 V.S.A. § 4606, appointed by that Board;

(10) a representative of the Vermont Forest Products Association, appointed by that Association; and

(11) a representative of the Vermont Woodlands Association, appointed by that Association.

(c) Powers and duties. The Committee shall study potential revisions to Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. This study shall include the following:

(1) a review of the relevant provisions of Act 250 and 24 V.S.A. chapter 117 as they exist on passage of this act;

(2) a development and review of options to revise Act 250 and the bylaw provisions of chapter 117 to protect forestland from fragmentation and promote habitat connectivity;

(3) an evaluation of the impact of those options on land use;

(4) a recommendation on whether to make such revisions and the reason for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made; and

(5) a review of the definitions added by Sec. 15 of this act to 24 V.S.A. § 4303 and the amendments made by Secs. 16 and 17 of this act to 24 V.S.A. §§ 4348a and 4382, a recommendation on whether to make revisions to these provisions and the reasons for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made.

(d) Assistance. For purposes of scheduling meetings, preparing its recommendation on whether to make statutory revisions, and preparing any recommended legislation, the Committee shall have the assistance of the Office of Legislative Council. The Committee also shall be entitled to the technical and professional assistance of the Departments of Housing and Community Development and of Forests, Parks and Recreation and of the Natural Resources Board.

(e) Report. On or before January 1, 2017, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources and the House and Senate Committees on Natural Resources and Energy.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur on or before July 15, 2016.

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

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

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings.

\* \* \* Municipal Regulation of Forestry Operations \* \* \*

Sec. 19. 24 V.S.A. § 4413(d) is amended to read:

(d)(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets ~~or~~;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or

(C) forestry operations.

~~(1)(2)~~ For purposes of As used in this section;

(A) “~~farm~~ Farm structure” means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

(B) “Forestry operations” has the same meaning as in 10 V.S.A. § 2602.

~~(2)(3)~~ (3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

~~(3)~~ A municipality may enact a bylaw that imposes forest management practices resulting in a change in a forest management plan for land enrolled in the use value appraisal program pursuant to 32 V.S.A. chapter 124 only to the extent that those changes are silviculturally sound, as determined by the

~~Commissioner of Forests, Parks and Recreation, and protect specific natural, conservation, aesthetic, or wildlife features in properly designated zoning districts. These changes also must be compatible with 32 V.S.A. § 3755.~~

(4) This subsection does not prevent an appropriate municipal panel, when issuing a decision on an application for land development over which the panel otherwise has jurisdiction under this chapter, from imposing reasonable conditions under subsection 4464(b) of this title to protect wildlife habitat, threatened or endangered species, or other natural, historic, or scenic resources and does not prevent the municipality from enforcing such conditions, provided that the reasonable conditions do not restrict or regulate forestry operations unrelated to land development.

\* \* \* Land Use Change Tax; Transfer of Lands to State  
and Federal Forest \* \* \*

Sec. 20. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. The tax shall be at the rate of 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land as a separate parcel, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

\* \* \*

(f)(1) When the application for use value appraisal of agricultural and forestland has been approved by the State, the State shall record a lien against the enrolled land in the land records of the municipality ~~which~~ that shall constitute a lien to secure payment of the land use change tax to the State upon development. The landowner shall bear the recording cost. The land use change tax and any obligation to repay benefits paid in error shall not constitute a personal debt of the person liable to pay the same, but shall constitute a lien which shall run with the land. All of the administrative



provisions of chapter 151 of this title, including those relating to collection and enforcement, shall apply to the land use change tax. The Director shall release the lien when notified that:

(A) the land use change tax is paid;

(B) the land use change tax is abated pursuant to this section;

(C) the land use change tax is abated pursuant to subdivision 3201(5) of this title;

(D) the land is exempt from the levy of the land use change tax pursuant to this section and the owner requests release of the lien; or

(E) the land is exempt from the levy of the land use change tax pursuant to this section and the land is developed.

(2) Nothing in this subsection shall be construed to allow the enrollment of agricultural land or managed forestland without a lien to secure payment of the land use change tax. Any fees related to the release of a lien under this subsection shall be the responsibility of the owner of the land subject to the lien.

(g) Upon application, the Commissioner may abate a use change tax levy concerning agricultural land found eligible for use value appraisal under subdivision 3752(1)(A) of this title, in the following cases:

(1) If a disposition of such property resulting in a change of use of it takes place within five years of the initial assessment at use value because of the permanent physical incapacity or death of the individual farmer-owner or farmer-operator of the property.

(2) If a disposition of the property was necessary in order to raise funds to continue the agriculture operation of the seller. In this case, the Commissioner shall consider the financial gain realized by the sale of the land and whether, in respect to that gain, payment of the use change tax would significantly reduce the ability of the seller to continue using the remaining property, or any part thereof, as agricultural land.

(h) Land condemned as a result of eminent domain or sold voluntarily to a condemning authority in anticipation of eminent domain proceedings is exempt from the levy of a land use change tax under this section.

\* \* \*

(j)(1) Land transferred to the ~~United States~~ U.S. Forest Service is exempt from the levy of a use change tax under this section, provided ~~all~~ one of the following ~~apply~~ applies:

~~(1)~~(A) land transferred is eligible for use value appraisal at the time of the transfer;

~~(2)~~(B) the transfer is in consideration for the receipt from the ~~United States~~ U.S. Forest Service of land of approximately equal value, as determined by the Commissioner; ~~and~~ or

~~(3)~~(C) the landowner has submitted to the Commissioner in writing a binding document that would substitute the land received for the land transferred to the Forest Service, for the purposes of this chapter.

(2) Land acquired by the Green Mountain National Forest for public use is exempt from the levy of a use change tax under this section.

(k) Conservation and preservation rights and interests held by an agency of the United States or by a qualified holder, as defined in 10 V.S.A. chapter 34, shall be exempt from the levy of a use change tax. Upon request of the agency or qualified holder, the Commissioner may petition the Director to release the conservation and preservation rights and interests from any lien recorded pursuant to this chapter.

(l) Land acquired by the Agency of Natural Resources; the Department of Forests, Parks and Recreation; the Department of Fish and Wildlife; or the Department of Environmental Conservation for public uses, as authorized by 10 V.S.A. § 6301(a)(1)–(4), is exempt from the levy of a land use change tax under this section.

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

## Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 9 (intergenerational working group) and 18 (forest integrity study and report) shall take effect on passage.

(b) Secs. 1–4 (general policy and enforcement), 5–7 (harvest notification pilot program), 8 (harvest notification rulemaking), 9 (maple sugar production on State lands), 11–13 (fire wardens; fire suppression), 14 (forest integrity; purpose; goals), 19 (municipal regulation of forestry operations), and 20 (land use change tax) shall take effect on July 1, 2016.

(c) Secs. 15 (forest integrity; definitions), 16 (elements of a regional plan) and 17 (plan for municipality) shall take effect on January 1, 2018. Secs. 15–17 shall apply to municipal and regional plans adopted or amended on or after January 1, 2018.

(Committee vote: 5-0-0)

(No House amendments)

## H. 868.

An act relating to miscellaneous economic development provisions.

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

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

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

Sec. A.1. 10 V.S.A. § 213 is amended to read:

§ 213. AUTHORITY; ORGANIZATION

(a) The Vermont Economic Development Authority is hereby created and established as a body corporate and politic and a public instrumentality of the State. The exercise by the Authority of the powers conferred upon it in this chapter constitutes the performance of essential governmental functions.

(b)(1) The Authority shall have ~~15~~ up to 16 voting members consisting of:

(A) the Secretary of Commerce and Community Development, the State Treasurer, the Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Commissioner of Public Service, each of whom shall serve as an ex officio member, or a designee of any of the aforementioned; ~~and~~

(B) up to 10 members, who shall be residents of the State of Vermont, appointed by the Governor with the advice and consent of the Senate. ~~The appointed members shall be appointed for terms of six years and until their successors are appointed and qualified. Appointed members may be removed by the Governor for cause and the Governor may fill any vacancy occurring among the appointed members for the balance of the unexpired term; and~~

(C) one member, who is a current member of the Vermont General Assembly, appointed jointly by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, who shall serve a term of six years or until he or she is no longer a member of the General Assembly, whichever occurs sooner.

(2)(A) An appointing authority may remove a member for cause.

(B) The Governor may fill a vacancy for the balance of the unexpired term.

(C) The Speaker and President Pro Tempore may jointly fill a vacancy by appointing a member of the General Assembly to a new six-year term.

\* \* \*

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 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, whichever is greater. [Repealed.]~~

#### § 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

\* \* \*

(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~~ 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.

~~(d)~~(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, including 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(e) 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. VERMONT EMPLOYMENT GROWTH INCENTIVE  
PROGRAM REVIEW

(a) On or before August 15, 2016, the Joint Fiscal Committee shall convene a Vermont Employment Growth Incentive Program Review Group.

(b)(1) For the purpose of addressing the technical issues specified in subdivisions (c)(1)–(6) of this section, the Group shall consist of the following members:

(A) the State legislative economist or a designee of the Joint Fiscal Committee;

(B) the State executive economist;

(C) a policy analyst from the Agency of Commerce and Community Development;

(D) an economic and labor market information chief from the Department of Labor;

(E) a fiscal analyst from the Department of Taxes; and

(F) the Executive Director of the Vermont Economic Progress Council.

(2) For the purpose of addressing the issues in subdivisions (c)(7)–(10) of this section, the Group shall consist of all the members specified in subdivision (1) of this subsection and the following additional members:

(A) a representative of the Vermont Regional Development Corporations appointed by the Secretary of Commerce and Community Development;

(B) a representative of the business community designated by the Governor; and

(C) 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 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;

(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;

(5) 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;



(B) whether the State should forego additional net fiscal benefit under the enhancements and whether the policy objectives of the enhancements are met;

(6) whether and how to include a mechanism in the Program for equity investments in incentive recipients or to recoup incentive payments in the event an incentive recipient is sold;

(7) 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;

(8) the size, industry, and profile of the businesses that historically have experienced, and are forecasted to experience, the most growth in Vermont, and whether the Program can be more targeted to these businesses;

(9) changes to the Program to ensure incentives will benefit the creation and growth of more small businesses; and

(10) 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.11. 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.12. PROSPECTIVE REPEAL OF CURRENT VEGI STATUTE

32 V.S.A. §§ 5930a and 5930b are repealed.

\* \* \* 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(54)~~ 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. APPROPRIATION

In Fiscal Year 2017, the amount of \$35,000.00 is appropriated from the General Fund to the Vermont Arts Council to perform the duties specified in this act.

#### Sec. L.3. IMPLEMENTATION

Notwithstanding any provision of this act to the contrary, if the General Assembly does not appropriate \$35,000.00 or more in funding to the Vermont Arts Council to implement this act, the Council is encouraged, but is not required, to perform the duties specified in Sec. L.1 of this act.

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 \* \* \*

S.1. REPEAL

2014 Acts and Resolves No. 179, Sec. E.100.5 (Vermont Enterprise Fund) is repealed.

S.2. 10 V.S.A. § 12 is added to read:

§ 12. VERMONT ENTERPRISE FUND

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

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

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

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

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

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

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

(1) adequately demonstrates:

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

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

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

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

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

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

(D) is considering Vermont for relocation or expansion.

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

(2) The Board shall invite the Chair of the Senate Committee on Economic Development, Housing and General Affairs and the Chair of the House Committee on Commerce and Economic Development to participate in Board deliberations under this section in an advisory capacity.

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

(A) information on the company;

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

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

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

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

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

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

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

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

(iii) disallowance and recapture provisions.

(4) The Emergency Board shall have the authority to approve, disapprove, or modify an offer of economic and financial resources in its discretion, including consideration of the following:

(A) whether the business has presented sufficient documentation to demonstrate compliance with subsection (d) of this section;

(B) whether the Governor has presented sufficient information to the Board under subdivision (3) of this subsection;

(C) whether the business has received other State resources and incentives, and if so, the type and amount; and

(D) whether the business and the Governor have made available to the Board sufficient information and documentation for the Auditor of Accounts to perform a performance audit of the program.

(f)(1) Proprietary business information and materials or other confidential financial information submitted by a business to the State, or submitted by the Governor to the Emergency Board, for the purpose of negotiating or approving economic and financial resources under this section shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon authorization of the Chair of the Joint Fiscal Committee, and shall also be available to the Auditor of Accounts in connection with the performance of duties under 32 V.S.A. § 163; provided, however, that the Joint Fiscal Office or its agent, and the Auditor of Accounts, shall not disclose, directly or indirectly, to any

person any proprietary business or other confidential information or any information which would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

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

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

(1) the name of the recipient;

(2) the amount and type of the resources;

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

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

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

### Sec. S.3. APPROPRIATION; VERMONT ENTERPRISE FUND

In fiscal year 2017 the amount of \$85,000.00 is appropriated from the General Fund to the Vermont Enterprise Fund created in 10 V.S.A. § 12.

\* \* \* Workforce Housing; Pilot Projects;  
Down Payment Assistance Program \* \* \*

### Sec. T.1. PURPOSE

The purpose of Sec. T.2 of this act is to promote the creation of workforce housing:

(1) by creating two or more workforce housing pilot projects in targeted areas that benefit from funding for infrastructure improvements;

(2) by funding grants to municipalities so they can pursue designated downtown development districts, designated new town centers, designated growth centers, and designated neighborhood development areas, and by capitalizing on the existing regulatory benefits for these designated areas to promote the creation of new workforce housing; and



(3) by extending the First Time Homebuyer's Down Payment Assistance Program through the Vermont Housing Finance Agency to provide loans to more Vermont employees for down payment assistance and closing costs.

Sec. T.2. WORKFORCE HOUSING PILOT PROJECTS;  
INFRASTRUCTURE IMPROVEMENTS; APPROPRIATION

(a) Definition. As used in this act, "workforce housing pilot project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of owner-occupied housing or rental housing, or both, that meets each of the following:

(1) The project includes 12 or more independent dwelling units, which may be detached or connected.

(2) For a minimum of 25 percent of the total units in the project, the total annual cost of owner-occupied housing, including principal, interest, taxes, insurance, and condominium association fees, and the total annual cost of rental housing, including rent, utilities, and condominium association fees, will not exceed 30 percent of the gross annual income of a household at 80 percent of:

(A) the county median income, as defined by the U.S. Department of Housing and Urban Development; or

(B) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development.

(3) For a minimum of 50 percent of the total units in the project, the total annual cost of owner-occupied housing, including principal, interest, taxes, insurance, and condominium association fees, and the total annual cost of rental housing, including rent, utilities, and condominium association fees, will be between 30 percent of the gross annual income of a household at more than 80 percent, and 30 percent of the gross annual income of a household at 120 percent, of:

(A) the county median income, as defined by the U.S. Department of Housing and Urban Development; or

(B) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development.

(4) The project will:

(A) be located in a designated downtown development district, designated new town center, designated growth center, or designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B)(i) have a minimum residential density greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units as defined in 24 V.S.A. § 4303, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater; and

(ii) the area in which the project is located represents a logical extension of an existing compact settlement pattern and is consistent with smart growth principles as defined in 24 V.S.A. § 2791.

(b) Pilot projects.

(1) Of the amounts appropriated to the Agency of Human Services to replace legacy technologies pursuant to 2010 Acts and Resolves No. 156, Sec. D.106(c)(1), as amended by 2011 Acts and Resolves No. 63, Sec. C.100, the amount of \$1,000,000.00 is hereby appropriated to the Vermont Housing and Conservation Board for the purpose of awarding grants to fund infrastructure improvements benefitting two or more workforce housing pilot projects pursuant to this section.

(2) The Board, in consultation with the Department of Housing and Community Development, shall create an application and approval process to select two or more workforce housing pilot projects to provide the funding for all or a portion of infrastructure improvements that benefit the project or projects.

(c) Eligibility.

(1) Not more than one project may be located in a municipality with a population of more than 10,000 full-time residents.

(2) Not more than one project may be located in a single county.

(3) Eligible infrastructure improvements shall include roads, sidewalks, bridges, culverts, water, wastewater, stormwater, and other utilities.

(4) To remain eligible for grant funds, the person developing a project shall complete the project within two years from the effective date of a grant agreement with the Board.

(5) The Board shall give preference to proposals in which some or all of the units required by subdivision (a)(2) of this section are subject to covenants or other restrictions that make them perpetually affordable.

(d) Rescission. Any amounts that remain uncommitted to a pilot project on July 1, 2018 shall revert to the General Fund.

(e) Reports.

(1) On or before December 15, 2016, the Vermont Housing and Conservation Board shall submit an initial 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 action it has taken pursuant to this act, the status of any workforce housing pilot projects, and any recommendations for additional administrative or legislative action.

(2) 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:

(A) A review of existing statutes and programs, such as property tax reallocation, that may serve as tools to update existing housing stock.

(B) 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.

(i) 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.

(ii) Based on this data, the report shall summarize the benefits provided to priority housing projects.

(iii) In this subdivision (B), “primary agricultural soils” and “priority housing project” have the same meaning as in 10 V.S.A. § 6001.

(C) 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.

(3) On or before December 15, 2018, the Vermont Housing and Conservation Board shall submit a final 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 action it has taken pursuant to this act, the status of any workforce housing pilot projects, and any recommendations for additional administrative or legislative action.

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.1–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–H.11 (VEGI Working Group review; extension of sunset).

(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.3 (Vermont Creative Network).

(8) Secs. O.1–O.2 (Vermont Sustainable Jobs Fund).

(9) Secs. S.1–S.3 (Vermont Enterprise Fund; appropriation).

(10) Secs. T.1–T.4 (workforce housing; 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.

(e) Sec. R.1 (Financial Literacy Commission) shall take effect on July 2, 2016.

(f) Secs. H.1–H.9 (Vermont Employment Incentive Growth Program) and Sec. H.12 (prospective repeal of current VEGI statute) shall take effect on January 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 7, 2016, page 847-871 and April 8, 2016, page 875)

### **H. 869.**

An act relating to judicial organization and operations.

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

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

\* \* \* Judicial Masters \* \* \*

Sec. 1. 4 V.S.A. § 38 is added to read:

#### § 38. JUDICIAL MASTERS

(a) The Administrative Judge may appoint a licensed Vermont lawyer who has been engaged in the practice of law in Vermont for at least the last five years to serve as a Judicial Master. The Judicial Master shall be an employee of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial Master shall not engage in the active practice of law for remuneration while serving in this position. In making this appointment, the Administrative Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title. The Judicial Master may hear and decide matters as designated by the Administrative Judge in the Civil, Criminal, and Family Divisions as described herein:

(1) In the Civil Division of the Superior Court, pre- and post-trial matters, as approved by the presiding judge, including rent escrow orders, discovery orders, sanctions not including requests for dismissal, and financial disclosure hearings; the Master shall not hear requests for injunctive relief, motions for summary judgment, a motion to dismiss for failure to state a claim, or an involuntary dismissal.

(2) In the Criminal Division of the Superior Court, proceedings in treatment court dockets, as approved by the presiding judge, to assure

compliance with court orders, including attendance and participation with a treatment plan, imposition of sanctions and incentives, including incarceration in the course of the program and dismissal from the program due to noncompliance; the Master shall not have authority to accept pleas or to impose sentences, to hear motions to suppress, or to dismiss for lack of a prima facie case.

(3) In the Family Division of the Superior Court, in juvenile proceedings, as approved by the presiding judge, to assure compliance with existing court orders, including attendance and participation in substance abuse, mental health, and other court-ordered counseling; compliance with and modification of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a contested permanency hearing becomes necessary; and to provide case management of juvenile proceedings; the Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.

(4) In the Family Division of the Superior Court, proceedings, with the approval of the presiding judge, to assure compliance with existing court orders relating to parent-child contact; to act as a Master pursuant to Rule 53 of the Vermont Rules of Civil Procedure where no order has been made pursuant to 32 V.S.A. § 1758(b); and to provide case management of proceedings with 15 V.S.A. chapters 5, 11, 15, and 18; the Master shall not have authority to determine divorce or parentage actions, parental rights and responsibilities, or spousal maintenance, or modifications of such orders.

(b) The Judicial Master may be appointed to serve as an acting judge pursuant to subsection 22(b) of this title in any matter in which he or she has not previously acted as a Judicial Master.

(c) The decision of a Judicial Master under this section shall have the same effect as a decision of a Superior judge, except when acting as a Master pursuant to subdivision (a)(4) of this section.

## Sec. 2. REPEAL

4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, 2019.

\* \* \* Venue in TPR Cases \* \* \*

## Sec. 3. LEGISLATIVE INTENT

The General Assembly does not intend Sec. 4 of this act, which amends 4 V.S.A. § 37 to permit regional venue in proceedings involving the termination of parental rights (TPR), to result in the closure of any Vermont courts. Sec. 4 is intended to permit greater flexibility in the TPR process, in



response to the findings and recommendations made by the Committee on Child Protection in 2014, and it may, in fact, result in an increase rather than a decrease in court proceedings for some jurisdictions.

Sec. 4. 4 V.S.A. § 37 is amended to read:

§ 37. VENUE

(a) The venue for all actions filed in the ~~superior court~~ Superior Court, whether heard in the ~~civil, criminal, family, environmental, or probate division~~ Civil, Criminal, Family, Environmental, or Probate Division, shall be as provided in law.

(b) Notwithstanding any other provision of law, the ~~supreme court~~ Supreme Court may promulgate venue rules, subject to review by the legislative committee on judicial rules under 12 V.S.A. chapter 1 of Title 12, which are consistent with the following policies:

(1) Proceedings involving a case shall be heard in the unit in which the case was brought, subject to the following exceptions:

(A) when the parties have agreed otherwise;

(B) status conferences, minor hearings, or other nonevidentiary proceedings; or

(C) when a change in venue is necessary to ensure access to justice for the parties or required for the fair and efficient administration of justice.

(2) The electronic filing of cases on a statewide basis should be facilitated, and the ~~court~~ Court is authorized to promulgate rules establishing an electronic case-filing system.

(3) The use of technology to ease travel burdens on citizens and the courts should be promoted. For example, venue requirements should be deemed satisfied for some court proceedings when a person, including a judge, makes an appearance via video technology, even if the judge is not physically present in the same location as the person making the appearance.

(4) In proceedings involving the termination of parental rights, the Supreme Court is authorized to designate a region of no more than four counties in which the venue for specified types of cases in the region shall be the region as a whole, irrespective of the county in which the venue would lie for the case under the governing statute. A designation under this subdivision shall be made by rule and shall be reviewed by the Legislative Committee on Judicial Rules pursuant to 12 V.S.A. § 1.

\* \* \* Licensing Board Appeals \* \* \*

Sec. 5. 3 V.S.A. § 130a is amended to read:

§ 130a. APPEALS FROM BOARD DECISIONS

(a) A party aggrieved by a final decision of a board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Director who shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer.

\* \* \*

(c) A party aggrieved by a decision of the appellate officer may appeal to the ~~Superior Court in Washington County~~ Supreme Court, which shall review the matter on the basis of the records created before the board and the appellate officer.

\* \* \* Transportation Board Appeals \* \* \*

Sec. 6. 19 V.S.A. § 5 is amended to read:

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

\* \* \*

(c) The Board may delegate the responsibility to hear quasi-judicial matters, and other matters as it may deem appropriate, to a hearing examiner or a single Board member, to hear a case and make findings in accordance with 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be conducted pursuant to the provisions of chapter 5 of this title. A hearing examiner or single Board member so appointed shall report his or her findings of fact in writing to the Board. Any order resulting therefrom shall be rendered only by a majority of the Board. Final orders of the Board issued pursuant to section 20 of this title may be reviewed on the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final orders of the Board may be reviewed on the record by the Supreme Court.

\* \* \*

\* \* \* Accessibility and Efficiency of Court System \* \* \*

Sec. 7. ACCESS TO JUSTICE; COLLABORATIVE PROCESS

The Supreme Court shall coordinate a collaborative process with its justice partners, including the Vermont Bar Association, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Office of the Attorney General, the Department for Children and Families, and the Vermont

Association for Justice, in an effort to identify court system reforms that promote efficient use of judicial resources and allocation of costs while preserving access to justice and maintaining the quality of court services. The Court shall report the proposals developed in the collaborative process to the House and Senate Committees on Judiciary on or before December 15, 2016.

\* \* \* Judiciary Service Center \* \* \*

Sec. 8. DISCONTINUATION OF JUDICIARY SERVICE CENTER

On or before June 30, 2016, the Vermont Supreme Court shall discontinue use of the Judiciary Service Center to respond to communications from Vermont attorneys.

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

Sec. 9. EFFECTIVE DATES

(a) Secs. 1, 2, 3, 4, 7, 8, and this section shall take effect on passage.

(b) Secs. 5 and 6 shall take effect on July 1, 2016 and shall apply to appeals filed on or after that date.

(Committee vote: 5-0-0)

(No House amendments)

**Proposed Amendment to the Constitution**

**PROPOSAL 1**

**(Fifth day on Notice Calendar pursuant to Rule 77)**

Offered by Senator Benning

Subject: Declaration of rights; right to privacy.

PENDING ACTION: Second reading of the Proposed Amendment.

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to specifically provide that each person has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 2. Article 22 of Chapter I of the Vermont Constitution is added to read:

Article 22. [RIGHT TO PRIVACY]

That each person has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

### Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2018 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

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

The Committee recommends that the proposal be amended by striking out the proposal in its entirety and inserting in lieu thereof the following:

### PROPOSAL 1

#### Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont specifically to provide that each individual has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 2. Chapter I, Article 22 of the Vermont Constitution is added to read:

#### Article 22. [RIGHT TO PRIVACY]

That each individual has a right to privacy that shall not be infringed without the showing of a compelling State interest. This right includes the individual's right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body. This section shall not be construed to modify the public's right of access to public records and open meetings as provided by law.

### Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2018 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

(Committee vote: 5-0-0)

## CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Lynn Roberto of Springfield – Alternate member of the Vermont Parole Board – By Sen. Balint for the Committee on Institutions. (4/20/16)

## FOR INFORMATION ONLY

### CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).**