

Journal of the Senate

TUESDAY, MAY 12, 2015

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 65

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

Mr. President:

I am directed to inform the Senate that:

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

S. 139. An act relating to pharmacy benefit managers and hospital observation status.

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

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

Rep. Lippert of Hinesburg
Rep. Pearson of Burlington
Rep. Ancel of Calais.

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

S. 102. An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations.

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

Rep. Conquest of Newbury
Rep. Viens of Newport City
Rep. Jewett of Ripton.

Bill Passed in Concurrence with Proposal of Amendment**H. 11.**

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

An act relating to the membership of the Commission on Alzheimer's Disease and Related Disorders.

Proposal of Amendment; Consideration Postponed**H. 35.**

House bill entitled:

An act relating to improving the quality of State waters.

Was taken up.

Senators Sirotkin, Ashe, and Mullin moved to amend the Senate proposal of amendment in Sec. 38, 32 V.S.A. § 9602a, in the first sentence after "principal residence of the transferee" and before the period by inserting or the first \$200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Sirotkin, Ashe, and Mullin?, Senator Campbell moved that the Senate postponed consideration until one o'clock and thirty minutes in the afternoon.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 503. An act relating to approval of amendments to the charter of the City of Burlington.

H. 504. An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

Proposal of Amendment; Third Reading Ordered**H. 117.**

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

An act relating to creating a Division for Telecommunications and Connectivity within the Department of Public Service.

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

* * * Division for Telecommunications and Connectivity * * *

Sec. 1. REPEAL

3 V.S.A. § 2225 (creating the Division for Connectivity within the Agency of Administration) and 2014 Acts and Resolves No. 190, Secs. 12 (Division for Connectivity), 14 (creation of positions; transfer; reemployment rights), and 30(a)(2) and (b) (statutory revision authority regarding the Division for Connectivity) are repealed.

Sec. 2. 30 V.S.A. § 1 is amended to read:

§ 1. COMPOSITION OF DEPARTMENT

(a) ~~The department of public service~~ Department of Public Service shall consist of the ~~commissioner of public service, a director for regulated utility planning, a director for public advocacy, a director for energy efficiency,~~ Commissioner of Public Service, a Director for Regulated Utility Planning, a Director for Public Advocacy, a Director for Energy Efficiency, a Director for Telecommunications and Connectivity, and such other persons as the ~~commissioner~~ Commissioner considers necessary to conduct the business of the ~~department~~ Department.

(b) ~~The commissioner of public service~~ Commissioner shall be appointed by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate. ~~The commissioner of public service~~ Commissioner shall serve for a term of two years beginning on February 1 of the year in which the appointment is made. ~~The commissioner~~ Commissioner shall serve at the pleasure of the ~~governor~~ Governor. ~~The directors for regulated utility planning, for energy efficiency and for public advocacy~~ Directors for Regulated Utility Planning, for Public Advocacy, and for Energy Efficiency shall be appointed by the ~~commissioner~~ Commissioner. The Director for Telecommunications and Connectivity shall be appointed by the Commissioner in consultation with the Secretary of Administration.

(c) ~~The director for public advocacy~~ Directors for Public Advocacy and for Telecommunications and Connectivity may employ, with the approval of the ~~commissioner~~ Commissioner, legal counsel and other experts, and clerical assistance, and the ~~directors of regulated utility planning and energy efficiency~~ Directors for Regulated Utility Planning and for Energy Efficiency may

employ, with the approval of the ~~commissioner~~ Commissioner, experts and clerical assistance.

Sec. 3. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, ~~the Division for Connectivity~~ and the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department of Public Service in preparing the Plan. The Plan shall be for a ten-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) an overview, looking ten years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) a survey of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development ~~and the Division for Connectivity~~, to determine what telecommunications services are needed now and in the succeeding ten years;

(3) an assessment of the current state of telecommunications infrastructure;

(4) an assessment, conducted in cooperation with the Department of Innovation and Information and the ~~Division for Connectivity~~ Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; and

(5) an assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, ~~the Division for Connectivity~~, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review ~~a~~ the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a Joint Resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 4. 30 V.S.A. § 202e is added to read:

§ 202e. TELECOMMUNICATIONS AND CONNECTIVITY

(a) Among other powers and duties specified in this title, the Department of Public Service, through the Division for Telecommunications and Connectivity, shall promote:

(1) access to affordable broadband service to all residences and businesses in all regions of the State, to be achieved in a manner that is consistent with the State Telecommunications Plan;

(2) universal availability of mobile telecommunication services, including voice and high-speed data along roadways, and near universal availability statewide;

(3) investment in telecommunications infrastructure in the State that creates or completes the network for service providers to create last-mile connection to the home or business and supports the best available and economically feasible service capabilities;

(4) the continuous upgrading of telecommunications and broadband infrastructure in all areas of the State to reflect the rapid evolution in the capabilities of available broadband and mobile telecommunications technologies, the capabilities of broadband and mobile telecommunications services needed by persons, businesses, and institutions in the State; and

(5) the most efficient use of both public and private resources through State policies by encouraging the development, funding, and implementation of open access telecommunications infrastructure.

(b) To achieve the goals specified in subsection (a) of this section, the Division shall:

(1) provide resources to local, regional, public, and private entities in the form of grants, technical assistance, coordination, and other incentives;

(2) prioritize the use of existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

(3) inventory and assess the potential to use federal radio frequency licenses held by instrumentalities of the State to enable broadband service in unserved areas of the State; take steps to promote the use of those licensed radio frequencies for that purpose; and recommend to the General Assembly any further legislative measures with respect to ownership, management, and use of these licenses as would promote the general good of the State;

(4) coordinate telecommunications initiatives among Executive Branch agencies, departments, and offices;

(5) identify the types and locations of infrastructure and services needed to carry out the goals stated in subsection (a) of this section;

(6) formulate, with the advice and assistance of the Telecommunications and Connectivity Board and with input from the Regional Planning Commissions, an action plan that conforms with the State Telecommunications Plan, as updated and revised, and carries out the goals stated in subsection (a) of this section;

(7) coordinate the agencies of the State to make public resources available to support the extension of broadband and mobile telecommunications infrastructure and services to all unserved and underserved areas;

(8) support and facilitate initiatives to extend the availability of broadband and mobile telecommunications, and promote development of the infrastructure that enables the provision of these services;

(9) work cooperatively with the Agency of Transportation and the Department of Buildings and General Services to assist in making available transportation rights-of-way and other State facilities and infrastructure for telecommunications projects in conformity with applicable federal statutes and regulations; and

(10) receive all technical and administrative assistance as deemed necessary by the Director for Telecommunications and Connectivity.

(c)(1) The Director may request from telecommunications service providers voluntary disclosure of information regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. Such information may include data identifying projected coverage areas, projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities.

(2) The Director may enter into a nondisclosure agreement with respect to any voluntary disclosures under this subsection, and the information disclosed pursuant thereto shall remain confidential. Alternatively, entities that voluntarily provide information requested under this subsection may select a third party to be the recipient of such information. The third party may aggregate information provided by the entities, but shall not disclose provider-specific information it has received under this subsection to any person, including the Director. The third party shall only disclose the aggregated information to the Director. The Director may publicly disclose

aggregated information based upon the information provided under this subsection. The confidentiality requirements of this subsection shall not affect whether information provided to any agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

(d) The Division shall only promote the expansion of broadband services that offer actual speeds that meet or exceed the minimum technical service characteristic objectives contained in the State's Telecommunications Plan.

(e) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Director, with the advice and assistance of the Telecommunications and Connectivity Board, shall submit a report of its activities pursuant to this section and duties of title 30 V.S.A. subsection 202f (f) for the preceding fiscal year to the General Assembly. Each report shall include an operating and financial statement covering the Division's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Division, as well as the action plan required under subdivision (b)(6) of this section. In addition, the report shall include an accurate map and narrative description of each of the following:

(1) the areas served and the areas not served by broadband that has a download speed of at least 4 Mbps and an upload speed of at least 1 Mbps, and cost estimates for providing such service to unserved areas;

(2) the areas served and the areas not served by broadband that has a download speed of at least 25 Mbps and an upload speed of at least 3 Mbps, or as defined by the FCC in its annual report to Congress required by section 706 of the Telecommunications Act of 1996, whichever is higher, and the cost estimates for providing such service to unserved areas;

(3) the areas served and the areas not served by broadband that has a download speed of at least 100 Mbps and is symmetrical, and the cost estimates for providing such service to unserved areas; and

(4) if monetarily feasible, the areas served and the areas not served by wireless communications service, and cost estimates for providing such service to unserved areas.

Sec. 5. 30 V.S.A. § 202f is added to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY BOARD

(a) There is created a Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and

duties as provided in this section. The Connectivity Advisory Board shall consist of eight members, seven voting and one nonvoting, selected as follows:

- (1) the State Treasurer or designee;
- (2) the Secretary of Commerce and Community Development or designee;
- (3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and
- (4) the Secretary of Transportation or designee, who shall be a nonvoting member.

(b) A quorum of the Connectivity Advisory Board shall consist of four voting members. No action of the Board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least four members vote in favor of the action. The Governor shall select, from among the at-large members, a Chair and Vice Chair.

(c) In making appointments of at-large members, the Governor shall give consideration to citizens of the State with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way and infrastructure, finance, environmental permitting, and expertise regarding the delivery of telecommunications services in rural, high-cost areas. However, the five at-large-members may not be persons with a financial interest in or owners or employees of an enterprise that provides broadband or cellular service or that is seeking in-kind or financial support from the Department of Public Service. The conflict of interest provision in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. The at-large members shall serve terms of two years beginning on February 1 in odd-numbered years, and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the Governor shall serve an initial term of three years. Vacancies shall be filled for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms. Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former Board member shall not advocate before the Connectivity Board, Department of Public Service, or the Public Service Board on behalf of an enterprise that provides broadband or cellular service.

(d) Except for those members otherwise regularly employed by the State, the compensation of the Board's members is that provided by 32 V.S.A.

§ 1010(a). All members of the Board, including those members otherwise regularly employed by the State, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(e) In performing its duties, the Connectivity Advisory Board may use the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Board with administrative services.

(f) The Connectivity Advisory Board shall:

(1) have review and nonbinding approval authority with respect to the awarding of grants under the Connectivity Initiative. The Commissioner shall have sole authority to make the final decision on grant awards, as provided in subsection (g) of this section.

(2) function in an advisory capacity to the Commissioner on the development of State telecommunications policy and planning, including the action plan required under subdivision 202e(b)(6) of this chapter and the State Telecommunications Plan.

(3) annually advise the Commissioner on the development of requests for proposals under the Connectivity Initiative.

(4) annually provide the Commissioner with recommendations for the apportionment of funds to the High-Cost Program and the Connectivity Initiative.

(5) annually provide the Commissioner with recommendations on the appropriate Internet access speeds for publicly funded telecommunication and connectivity projects.

(g) The Commissioner shall make an initial determination as to whether a proposal submitted under the Connectivity Initiative meets the criteria of the request for proposals. The Commissioner shall then provide the Connectivity Advisory Board a list of all eligible proposals and recommendations. The Connectivity Advisory Board shall review the recommendations of the Commissioner and may review any proposal submitted, as it deems necessary, and either approve or disapprove each recommendation and may make new recommendations for the Commissioner's final consideration. The Commissioner shall have final decision-making authority with respect to the awarding of grants under the Connectivity Initiative. If the Commissioner does not accept a recommendation of the Board, he or she shall provide the Board with a written explanation for such decision.

(h) On September 15, 2015, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in

the Connectivity Fund and anticipated revenue for the next year. On or before January 1 of each year, the Commissioner, after consulting with the Connectivity Advisory Board, shall recommend to the relevant legislative committees of jurisdiction a plan for apportioning such funds to the High-Cost Program and the Connectivity Initiative.

(i) The Chair shall call the first meeting of the Connectivity Advisory Board. The Chair or a majority of Board members may call a Board meeting. The Board may meet up to six times a year.

(j) At least annually, the Connectivity Advisory Board and the Commissioner or designee shall jointly hold a public meeting to review and discuss the status of State telecommunications policy and planning, the Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and any other matters they deem necessary to fulfill their obligations under this section.

(k) Information and materials submitted by a telecommunications service provider concerning confidential financial or proprietary information shall be exempt from public inspection and copying under the Public Records Act, nor shall any information that would identify a provider who has submitted a proposal under the Connectivity Initiative be disclosed without the consent of the provider, unless a grant award has been made to that provider. Nothing in this subsection shall be construed to prohibit the publication of statistical information, determinations, reports, opinions, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular telecommunications service provider.

Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT POSITIONS; REEMPLOYMENT RIGHTS; TRANSITIONAL PROVISIONS

(a) Up to three additional exempt full-time positions are created within the Division for Telecommunications and Connectivity, as deemed necessary by the Secretary of Administration.

(b) The positions created under subsection (a) of this section shall only be filled to the extent there are existing vacant positions in the Executive Branch available to be transferred and converted to the new positions in the Division for Telecommunications and Connectivity, as determined by the Secretary of Administration and the Commissioner of Human Resources, so that the total number of authorized positions in the State shall not be increased by this act.

(c) All full-time personnel of the Vermont Telecommunications Authority (VTA) employed by the VTA on the day immediately preceding the effective date of this act who do not obtain a position in the Division for Telecommunications and Connectivity pursuant to subsection (a) of this

section shall be entitled to the same reemployment or recall rights available to nonmanagement State employees under the existing collective bargaining agreement entered into between the State and the Vermont State Employees' Association.

(d) The Department of Public Service shall assume possession and responsibility for all assets and liabilities of the VTA.

(e) The VTA shall not enter into any new contracts without the approval of the Commissioner of Public Service.

* * * Universal Service Fund * * *

Sec. 7. 30 V.S.A. § 7503 is amended to read:

§ 7503. FISCAL AGENT

(a) A fiscal agent shall be selected to receive and distribute funds under this chapter.

(b) The fiscal agent shall be selected by the ~~Public Service Board~~ Commissioner of Public Service after competitive bidding. No telecommunications service provider shall be eligible to be the fiscal agent. The duties of the fiscal agent shall be determined by a contract with a term not greater than three years.

(c) In order to finance grants and other expenditures that have been approved by the ~~Public Service Board~~ Commissioner of Public Service, the fiscal agent may borrow money from time to time in anticipation of receipts during the current fiscal year. No such note shall have a term of repayment in excess of one year, but the fiscal agent may pledge its receipts in the current and future years to secure repayment. Financial obligations of the fiscal agent are not guaranteed by the State of Vermont.

(d) The fiscal agent shall be audited annually by a certified public accountant in a manner determined by and under the direction of the ~~Public Service Board~~ Commissioner of Public Service.

(e) The financial accounts of the fiscal agent shall be available at reasonable times to any telecommunications service provider in this State. The ~~Public Service Board~~ Commissioner of Public Service may investigate the accounts and practices of the fiscal agent and may enter orders concerning the same.

(f) The fiscal agent acts as a fiduciary and holds funds in trust for the ratepayers until the funds have been disbursed as provided pursuant to ~~sections 7511 through 7515~~ section 7511 of this chapter.

Sec. 8. REPEAL

30 V.S.A. § 7515a (additional program support for Executive Branch activities) is repealed.

Sec. 9. 30 V.S.A. § 7511 is amended to read:

§ 7511. DISTRIBUTION GENERALLY

(a)(1) As directed by the ~~Public Service Board~~ Commissioner of Public Service, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

~~(1)(A)~~ to pay costs payable to the fiscal agent under its contract with the ~~Board~~ Commissioner;

~~(2)(B)~~ to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;

~~(3)(C)~~ to support the Vermont Lifeline program in the manner provided by section 7513 of this title;

~~(4)(D)~~ to support Enhanced-911 services in the manner provided by section 7514 of this title; and

~~(5)(E)~~ to support the Connectivity Fund established in section 7516 ~~of this chapter; and of this title; and~~

(2) For fiscal year 2016 only, any personnel or administrative costs associated with the Connectivity Initiative shall come from the Connectivity Fund, as determined by the Commissioner in consultation with the Connectivity Board.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the ~~Board~~ Commissioner shall ~~conduct an expedited proceeding to~~ allocate the available funds, giving priority in the order listed in subsection (a).

Sec. 9a. FUNDING FOR CONNECTIVITY PERSONNEL; GROSS RECEIPTS TAX

Not later than January 15, 2016, the Commissioner shall determine whether the revenues raised from the existing gross receipts tax on public service companies, 30 V.S.A. § 22, is sufficient to finance the personnel and administrative costs associated with the Connectivity Initiative, beginning in fiscal year 2017. If the Commissioner determines the revenues are not sufficient for this purpose, he or she shall recommend to the General Assembly either:

(1) a new rate of tax applicable to one or more categories of public service companies, as he or she deems necessary and appropriate; or

(2) a proposal to fund such personnel and administrative costs with monies in the Connectivity Fund.

Sec. 10. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned equally as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative ~~referenced in this section.~~

Sec. 11. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST PROGRAM

(a) The Universal Service Charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.

(b) The Public Service Board, after review of a petition of a company holding a certificate of public good to provide telecommunications service in Vermont, and upon finding that the company meets all requirements for designation as an “eligible telecommunications carrier” as defined by the FCC, may designate the company as a Vermont-eligible telecommunications carrier (VETC).

(c) The supported services a designated VETC must provide are voice telephony services, as defined by the FCC, and broadband Internet access, directly or through an affiliate. A VETC receiving support under this section shall use that support for capital improvements in high cost areas, as defined in subsection (f) of this section, to build broadband capable networks.

(d) The Board may designate multiple VETCs for a single high cost area, but each designated VETC shall:

(1) offer supported services to customers at all locations throughout the service high cost area or areas for which it has been designated; and

(2) for its voice telephone services, meet service quality standards set by the Board.

(e) A VETC shall receive support as defined in subsection (i) of this section from the fiscal agent of the Vermont Universal Service Fund for each telecommunications line in service or service location, whichever is greater in number, in each high cost area it services. Such support may be made in the form of a net payment against the carrier's liability to the Fund. If multiple VETCs are designated for a single area, then each VETC shall receive support for each line it has in service.

(f) As used in this section, a Vermont telephone exchange is a "high cost area" if the exchange is served by a rural telephone company, as defined by federal law, or if the exchange is designated as a rural exchange in the wholesale tariff of a regional bell operating company (RBOC), as defined by the FCC, or of a successor company to an RBOC. An exchange is not a high cost area if the Public Service Board finds that the supported services are available to all locations throughout the exchange from at least two service providers.

(g) Except as provided in subsection (h) of this section, a VETC shall provide broadband Internet access at speeds no lower than 4 Mbps download and 1 Mbps upload in each high cost area it serves within five years of designation. A VETC need not provide broadband service to a location that has service available from another service provider, as determined by the Department of Public Service.

(h) The Public Service Board may modify the build out requirements of subsection (d) of this section as it relates to broadband Internet access to be the geographic area that could be reached using one-half of the funds to be received over five years. A VETC may seek such waiver of the build out requirements ~~in subsection (e)~~ within one year of designation and shall demonstrate the cost of meeting broadband Internet access requirements on an exchange basis and propose an alternative build out plan.

(i) The amount of the monthly support under this section shall be the pro rata share of available funds ~~as provided in subsection (e) of this section~~ based on the total number of incumbent local exchange carriers in the State and reflecting each carrier's lines in service or service locations in its high-cost area or areas, as determined under subsection (e) of this section. If an incumbent local exchange carrier does not petition the Board for VETC designation, or is found ineligible by the Board, the share of funds it otherwise would have received under this section shall be used to support the Connectivity Initiative established in section 7515b of this chapter.

(j) The Public Service Board shall adopt by rule standards and procedures for ensuring projects funded under this section are not competitive overbuilds of existing wired telecommunications services.

(k) Each VETC shall submit certification that it is meeting the requirements of this section and an accounting of how it expended the funds received under this section in the previous calendar year, with its annual report to the Department of Public Service. For good cause shown, the Public Service Board may investigate submissions required by this subsection and may revoke a company's designation if it finds that the company is not meeting the requirements of this subsection.

Sec. 12. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least ~~4~~ 10 Mbps download and 1 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, "unserved" means a location having access to only satellite or dial-up Internet service and "underserved" means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies ~~in this Fund~~ from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department's most recent broadband mapping data. The Department annually shall solicit proposals from service providers, ~~the Vermont Telecommunications Authority, and the Division for Connectivity~~ to deploy broadband to eligible census blocks. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the Department also shall consider:

(1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;

(2) the price to consumers of services;

(3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;

(4) whether the proposal would use the best available technology that is economically feasible;

- (5) the availability of service of comparable quality and speed; and
- (6) the objectives of the State's Telecommunications Plan.

* * * 248a; Meteorological Station Conversions * * *

Sec. 13. 30 V.S.A. § 246(e) is added to read:

(e) Notwithstanding any contrary provisions of this section, the holder of a certificate of public good for a constructed meteorological station may apply under section 248a of this title or 10 V.S.A. chapter 151 to convert the station to a wireless telecommunications facility, provided the application is filed at least 90 days before the expiration of the certificate for the station. Any such application shall constitute a new application to be reviewed under the facts and circumstances as they exist at the time of the review.

* * * Agency of Transportation; State-owned Rights-of-Way; Leasing;
Telecommunications Providers * * *

Sec. 14. 19 V.S.A. § 26a is amended to read:

§ 26A. DETERMINATION OF RENT TO BE CHARGED FOR LEASING
OR LICENSING STATE-OWNED PROPERTY UNDER THE AGENCY'S
JURISDICTION

* * *

(b) Unless otherwise required by federal law, the Agency shall assess, collect, and deposit in the Transportation Fund a reasonable charge or payment with respect to leases or licenses for access to or use of State-owned rights-of-way by providers of broadband or wireless communications facilities or services. ~~The Vermont Telecommunications Authority, established by 30 V.S.A. chapter 91, Agency~~ may waive such charge or payment in whole or in part if the provider offers to provide comparable value to the State so as to meet the public good as determined by the ~~Authority~~ Agency and the Department of Public Service. For the purposes of this section, the terms "comparable value to the State" shall be construed broadly to further the State's interest in ubiquitous broadband and wireless service availability at reasonable cost. Any waiver of charges or payments for comparable value to the State granted by the ~~Authority~~ Agency may not exceed five years. Thereafter, the ~~Authority~~ Agency may extend any waiver granted for an additional period not to exceed five years if the ~~Authority~~ Agency makes affirmative written findings demonstrating that the State has received and will continue to receive value that is comparable to the value to the provider of the waiver, or it may revise the terms of the waiver in order to do so. ~~The Authority, in consultation with the Agency of Transportation, shall adopt rules under 3 V.S.A. chapter 25 to implement this section. For the purpose of~~

~~establishing rules to implement 30 V.S.A. chapter 91 by July 1, 2007, or as soon thereafter as possible, the authority is authorized to adopt initial rules under this section using emergency rulemaking procedures of 3 V.S.A. chapter 25. Any emergency rules initially adopted may remain in effect longer than 120 days, but in no event shall they remain in effect for more than six months.~~

* * *

* * * Retransmission Fees; Reporting * * *

Sec. 15. 30 V.S.A. § 518 is amended to read:

§ 518. RETRANSMISSION FEES; REPORTING

(a) Purpose. The purpose of this section is to provide the Attorney General with information necessary to investigate certain conduct within the cable and broadcast network industries to determine whether unfair methods of competition ~~or unfair or deceptive acts or practices~~ are occurring in violation of 9 V.S.A. chapter 63.

(b) Reporting. Annually, beginning on January 1, 2015, each commercial broadcasting station doing business with a Vermont cable company shall report to the Attorney General any fees charged for program content retransmitted on the cable network under a retransmission consent agreement entered into pursuant to 47 U.S.C. § 325, for the prior calendar year.

(c) Investigations. The Attorney General may investigate retransmission fees charged by commercial broadcasting stations, pursuant to his or her investigatory powers established under 9 V.S.A. chapter 63.

(d) Public disclosure. The information received ~~under this section~~ by the Attorney General under subsection (b) of this section ~~shall be disclosed to the public at a time and in a manner determined by the Attorney General to be consistent with and permitted by the Public Records Act and relevant provisions of federal law~~ shall be kept confidential and is exempt from public inspection and copying under the Public Records Act, unless otherwise ordered by a court.

(e) Enforcement. A violation of this section constitutes ~~an unfair and deceptive act and practice in commerce~~ unfair competition under 9 V.S.A. § 2453.

(f) The Attorney General may adopt rules he or she deems necessary to implement this section. The rules, as well as any finding of unfair ~~or deceptive practices~~ competition with regard to retransmission consent fees, shall not be inconsistent with the rules, regulations, and decisions of the Federal Communications Commission and the federal courts interpreting the Communications Act of 1934, as amended.

* * * E-911 System; Operations; Savings * * *

Sec. 16. E-911 OPERATIONS AND SAVINGS

(a) The General Assembly finds as follows:

(1) 2014 Acts and Resolves No. 190, Sec. 24 directed the Secretary of Administration to submit a report to the General Assembly proposing a plan for transferring the responsibilities and powers of the Enhanced 911 Board, including necessary positions, to either the Division for Connectivity, the Department of Public Service, or the Department of Public Safety.

(2) The plan was to include budgetary recommendations, striving to achieve annual operational savings of at least \$300,000.00, as well as enhanced coordination and efficiency, and reduction in operational redundancies.

(3) On December 15, 2014, the Secretary of Administration made a recommendation to the General Assembly to transfer responsibilities and powers of the Enhanced 911 Board to the Department of Public Safety. In the report, the Secretary estimated that such transfer could be expected to save between \$210,000.00 and \$350,000.00 each year on an ongoing basis by virtue of personal services savings.

(4) During the 2015 legislative session, a representative of the Enhanced 911 Board testified before the Senate Committee on Appropriations that the Board's current, administrative expenses could be reduced by approximately \$300,000.00.

(b) By July 1, 2015, the administration of the Vermont Enhanced 911 system shall be transferred to the Department of Public Safety, as provided in Secs. 17, 18, and 19 of this act; or, if such transfer does not occur, then in fiscal year 2016, not less than \$300,000.00 shall be transferred from the Enhanced 911 Fund to the General Fund to offset E-911-eligible costs incurred by the Department of Public Safety, and not less than one, full-time employee position in the Enhanced 911 system shall be eliminated.

Sec. 17. 20 V.S.A. § 1811 is amended to read:

§ 1811. CREATION OF DEPARTMENT

There is hereby created a ~~department of public safety~~ Department of Public Safety for the purpose of consolidating certain existing police and investigating agencies, to promote the detection and prevention of crime generally, and to participate in searches for lost or missing persons, and to assist in case of statewide or local disasters or emergencies, and to administer the statewide Enhanced 911 system established under 30 V.S.A. chapter 87.

Sec. 18. 20 V.S.A. § 1872 is amended to read:

§ 1872. DUTIES OF COMMISSIONER GENERALLY

The ~~commissioner shall be~~ Commissioner is the chief enforcement officer of all the statutes, rules, and regulations pertaining to the law of the road and the display of lights on vehicles. In addition, the ~~commissioner~~ Commissioner shall supervise and direct the activities of the ~~state police~~ State Police and of the Vermont ~~criminal information center~~ Crime Information Center and, as fire marshal, ~~be responsible for enforcing~~ shall enforce the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training. In addition, the Commissioner shall administer the statewide Enhanced 911 system established under 30 V.S.A. chapter 87.

Sec. 19. 30 V.S.A. chapter 87 is amended to read:

CHAPTER 87. ENHANCED 911; EMERGENCY SERVICES

§ 7051. DEFINITIONS

As used in this chapter:

(1) “Automatic location identification” or “ALI” means the system capability to identify automatically the geographical location of the electronic device being used by the caller to summon assistance and to provide that location information to an appropriate device located at any public safety answering point for the purpose of sending emergency assistance.

(2) ALI “database” means a derivative, verified set of records ~~which that~~ contain at a minimum a telephone number and location identification for each unique building or publicly used facility within a defined geographic area in Vermont.

(3) “Automatic number identification” or “ANI” means the system capability to identify automatically the calling telephone number and to provide a display of that number at any public safety answering point.

(4) “Board” means the Vermont Enhanced 911 Advisory Board established under section 7053 of this ~~title~~ chapter.

(5) “Caller” means a person or an automated device calling on behalf of a person.

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

(7) “Director” means the Director for statewide Enhanced 911.

~~(7)(8)~~ (8) “Emergency call system” or “Enhanced 911 system” means a system consisting of devices with the capability to determine the location and

identity of a caller that initiates communication for the purpose of summoning assistance in the case of an emergency. In most cases summoning assistance will occur when a caller dials the digits 9-1-1 on a telephone, mobile phone, or other IP-enabled service, or by a communication technology designed for the purpose of summoning assistance in the case of an emergency.

~~(8)~~(9) “Emergency services” means fire, police, medical, and other services of an emergency nature as identified by the ~~Board~~ Commissioner.

~~(9)~~(10) “IP-enabled service” means a service, device, or application that makes use of Internet protocol, or IP, and ~~which~~ that is capable of entering the digits 9-1-1 or otherwise contacting the ~~emergency~~ Enhanced 911 system. IP-enabled service includes voiceover IP and other services, devices, or applications provided through or using wire line, cable, wireless, ~~or~~ satellite, or other facilities.

~~(10)~~(11) “Municipality” means any city, town, incorporated village, unorganized town, gore, grant, or other political subdivision of the State.

~~(11)~~(12) “Other methods of locating caller” means those commercially available technologies designed to provide the location information of callers when a call is initiated to access emergency 911 services regardless of the type of device ~~that is~~ used.

~~(12)~~(13) “Public safety answering point” means a facility with the capability to receive emergency calls, operated on a 24-hour basis, assigned the responsibility of receiving 911 calls and dispatching, transferring, or relaying emergency 911 calls to other public safety agencies or private safety agencies.

~~(13)~~(14) “Selective routing” means a telecommunications switching system that enables all 911 calls originating from within a defined geographical region to be answered at a ~~pre-designated~~ predesignated public service answering point.

§ 7052. VERMONT ENHANCED 911 ADVISORY BOARD

(a) The Vermont Enhanced 911 Advisory Board is established to ~~develop, implement and supervise the operation~~ make recommendations to the Commissioner regarding the development and implementation of the statewide Enhanced 911 system.

(b) The Board shall consist of nine members: one county law enforcement officer elected by the membership of the Vermont ~~State sheriff’s association~~ Sheriff’s Association; one municipal law enforcement officer elected by the ~~chiefs of police association of Vermont~~ Association of Chiefs of Police; one official of a municipality; a firefighter; an emergency medical services provider; a Department of Public Safety representative; and three members of

the public. Board members shall be appointed by the Governor to three-year terms, except that the Governor shall stagger initial appointments so that the terms of no more than four members expire during a calendar year. In appointing Board members, the Governor shall give due consideration to the different geographical regions of the State; and the need for balance between rural and urban areas. Board members shall serve at the pleasure of the Governor.

(c) Members who are not State employees or not otherwise compensated in the course of their employment shall receive per diem compensation and expense reimbursement for meetings in accordance with the provisions of 32 V.S.A. § 1010. Members who receive per diem shall receive compensation for no more than 12 meetings per year.

(d) The Governor shall annually appoint a member to serve as Board chair and a member to serve as Board vice chair. The Board shall hold at least four regular meetings a year. Meetings of the Board may be held at any time or place within Vermont upon call of the Chair or a majority of the members, after reasonable notice to the other members and shall be held at such times and places as in the judgment of the Board will best serve the convenience of all parties in interest. The Board shall adopt rules and procedures with respect to the conduct of its meetings and other affairs. Membership on the Board does not constitute the holding of an office for any purpose, and members of the Board shall not be required to take and file oaths of office before serving on the Board. A member of the Board shall not be disqualified from holding any public office or employment, and shall not forfeit any office or employment, by reason of ~~their~~ his or her appointment to the ~~board~~ Board, notwithstanding any statute, ordinance, or charter to the contrary.

(e) The Board shall ~~appoint~~ recommend, subject to the approval of the ~~Governor~~ Commissioner, an Executive Director who shall hold office at the pleasure of the ~~Board~~ Commissioner. He or she shall perform such duties as may be assigned by the ~~Board~~ Commissioner. The Executive Director is entitled to compensation, as established by law, and reimbursement for the expenses within the amounts available by appropriation. ~~The Executive Director may, with the approval of the Board, hire employees, agents, and consultants and prescribe their duties.~~

§ 7053. ~~BOARD~~ COMMISSIONER; RESPONSIBILITIES AND POWERS

(a) The ~~Board shall be the single governmental agency~~ Commissioner is responsible for statewide ~~enhanced~~ Enhanced 911. To the extent feasible, the ~~Board~~ Commissioner shall consult with the Agency Secretary of Human Services, the ~~Department of Public Safety, the Department~~ Commissioner of Public Service, and local community service providers on the development of

policies, system design, standards, and procedures. The ~~Board~~ Commissioner shall develop designs, standards, and procedures and shall adopt rules on the following:

(1) the technical and operational standards for public safety answering points;

(2) the system ~~data-base~~ database, standards and procedures for developing and maintaining the ~~data-base~~ database. The system ~~data-base~~ database shall be the property of the ~~Board~~ Department of the Public Safety;

(3) statewide, locatable means of identifying customer location, such as addressing, geo-coding, or other methods of locating the caller; and

(4) standards and procedures to ensure system and ~~data-base~~ database security.

~~(b)-(d) [Repealed.]~~

~~(e)~~(b) The ~~Board~~ Commissioner is authorized to:

(1) ~~to~~ make or cause to be made studies of any aspect of the ~~enhanced~~ Enhanced 911 system, including service, operations, training, ~~data-base~~ database development, and public awareness;

(2) ~~to~~ accept and use in the name of the ~~state~~ State, subject to review and approval by the ~~joint-fiscal-committee~~ Joint Fiscal Committee, any and all donations or grants, both real and personal, from any governmental unit or public agency or from any institution, person, firm, or corporation, consistent with the rules established by the Board and the purpose or conditions of the donation or grant; and

(3) ~~to~~ exercise all powers and conduct such activities as are necessary in carrying out the ~~Board's~~ Commissioner's responsibilities in fulfilling the purposes of this chapter.

~~(f)~~(c) The ~~Board~~ Commissioner shall adopt such rules as are necessary to carry out the purposes of this chapter, including, where appropriate, imposing reasonable fines or sanctions against persons that do not adhere to applicable ~~board~~ rules.

~~(g), (h) [Repealed.]~~

§ 7054. FUNDING

(a) The Enhanced 911 Fund is created as a special fund subject to the provisions of 32 V.S.A. chapter 7, subchapter 5. Balances in the Fund on June 30 of each year shall carry forward and shall not revert to the General Fund.

(b) The General Assembly shall annually review and approve an amount to be transferred by the universal service fiscal agent to the Enhanced 911 Fund and shall appropriate some or all of that amount for expenditures related to providing Enhanced 911 services.

(c) Into the Enhanced 911 Fund shall be deposited monies transferred from the universal service fiscal agent, any State or federal funds appropriated to the Fund by the General Assembly, any taxes specifically required by law to be deposited into the Fund, and any grants or gifts received by the State for the benefit of the Enhanced 911 system.

(d) Disbursements from the Enhanced 911 Fund shall be made by the State Treasurer on warrants drawn by the ~~Director~~ Commissioner solely for the purposes specified in this chapter. The ~~Director~~ Commissioner may issue such warrants pursuant to contracts or grants.

(e) Disbursements may be made for:

(1) nonrecurring costs, including establishing public safety answering points, purchasing network equipment and software, developing ~~data-bases~~ databases, and providing for initial training and public education;

(2) recurring costs, including network access fees and other telephone charges, software, equipment, ~~data-base~~ database management and improvement, public education, ongoing training and equipment maintenance;

(3) expenses of the Board and the Department of Public ~~Service~~ Safety incurred under this chapter;

(4) costs solely attributable to statewide public safety answering point operations; and

(5) costs attributable to demonstration projects designed to enhance the delivery of ~~emergency~~ Enhanced 911 and other emergency services.

(f) Disbursements may not be made for:

(1) personnel costs for emergency dispatch answering points;

(2) construction, purchase, renovation, or furnishings for buildings at emergency dispatch points;

(3) two-way radios; and

(4) vehicles and associated equipment.

§ 7055. TELECOMMUNICATIONS COMPANY COORDINATION

(a) Every telecommunications company under the jurisdiction of the Public Service Board offering access to the public network shall make available, in accordance with rules adopted by the Public Service Board, the universal

emergency telephone number 911 for use by the public in seeking assistance from fire, police, medical, and other emergency service providers through a public safety answering point.

(b) Every local exchange telecommunications provider shall provide the ANI and any other information required by rules adopted under section 7053 of this ~~title~~ chapter to the ~~Board~~ Commissioner, or to any administrator of the Enhanced 911 database, for purposes of maintaining the Enhanced 911 database. Each such provider ~~shall be~~ is responsible for updating the information at a frequency specified by such rules. All persons receiving confidential information under this section, as defined by the Public Service Board, shall use it solely for the purposes of providing ~~emergency~~ Enhanced 911 services, and shall not disclose such confidential information for any other purpose.

(c) Each local exchange telecommunications company, cellular company, and mobile or personal communications service company within the State shall designate a person to coordinate with and provide all relevant information to the ~~E-911 Board~~ Commissioner and the Public Service Board ~~in~~ for carrying out the purposes of the chapter.

(d) Wire line and nonwire cellular carriers certificated to provide service in the ~~state~~ State shall provide ANI signaling ~~which~~ that identifies geographical location as well as cell site address for cellular 911 calls. Personal communications networks and any future mobile or personal communications systems ~~shall also be~~ are also required to identify the location of the caller. The telephone company shall provide ANI signaling ~~which~~ that identifies the name of the carrier and identify the type of service as cellular, mobile, or personal communications as part of the ALI along with a screen message that advises the call answerer to verify the location of the reported emergency. Telecommunication providers of mobile wireless, IP-enabled, and other communication services ~~which~~ that have systems with the capability to send data related to the location of the caller with the call or transmission instead of relying on location data otherwise contained in the ALI database shall provide this data with calls or transmissions for the sole purpose of enabling the ~~emergency~~ Enhanced 911 system to locate an individual seeking emergency services. Location data shall be provided in accordance with relevant national standards for next generation ~~9-1-1~~ 911 technology.

(e) Each local exchange telecommunications provider in the State shall file with the Public Service Board tariffs for each service element necessary for the provision of ~~enhanced~~ Enhanced 911 services. The Public Service Board shall review each company's proposed tariff, and shall ensure that tariffs for each necessary basic service element are effective within six months of filing. The

~~Department~~ Commissioner of Public Service, by rule or emergency rule, may establish the basic service elements that each company must provide for in tariffs. Such tariffs must be filed with the Public Service Board within 60 days after the basic service elements are established by the ~~Department~~ Commissioner of Public Service.

§ 7056. MUNICIPAL COOPERATION; ENHANCED ANI/ALI CAPABILITY

(a) Each municipality, by its legislative body, may participate in the Enhanced 911 system. 3 Municipalities choosing to participate shall identify all building locations and other public and private locations frequented by the public and shall cooperate in the development and maintenance of the necessary databases. The ~~Board~~ Commissioner shall work with municipalities to identify nonmonetary incentives designed to streamline and reduce the administrative burdens imposed by this requirement. Any municipality that changes its system for addresses shall ensure that the modified address system is consistent with the standards established by the ~~Board~~ Commissioner.

(b) After the effective date of this chapter, any municipality that changes its system for addresses shall ensure that the modified address system is consistent with the standards established by the ~~Board~~ Commissioner.

~~(c) (c) [Repealed.]~~

§ 7057. PRIVATELY OWNED TELEPHONE SYSTEMS

Any privately owned telephone system shall provide to those end users the same level of 911 service that other end users receive and shall provide ANI signaling, station identification data, and updates to Enhanced 911 databases under rules adopted by the ~~Board~~ Commissioner. The ~~Board~~ Commissioner may waive the provisions of this section for any privately owned telephone system, provided that in the judgment of the ~~Board~~ Commissioner, the owner of the system is actively engaged in becoming compliant with this section, is likely to comply with this section in a reasonable amount of time, and will do so in accordance with standards and procedures adopted ~~by the Board~~ by rule by the Commissioner.

§ 7058. PAY TELEPHONES

Each provider or other owner or lessee of a pay station telephone shall permit a caller to dial 911 without first inserting a coin or paying any other charge. The provider or other owner or lessee shall prominently display on each notice advising callers to dial 911 in an emergency and that deposit of a coin is not required.

§ 7059. CONFIDENTIALITY OF SYSTEM INFORMATION

(a)(1) A person shall not access, use, or disclose to any other person any individually identifiable information contained in the system database created ~~under subdivision 7053(a)(4) of this title~~ subsection 7053(a) of this chapter, including any customer or user ALI or ANI information, except in accordance with rules adopted by the ~~Board~~ Commissioner ~~and~~ for the purpose of:

(A) responding to emergency calls;

(B) system maintenance and quality control under the direction of the Director;

(C) investigation, by law enforcement personnel, of false or intentionally misleading reports of incidents requiring emergency services;

(D) assisting in the implementation of a statewide emergency notification system;

(E) provision of emergency dispatch services by public safety answering points in other states that are under contract with local law enforcement and emergency response organizations; or

(F) coordinating with ~~state~~ State and local service providers for the provision of emergency dispatch services that serve individuals with a disability, elders, and other populations with special needs.

(2) ~~No person shall~~ A person shall not use customer ALI or ANI information to create special 911 databases for any private purpose or any public purpose unauthorized by this chapter.

(b) Notwithstanding the provisions of subsection (a) of this section ~~to the contrary~~, customer ALI or ANI information obtained in the course of responding to an emergency call may be included in an incident report prepared by emergency response personnel, in accordance with rules adopted by the ~~Board~~ Commissioner.

(c) Information relating to customer name, address, and any other specific customer information collected, organized, acquired, or held by the ~~board~~ Department of Public Safety, the entity operating a public safety answering point or administering the Enhanced 911 database, or emergency service provider is not public information and is exempt from ~~disclosure under 1 V.S.A. chapter 5, subchapter 3~~ public inspection and copying under the Public Records Act.

(d) If a municipality has adopted conventional street addressing for Enhanced 911 addressing purposes, the municipality shall ensure that an individual who so requests will not have his or her street address and name

linked in a municipal public record, but the individual shall be required to provide a mailing address. The request required by this subsection shall be in writing and shall be filed with the municipal clerk. Requests under this subsection shall be confidential and exempt from public inspection and copying under the Public Records Act. A form shall be prepared by the ~~Board~~ Commissioner and made generally available to the public by which the confidentiality option established by this subsection may be exercised.

(e) Notwithstanding any provision of law to the contrary, no person acting on behalf of the State of Vermont or any political subdivision of the ~~state~~ State shall require an individual to disclose his or her Enhanced 911 address, provided that the individual furnishes his or her alternative mailing address.

§ 7060. LIMITATION OF LIABILITY

~~No person shall~~ A person shall not be liable in any suit for civil damages ~~who if he or she~~ in good faith receives, develops, collects, or processes information for the Enhanced 911 database or develops, designs, adopts, establishes, installs, participates in, implements, maintains, or provides access to telephone, mobile, or IP-enabled service for the purpose of helping persons obtain emergency assistance in accordance with this chapter unless such action constitutes gross negligence or an intentional tort. In addition, no provider of telephone, mobile, or other IP-enabled service or a provider's respective employees, directors, officers, assigns, affiliates, or agents shall be liable for civil damages in connection with the release of customer information to any governmental entity, including any public safety answering point, as required under this chapter.

* * * Communications Union Districts * * *

Sec. 20. 30 V.S.A. chapter 82 is added to read:

CHAPTER 82. COMMUNICATIONS UNION DISTRICT

§ 3051. FORMATION

(a) Two or more towns and cities may elect to form a communications union district for the delivery of communications services and the operation of a communications plant, which district shall be a body politic and corporate.

(b) A town or city electing to form a district under this chapter shall submit to the eligible voters of such municipality a proposition in substantially the following form: "Shall the Town of _____ enter into a communications union district to be known as _____, under the provisions of Chapter 82 of Title 30, Vermont Statutes Annotated?" at an annual or special meeting of such town or city.

(c) Additional towns or cities may be admitted to the district in the manner provided in section 3082 of this chapter.

(d) As used in this chapter:

(1) “Communications plant” means any and all parts of any communications system owned by the district, whether using wires, cables, fiber optics, wireless, other technologies, or a combination thereof, and used for the purpose of transporting or storing information, in whatever forms, directions, and media, together with any improvements thereto hereafter constructed or acquired, and all other facilities, equipment, and appurtenances necessary or appropriate to such system. However, the term “communications plant” and any regulatory implications or any restrictions under this chapter regarding a “communications plant” shall not apply to facilities or portions of any communications facilities intended for use by, and solely used by, a district member and its own officers and employees in the operation of municipal departments or systems of which such communications are merely an ancillary component.

(2) “Communications union district” or “district” means a communications union district formed under this chapter.

(3) “District member” or “member municipality” means a town or city that elects to form a communications union district under this chapter.

(4) “Governing board” or “board” means the governing board of the communications union district as established under this chapter.

§ 3052. DISTRICT COMPOSITION

A district formed under this chapter shall be composed of and include all of the lands and residents within a member municipality, and any other town or city subsequently admitted to the district as provided in this chapter except for those towns and cities that withdraw as provided in this chapter. Registered voters in each member municipality are eligible to vote in all district meetings, but only district member representatives are eligible to vote in meetings of the district’s governing board.

§ 3053. CREATION; DURATION; NONCONTESTABILITY

(a) Following the organizational meeting called for in section 3060 of this chapter, the district’s governing board shall cause to be filed with the Office of the Secretary of State a certificate attesting to the vote conducted under subsection 3051(b) of this chapter.

(b) A district formed under this chapter shall continue as a body politic and corporate unless and until dissolved according to the procedures set forth in this chapter.

(c) An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality of the formation, or the existence as a body corporate and politic of any communications union district created under this chapter after six months from the date of the recording in the Office of the Secretary of State of the certificate required by subsection (a) of this section. An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality or validity of any bonds issued to defray costs of communications plant improvements approved by the board, after six months from the date upon which the board voted affirmatively to issue such bonds. This section shall be liberally construed to effect the legislative purpose to validate and make certain the legal existence of all communications union districts in this State and the validity of bonds issued or authorized for communications plant improvements, and to bar every remedy therefor notwithstanding any defects or irregularities, jurisdictional or otherwise, after expiration of the six-month period. The provisions of this subsection shall also pertain to financial contracts directly related to the district's bonding authority.

(d) To the extent a district constructs communications infrastructure with the intent of providing communications services, the district shall ensure that any and all losses from these services, or in the event these services are abandoned or curtailed, any and all costs associated with the investment in communications infrastructure, are not borne by the taxpayers of district members.

§ 3054. DISTRICT POWERS

(a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject to the limitations and restrictions set forth in section 3056 of this chapter, a district created under this chapter shall have the power to:

(1) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of a communications plant for the delivery of communications services, as provided in 24 V.S.A. chapter 54, and all enactments supplementary and amendatory thereto;

(2) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(3) hire and fix the compensation and terms of employment of employees;

(4) sue and be sued;

(5) enter into contracts for any term or duration;

(6) contract with architects, engineers, financial and legal consultants, and others for professional services;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof;

(8) provide communications services for its members, the inhabitants thereof, and the businesses therein, and for such others as its facilities and obligations may allow, and further provided such service is not extended to a location in a municipality that is not contiguous with the town limits of a member district and that does not have access to broadband service from another provider;

(9) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(10) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(11) promote cooperative arrangements and coordinated action among its members and other public and private entities;

(12) make recommendations for review and action to its members and other public agencies which perform functions within the region in which its members are located;

(13) exercise any other powers which are necessary or desirable for dealing with communications matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(14) enter into financing agreements as provided by 24 V.S.A. § 1789 and chapter 53, subchapter 2, or other provisions of law authorizing the pledge of net revenue, or alternative means of financing capital improvements and operations;

(15) establish a budget to provide for the funding thereof out of general revenue of the district;

(16) appropriate and expend monies;

(17) establish sinking and reserve funds for retiring and securing its obligations;

(18) establish capital reserve funds and make appropriations thereto for communications plant improvements and the financing thereof;

(19) enact and enforce any and all necessary or desirable bylaws for the orderly conduct of its affairs for carrying out its communications purpose and for protection of its communications property;

(20) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(21) exercise all powers incident to a public corporation;

(22) adopt a name under which it shall be known and shall conduct business; and

(23) establish an effective date of its creation.

(b) Before a district may sell any service using a communications plant subject to Public Service Board jurisdiction and for which a certificate of public good is required under chapter 5 or 13 of this title, it shall obtain a certificate of public good for such service. Each such certificate of public good shall be nonexclusive and shall not contain terms or conditions more favorable than those imposed on existing certificate holders authorized to serve the municipality.

§ 3055. COMMUNICATIONS PLANT; SITES

Each member shall make available for lease to the district one or more sites for a communications plant or components thereof within such member municipality.

§ 3056. LIMITATIONS; TAXES; INDEBTEDNESS

(a) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not accept funds generated by a member's taxing or assessment power.

(b) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not have the power to levy, assess, apportion, or collect any tax upon property within the district, nor upon any of its members, without specific authorization of the General Assembly.

(c) Notwithstanding any grant of authority in this chapter to the contrary, every issue of a district's notes and bonds shall be general obligations of the district payable only out of any revenues or monies of the district.

§ 3057. BOARD AUTHORITY

The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs thereof shall be vested in a legislative body known as the governing board, except as specifically provided otherwise in this chapter.

§ 3058. BOARD COMPOSITION

The district governing board shall be composed of one representative from each member and one or more alternates to serve in the absence of the designated representative.

§ 3059. APPOINTMENT

Annually on or before the last Monday in April commencing in the year following the effective date of the district's creation, the legislative body of each member shall appoint a representative and one or more alternates to the governing board for one-year terms. Appointments of representatives and alternates shall be in writing, signed by the chair of the legislative body of the appointing member, and presented to the clerk of the district. The legislative body of a member, by majority vote, may replace its appointed representative or alternate at any time and shall promptly notify the district clerk of such replacement.

§ 3060. ORGANIZATIONAL MEETING

Annually, on the second Tuesday in May following the appointments contemplated in section 3059 of this chapter, the board shall hold its organizational meeting. At such meeting, the board shall elect from among its appointed representatives a chair and a vice chair, each of whom shall hold office for one year and until his or her successor is duly elected.

§ 3061. QUORUM

For the purpose of transacting business, the presence of delegates or alternates representing more than 50 percent of district members shall constitute a quorum. However, a smaller number may adjourn to another date. Any action adopted by a majority of the votes cast at a meeting of the board at which a quorum is present shall be the action of the board, except as otherwise provided in this chapter.

§ 3062. VOTING

Each district member's delegation shall be entitled to cast one vote.

§ 3063. TERM

Unless replaced in the manner provided in section 3059 of this chapter, a representative on the governing board shall hold office until his or her successor is duly appointed. Any representative or alternate may be reappointed to successive terms without limit.

§ 3064. VACANCY

Any vacancy on the board shall be filled within 30 days after such vacancy occurs by appointment by the authority which appointed the representative or

alternate whose position has become vacant. An appointee to a vacancy shall serve until the expiration of the term of the representative or alternate to whose position the appointment was made and may thereafter be reappointed.

§ 3065. RULES OF PROCEDURE

Except as otherwise provided by law, or as may be agreed upon by the board, Robert's Rules of Order shall govern at all meetings.

§ 3066. COMPENSATION OF REPRESENTATIVES

Each district member may reimburse its representative to the governing board for expenses as it determines reasonable, except as provided in section 3072 of this chapter with respect to district officers.

§ 3067. OFFICERS; BOND

(a) The officers of the district shall be the chair and the vice chair of the board, the clerk of the district, and the treasurer of the district. Prior to assuming their offices, officers may be required to post bond in such amounts as shall be determined by resolution of the board. The cost of such bond shall be borne by the district.

(b) The chair shall preside at all meetings of the board and shall make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon the chair.

(d) During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its membership an acting vice chair who shall have the powers and be subject to all the responsibilities hereby given or imposed upon the vice chair.

(e) Upon the death, disability, resignation, or removal of the chair or vice chair, the board shall forthwith elect a successor to such vacant office until the next annual meeting.

§ 3068. CLERK

The clerk of the district shall be appointed by the board, and shall serve at its pleasure. The clerk is not required to be a member of the governing board. The clerk shall have the exclusive charge and custody of the records of the district and the seal of the district. The clerk shall record all votes and

proceedings of the district, including district and board meetings, and shall prepare and cause to be posted and published all warnings of meetings of such meetings. Following approval by the board, the clerk shall cause the annual report to be distributed to the legislative bodies of the district members. The clerk shall prepare and distribute any other reports required by State law and resolutions or regulations of the board. The clerk shall perform all duties and functions incident to the office of secretary or clerk of a body corporate.

§ 3069. TREASURER

The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall not be a member of the governing board. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment thereon. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as shall be required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. The treasurer shall do and perform all of the duties appertaining to the office of treasurer of a body politic and corporate. Upon removal or the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to the successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

§ 3070. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent professional accounting firm.

§ 3071. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members. Membership on other committees established by the board is not restricted to board members.

§ 3072. COMPENSATION OF OFFICERS

Officers of the district shall be paid from district funds such compensation or reimbursement of expenses, or both, as determined by the board.

§ 3073. RECALL OF OFFICERS

An officer may be removed by a two-thirds' vote of the board whenever, in its judgment, the best interest of the district shall be served.

§ 3074. FISCAL YEAR

The fiscal year of the district shall commence on January 1 and end on December 31 of each year.

§ 3075. BUDGET

(a) Annually, not later than September 15, the board shall approve and cause to be distributed to the legislative body of each district member for review and comment an annual report of its activities, together with a financial statement, a proposed district budget for the next fiscal year, and a forecast presenting anticipated year-end results. The proposed budget shall include reasonably detailed estimates of:

- (1) deficits and surpluses from prior fiscal years;
- (2) anticipated expenditures for the administration of the district;
- (3) anticipated expenditures for the operation and maintenance of any district communications plant;
- (4) payments due on obligations, long-term contracts, leases, and financing agreements;
- (5) payments due to any sinking funds for the retirement of district obligations;
- (6) payments due to any capital or financing reserve funds;
- (7) anticipated revenues from all sources; and
- (8) such other estimates as the board deems necessary to accomplish its purpose.

(b) Coincident with a regular meeting thereof, the board shall hold a public hearing not later than November 1 of each year to receive comments from the legislative bodies of district members and hear all other interested persons regarding the proposed budget. Notice of such hearing shall be given to the legislative bodies of district members at least 30 days prior to such hearing. The board shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

(c) Annually, not later than December 1, the board shall adopt the budget and appropriate the sums it deems necessary to meet its obligations and operate and carry out the district's functions for the next ensuing fiscal year.

(d) Actions or resolutions of the board for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted. Appropriations made by the board for the various estimates of the budget shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates. Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in the next fiscal year. All such budget amendments shall be reported by the district treasurer to the legislative bodies of each district member within 14 days of the end of the fiscal year.

(e) Financial statements and audit results shall be delivered to the legislative bodies of each district member within 10 days of delivery to the board.

§ 3076. INDEBTEDNESS

The board may borrow money through the issuance of notes of the district for the purpose of paying current expenses of the district. Such notes shall mature within one year, and may be refunded in the manner provided by law, and shall be payable solely from the district's operating revenues. The governing board may borrow money in anticipation of the receipt of grants-in-aid from any source and any revenues. Such notes shall mature within one year, but may be renewed as provided by general law.

§ 3077. PLEDGE OF REVENUES

(a) When the board, at a regular or special meeting called for such purpose, determines by resolution passed by a vote of a majority of members present and voting that the public interest or necessity demands communications plant improvements, or a long-term contract, and that the cost of the same will be too great to be paid out of the ordinary annual income and revenue of the district, the board may pledge communications plant net revenues and enter into long-term contracts to provide for such improvements. A "long-term contract" means an agreement in which the district incurs direct or conditional obligations for which the costs are too great to be paid out of the ordinary annual income and revenues of the district, in the judgment of the board. It includes an agreement authorized under 24 V.S.A. § 1789, wherein performance by the district is conditioned upon periodic appropriations. The term "communications plant improvements" includes improvements that may

be used for the benefit of the public, whether or not publicly owned or operated.

(b) The pledge of communications plant net revenues, and other obligations allowed by law, may be authorized for any purpose permitted by this chapter, 24 V.S.A. chapter 53, subchapter 2, and chapter 54, or any other applicable statutes. A communications plant is declared to be a project within the meaning of 24 V.S.A. § 1821(4).

§ 3078. SINKING AND RESERVE FUNDS

(a) The board may establish and provide for sinking and reserve funds, however denominated, for the retirement and security of pledges of communications plant net revenue, or for long-term contracts. When so established, such funds shall be kept intact and separate from other monies at the disposal of the district, and shall be accounted for as a pledged asset for the purpose of retiring or securing such obligations or contracts. The cost of payments to any sinking or reserve fund shall be included in the annual budget of the district.

(b) The board shall establish and provide for a capital reserve fund to pay for communications plant improvements, replacement of worn out buildings and equipment, and planned and unplanned major repairs in furtherance of the purpose for which the district was created. Any such capital reserve fund shall be kept in a separate account and invested as are other public funds and shall be expended for such purposes for which established. The cost of payments to any capital reserve fund shall be included in the annual budget of the district.

§ 3079. SERVICE FEES

The board may from time to time establish and adjust service, subscription, access, and utility fees for the purpose of generating revenues from the operation of its communications plant.

§ 3080. SPECIAL MEETINGS

(a) The board may call a special meeting of the district when it deems it necessary or prudent to do so and shall call a special meeting of the district when action by the voters is necessary under this chapter. In addition, the board shall call a special meeting upon receipt of a petition signed by at least five percent of the registered voters within the district, or upon request of at least 25 percent of district members evidenced by formal resolutions of the legislative bodies of such members or by petitions signed by at least five percent of the member's registered voters. The board may rescind the call of a special meeting called by it but not a special meeting called as provided in this subsection. The board may schedule the date of such special meetings to coincide with the date of annual municipal meetings, primary elections,

general elections, or similar meetings when the electorate within the district members will be voting on other matters.

(b) At any special meeting of the district, voters of each district member shall cast their ballots at such polling places within the municipality of their residence as shall be determined by the board of the district in cooperation with the boards of civil authority of each district member.

(c) Not less than three nor more than 14 days prior to any special meeting, at least one public hearing shall be held by the board at which time the issues under consideration shall be presented and comments received. Notice of such public hearing shall include the publication of a warning in a newspaper of general circulation in the district at least once a week, on the same day of the week, for three consecutive weeks, the last publication not less than five nor more than 10 days before the public hearing. Such notice may be included in the warning called for in subsection (d) of this section.

(d) The board shall warn a special meeting by filing a notice with the clerk of each district member and by posting a notice in at least five public places in each municipality in the district not less than 30 nor more than 40 days before the meeting. In addition, the warning shall be published in a newspaper of general circulation in the district once a week on the same day of the week for three consecutive weeks before the meeting, the last publication to be not less than five nor more than 10 days before the meeting.

(e) The original warning of any special meeting of the district shall be signed by a majority of the board and shall be filed with the clerk before being posted.

(f) The posted and published warning notification shall include the date, time, place, and nature of the meeting. It shall, by separate articles, specifically indicate the business to be transacted and the questions to be voted upon.

(g) The Australian ballot system shall be used at all special meetings of the district when voting is to take place. Ballots shall be commingled and counted under the supervision of the district clerk.

(h) All legal voters of the district members shall be legal voters of the district. The district members shall post and revise checklists in the same manner as for municipal meetings prior to any district meeting at which there will be voting.

(i) At all special meetings, the provisions of 17 V.S.A. chapter 51 regarding election officials, voting machines, polling places, absentee voting, process of voting, count and return of votes, validation, recounts and contest of elections, reconsideration or rescission of vote, and jurisdiction of courts shall apply

except where clearly inapplicable. The clerk shall perform the functions assigned to the Secretary of State under that chapter. The Washington Superior Court shall have jurisdiction over petitions for recounts. Election expenses shall be borne by the district, unless within 30 days of the date of such resolution there is filed with the clerk of the district a request to call a special district meeting under this section to consider a proposition to rescind such resolution.

§ 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

A district member may withdraw from the district upon the terms and conditions specified below:

(1) Prior to the district pledging communications plant net revenues, or entering into a long-term contract, or contract subject to annual appropriation, a district member may vote to withdraw in the same manner as the vote for admission to the district. If a majority of the voters of a district member present and voting at a meeting duly warned for such purpose votes to withdraw from the district, the vote shall be certified by the clerk of that municipality and presented to the board. Thereafter, the board shall give notice to the remaining district members of the vote to withdraw and shall hold a meeting to determine if it is in the best interest of the district to continue to exist. Representatives of the district members shall be given an opportunity to be heard at such meeting together with any other interested persons. After such a meeting, the board may declare the district dissolved immediately or as soon thereafter as its financial obligations and of each district member on account thereof have been satisfied, or it may declare that the district shall continue to exist despite the withdrawal of such member. The membership of the withdrawing municipality shall terminate as soon after such vote to withdraw as any financial obligations of the withdrawing municipality have been paid to the district.

(2) After the district has pledged communications plant net revenues, or entered into a long-term contract or contract subject to annual appropriations, a district member may vote to withdraw in the same manner as the vote for admission to the district. It shall be a condition that the withdrawing municipality shall enter into a written agreement with the district whereby such municipality shall be obligated to continue to pay its share of any contract obligations incurred by the district for the remaining term of the contract term.

§ 3082. ADMISSION OF DISTRICT MEMBERS

The board may authorize the inclusion of additional district members in the communications union district upon such terms and conditions as it in its sole discretion shall deem to be fair, reasonable, and in the best interests of the district. The legislative body of any nonmember municipality which desires to

be admitted to the district shall make application for admission to the board. The board shall determine the financial, economic, governance, and operational effects that are likely to occur if such municipality is admitted and thereafter either grant or deny authority for admission of the petitioning municipality. If the board grants such authority, it shall also specify any terms and conditions, including financial obligations, upon which such admission is predicated. Upon resolution of the board, such applicant municipality shall become and thereafter be a district member.

§ 3083. DISSOLUTION

(a) If the board by resolution approved by two-thirds of all the votes entitled to be cast determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of communications plant net revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of dissolution be submitted to the voters of the district at a special meeting thereof duly warned for such purpose. If a majority of the voters of the district present and voting at such special meeting shall vote to dissolve the district and approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up thereof. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and to the Secretary of State and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(b) The plan of dissolution shall:

- (1) identify and value all unencumbered assets;
- (2) identify and value all encumbered assets;
- (3) identify all creditors and the nature or amount of all liabilities and obligations;
- (4) identify all obligations under long-term contracts and contracts subject to annual appropriation;
- (5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction thereof;
- (6) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

Sec. 21. EAST CENTRAL VERMONT TELECOMMUNICATIONS DISTRICT

The East Central Vermont Telecommunications District approved by the voters of the Towns of Norwich, Randolph, Sharon, Strafford, and Woodstock on March 3, 2015, qualifies as a communications union district under 30 V.S.A. chapter 82, if so approved by the legislative body of each municipality after enactment of 30 V.S.A. chapter 82.

* * * VEDA Loans to Telecommunications Union Districts * * *

Sec. 22. 10 V.S.A. § 212 is amended to read:

§ 212. DEFINITIONS

As used in this chapter:

* * *

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the authority that meets the criteria established in the Vermont Sustainable Jobs Strategy adopted by the Governor under section 280b of this title, including land and rights in land, air, or water, buildings, structures, machinery, and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of state, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing. Such enterprises or endeavors may include:

* * *

(N) industrial park planning, development, or improvement; ~~or~~

(O) for purposes of subchapter 5 of this chapter, a telecommunications plant, as defined in 24 V.S.A. § 1911(2), owned by a municipality individually or in concert with one or more other municipalities as a communications union district established under 30 V.S.A. chapter 82; or

(P) any combination of the foregoing activities, uses, or purposes. An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities.

* * *

Sec. 23. 10 V.S.A. § 261 is amended to read:

§ 261. ADDITIONAL POWERS

In addition to powers enumerated elsewhere in this chapter, the Authority may:

(1) make loans secured by mortgages, which may be subordinate to one or more prior mortgages, upon application by the proposed mortgagor, who may be a private corporation, partnership or person, or municipality financing an eligible project described in subdivision 212(6) of this title, upon such terms as the Authority may prescribe, for the purpose of financing the establishment or expansion of eligible facilities. Such loans shall be made from the Vermont Jobs Fund established under subchapter 3 of this chapter. The Authority may provide for the repayment and redeposit of such loans in the manner provided hereinafter.

* * *

Sec. 24. 10 V.S.A. § 262 is amended to read:

§ 262. FINDINGS

Before making any loan, the Authority shall receive from an applicant a loan application in such form as the Authority may by regulation prescribe, and the Authority, or the Authority's loan officer pursuant to the provisions of subdivision 216(15) of this title, shall determine and incorporate findings in its minutes that:

* * *

(5) The principal obligation of the Authority's mortgage does not exceed \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless:

(A) an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the Authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the

balance of the cost of the project from other sources as provided in the following section; or

(B) a single loan for which the principal amount of the Authority's mortgage does not exceed \$3,000,000.00 for an eligible facility consisting of a municipal telecommunications plant, as defined in 24 V.S.A. § 1911(2); or

* * *

Sec. 25. 10 V.S.A. § 263 is amended to read:

§ 263. MORTGAGE LOAN; LIMITATIONS

* * *

(b) Any loan of the ~~authority~~ Authority under this subchapter shall be for a period of time and shall bear interest at such rate as determined by the ~~authority~~ Authority and shall be secured by a mortgage on the eligible facility for which the loan was made or upon the assets of a municipal communications plant, including the net revenues derived from the operation thereof, or both. The mortgage may be subordinate to one or more prior mortgages, including the mortgage securing the obligation issued to secure the commitment of funds from the independent and responsible sources and used in the financing of the economic development project. Monies loaned by the authority shall be withdrawn from the Vermont jobs fund fund and paid over to the mortgagor in such manner as provided and prescribed by the rules and regulations of the authority. All payments of principal and interest on the loans shall be deposited by the authority in the Vermont jobs fund.

* * *

(h) All actions of a municipality taken under this subchapter for the financing of an eligible project described in subsection 212(b) shall be as authorized in section 245 of this title.

(i) The provisions of section 247 of this title shall apply to the financing of an eligible project described in subdivision 216(6) of this title.

* * * Statutory Revision * * *

Sec. 26. STATUTORY REVISION

In its statutory revision capacity under 2 V.S.A. § 424, the Office of Legislative Council shall, where appropriate in 30 V.S.A. chapter 88:

(1) replace the words "Public Service Board" with the words "Department of Public Service";

(2) replace the word "Board" with the word "Commissioner"; and

(3) make other similar amendments necessary to effect the purposes of this act.

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2015, except that this section and Secs. 6(e) (Commissioner approval of all Vermont Telecommunications Contracts), 13 (conversion of a meteorological station to wireless telecommunications facility), 15 (retransmission fee reporting), 16 (E-911 operations and savings), 20 (telecommunications union district), 21 (ECFiber qualifies as telecommunications union district), 22-25 (municipal telecommunications projects eligible for VEDA lending), and 26 (statutory revision authority) shall take effect on passage.

(b) Secs. 17, 18, and 19 (transferring administration of the E-911 Board to the Department of Public Safety) shall take effect upon a finding by the Secretary of Administration that the administration of the E-911 system should be transferred to the Department of Public Safety not later than July 1, 2015.

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

An act relating to telecommunications.

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

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

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

Proposal of Amendment; Third Reading Ordered

H. 269.

Senator Bray, for the Committee on Natural Resources & Energy, to which was referred House bill entitled:

An act relating to the transportation and disposal of excavated development soils legally categorized as solid waste.

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

Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds and declares that:

(1) polycyclic aromatic hydrocarbons (PAHs), arsenic, and lead may be considered hazardous materials under State law;

(2) PAHs, arsenic, and lead frequently are present in the environment as a result of atmospheric deposition of exhaust products from incomplete combustion of hydrocarbons, including oil, gasoline, coal, wood, and solid waste;

(3) arsenic and lead can be present as naturally occurring elements in soils;

(4) soils on properties within downtowns or village centers often contain PAHs, arsenic, or lead at levels that exceed the Vermont soil screening standards even though there is no identifiable, site-specific source of the PAHs, arsenic, or lead contamination on the property;

(5) presence of PAHs, arsenic, or lead due to atmospheric deposition or natural occurrence can complicate the development of properties in downtowns and village centers; and

(6) to facilitate development in downtowns and village centers, while also arranging for the proper disposition of contaminated soil, a process should be established to allow the transfer of soil containing PAHs, arsenic, or lead to receiving sites that meet criteria established by the Secretary of Natural Resources.

Sec. 2. 10 V.S.A. § 6602 is amended to read:

§ 6602. DEFINITIONS

As used in this chapter:

* * *

(37) “Background concentration level” means the concentration level of PAHs, arsenic, or lead in soils, expressed in units of mass per mass, that is attributable to site contamination caused by atmospheric deposition or is naturally occurring and determined to be representative of statewide or regional concentrations through a scientifically valid means as determined by the Secretary.

(38) “Commencement of construction” means the construction of the first improvement on the land or to any structure or facility located on the land. “Commencement of construction” shall not mean soil testing or other work necessary for assessment of the environmental conditions of the land and subsurface of the land.

(39) “Development soils” means unconsolidated mineral and organic matter overlying bedrock that contains PAHs, arsenic, or lead in concentrations that:

(A) exceed the relevant soil screening level for residential soil;

(B) when managed in compliance with section 6604c, 6605, or 6605c of this title:

(i) pose no greater risk than the Agency-established soil screening value for the intended reuse of the property; and

(ii) pose no unreasonable risk to human health through a dermal, inhalation, or ingestion exposure pathway;

(C) does not leach compounds at concentrations that exceed groundwater enforcement standards; and

(D) does not result in an exceedance of Vermont groundwater enforcement standards.

(40) “Development soils concentration level” means those levels of PAHs, arsenic, or lead expressed in units of mass per mass, contained in the development soils.

(41) “Downtown development district” shall have the meaning stated in 24 V.S.A. § 2791(4).

(42) “Growth center” shall have the meaning stated in 24 V.S.A. § 2793c.

(43) “Neighborhood development area” shall have the meaning stated in 24 V.S.A. § 2793e.

(44) “Origin site” means a location where development soils originate.

(45) “PAHs” means polycyclic aromatic hydrocarbons.

(46) “Receiving site” means a location where development soils are deposited.

(47) “Receiving site concentration level” means those levels of PAHs, arsenic, or lead, expressed in units of mass per mass, that exist in soils at a receiving site.

(48) “TIF district” means a tax increment financing district created by a municipality pursuant to 24 V.S.A. § 1892.

(49) “Village center” shall have the meaning stated in 24 V.S.A. § 2791(10).

Sec. 3. 10 V.S.A. § 6604c is added to read:

§ 6604c. MANAGEMENT OF DEVELOPMENT SOILS

(a)(1) The Secretary shall not require a person that manages development soils in a manner that meets the requirements of this section to take corrective action procedures pursuant to section 6615b or 6648 of this title or to obtain a solid waste certification under this chapter for the management, transport, or receipt of development soils, provided that:

(A) the soils are removed from an origin site located in a designated downtown development district, growth center, neighborhood development area, TIF district, or village center;

(B) the origin site or the receiving site of the development soils is not:

(i) the subject of a planned or ongoing removal action under the Comprehensive Environmental, Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.; or

(ii) listed or proposed for listing as a CERCLA site under 42 U.S.C. § 9605; and

(C) the investigation and management of development soils occur under plans submitted and approved pursuant to subsection (b) of this section.

(2) This section shall apply to the management of development soils only until the Secretary adopts rules under this chapter for the management of development soils, provided that those rules satisfy all of the requirements of subsection (d) of this section.

(b) Development soils cleanup requirements.

(1) The development and implementation of plans and work performed pursuant to plans under this section shall be supervised and certified by an environmental professional, as that term is defined in 40 C.F.R. § 312.10.

(2) Prior to the commencement of construction activities, a person applying to manage development soils under this subsection shall provide the Secretary with:

(A) complete investigation workplans for the origin site and the proposed receiving site that include:

(i) for the origin site, representative sampling and analysis of the development soil proposed for management under this section for PAHs, arsenic, and lead;

(ii) for the receiving site, representative in situ surface soil sampling and analysis for PAHs, arsenic, and lead;

(iii) at least one synthetic precipitation leachate procedure analysis representative of the development soil to determine likelihood of adverse impacts to groundwater; and

(iv) establishment of approximate seasonal depth to groundwater and underlying soil stratigraphy at the receiving site;

(B) a report of the results of any approved investigation workplan;

(C) the management plans for the origin site and proposed receiving site, which;

(i) shall demonstrate that the management of the development soils will meet all applicable Vermont Water Quality Standards and will not present an unreasonable threat to groundwater, surface water, human health, or the environment; and

(ii) for a receiving site, shall include a description of the siting, construction, operation, and closure of the receiving site; and

(D) documentation that the development soils concentration levels are approximately equivalent to or less than the receiving site concentration levels for the same contaminants.

(3) Upon receipt of a complete work plan submitted under subdivision (b)(2)(A) of this section or a complete management plan submitted under subdivision (b)(2)(C) of this section, the Secretary shall make a final determination as to whether the investigation workplan or management plan submitted under this subsection satisfies the requirements of subdivision (b)(2)(A) of this section for investigation work plans or subdivision (b)(2)(C) of this section for management plans. Prior to making a final determination on a management plan under this section, the Secretary shall allow for a public comment period on the plan for no less than 14 days. The Secretary shall hold a public informational meeting on a management plan upon request from any person. The Secretary shall issue a final decision regarding the investigation work plan or management plan within 45 days of receipt of the respective plan.

(4) Upon the submission of a final report documenting implementation of the management plan, the Secretary shall make a final determination as to whether the developer has satisfied all requirements of the management plan within 45 days of receipt of the developer's request for such a determination.

(c) Notwithstanding the requirements under subdivision (b)(2) of this section for submission of required materials prior to the commencement of construction, development soils stockpiled on municipal properties as of the

effective date of this section shall be eligible for management under the provisions of this section, provided that the requirements of subsection (a)(1) and (b) of this section are otherwise met.

(d) On or before July 1, 2016, the Secretary shall adopt rules that allow for the management of excavated soils requiring disposal that contain PAHs, arsenic, or lead in a manner that ensures protection of human health and the environment and promotes Vermont's traditional settlement patterns in compact village or city centers. At a minimum, the rules shall:

(1) include statewide or regional background concentration levels for PAHs, arsenic, and lead that are representative of typical soil concentrations and found throughout existing development areas;

(2) specify that development soils with concentration levels equal to or lower than the background concentration levels established by the Secretary shall not be defined as or required to be treated as solid waste;

(3) include criteria for determining site-specific maximum development soil concentration levels for PAHs, arsenic, and lead;

(4) in addition to disposal at a certified waste facility, adopt procedures for the management or disposal of development soils that have concentration levels that exceed residential soil screening levels, but are below the site-specific maximum development soils concentration levels;

(5) adopt a process to preapprove sites to receive development soils from multiple developments; and

(6) be designed to provide that the criteria established under subdivision (3) of this subsection and the process developed under subdivision (4) of this subsection shall be no less protective of human health and the environment than the standard for development soils and the process established under subsection (b) of this section.

(e) At any time, the Secretary may adopt by rule background and maximum concentration levels for other potentially hazardous material in soils such that the development soils containing these other materials would be categorized and treated according to the rules adopted by the Secretary under subsection (d) of this section.

Sec. 4. 10 V.S.A. § 6001(3)(D)(vi) is amended to read:

(vi) The construction of improvements for any one of the actions or abatements authorized in subdivision (I) of this subdivision (vi):

* * *

(ff) The management of “development soils,” as that term is defined in 10 V.S.A. § 6602(39), under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

Sec. 5. CATEGORICAL SOLID WASTE CERTIFICATION

Development soils as defined in 10 V.S.A. § 6602(39) shall be eligible for disposal at a categorical disposal facility certified by the Secretary of Natural Resources for the disposal of development soils pursuant to 10 V.S.A. § 6605c.

Sec. 6. MANAGEMENT OF DEVELOPMENT SOILS AS ALTERNATIVE DAILY COVER

Development soils as defined in 10 V.S.A. § 6602(39) shall be eligible to be used as alternative daily cover at a solid waste facility certified pursuant to 10 V.S.A. § 6605.

Sec. 7. REPEAL

On July 1, 2016, 10 V.S.A. § 6604c(a), (b), and (c) are repealed.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

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

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

Proposal of Amendment; Third Reading Ordered

H. 484.

Senator Starr, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to miscellaneous agricultural subjects.

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

* * * Agricultural Water Quality; Financial Assistance * * *

Sec. 1. 6 V.S.A. § 4815(c) is amended to read:

(c) ~~For purposes of~~ As used in this section, “waste storage facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an

~~in-ground or above-ground~~ inground and aboveground structure, or any combination thereof. ~~This section does not apply to concrete slabs used for agricultural waste management.~~

Sec. 2. 6 V.S.A. § 4820 is amended to read:

§ 4820. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “AAPs” means “accepted agricultural practices” as defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets pursuant to subchapter 1 of this chapter.

(2) “Secretary” means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

(3) “Agency” means the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

* * *

(6) “Good standing” means the participant:

(A) does not have an active enforcement violation that has reached a final order with the Secretary; or

(B) is in compliance with all terms of a current grant agreement or contract with the Agency.

Sec. 3. 6 V.S.A. § 4821 is amended to read:

§ 4821. ASSISTANCE PROGRAM CREATED; ADMINISTRATION

(a) Program created. A program is created to provide ~~state~~ State financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the ~~state~~ State of Vermont, consistent with goals of the federal Water Pollution Control Act and with ~~state~~ State water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the ~~state~~ State shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

(b) Program administration. The ~~secretary~~ Secretary shall:

(1) ~~administer~~ Administer the ~~state~~ State assistance program, for which purpose the ~~secretary~~ Secretary shall coordinate with officials of the U.S. Department of Agriculture or other federal agencies, and shall adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3 concerning farmer application and eligibility requirements, financial assistance award priorities, and other administrative and enforcement conditions; ~~and~~.

(2) ~~may~~ May provide technical assistance to individual farmers with the preparation of on-farm agricultural waste management plans, applications for ~~state~~ State and federal financial assistance awards, installation of on-farm improvements, and maintenance of acceptable operating standards during the ~~life of a state assistance award contract~~ term of the program grant agreement. For this purpose, ~~state~~ State employees of the ~~agency~~ Agency shall cooperate with federal employees of the U.S. Department of Agriculture or other federal agencies.

Sec. 4. 6 V.S.A. § 4822 is amended to read:

§ 4822. ELIGIBILITY FOR STATE ASSISTANCE

Vermont farmers shall be eligible to receive available ~~state~~ State financial assistance with the installation of on-farm improvements designed to control agricultural nonpoint source waste discharges, provided that:

(1) for farmers who also seek federal financial assistance for this purpose, the improvements:

(A) are eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with a “nutrient management plan” prepared by the Vermont field office of the NRCS, or with an animal waste management plan based on standards equivalent to those of the NRCS; or

(2) for farmers who decline to seek or accept federal financial assistance for this purpose, the improvements:

(A) are determined by the ~~secretary~~ Secretary to be equivalent to those eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with an animal waste management plan based on standards determined by the ~~secretary~~ Secretary to be equivalent to those of the NRCS; ~~and~~

(3) improvements will be constructed on a farm that is in good standing with the Secretary at the time of the award on all grant agreements, contract awards, or enforcement proceedings.

Sec. 5. 6 V.S.A. § 4824 is amended to read:

§ 4824. STATE FINANCIAL ASSISTANCE AWARDS

(a) State grant. State financial assistance awarded under this subchapter shall be in the form of a grant. When a State grant is intended to match federal financial assistance for the same on-farm improvement project, the State grant shall be awarded only when the federal financial assistance has also been approved or awarded. An applicant for a State grant shall pay at least 10 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded, except that a State grant shall not exceed 90 percent of the total eligible project cost.

(b) ~~Farmer contract.~~ A State grant awarded to an applicant under this subchapter shall be awarded in accordance with a State ~~contract~~ grant containing ~~contract~~ terms substantially the same as those required for receipt of a federal award for the same purpose from the U.S. Department of Agriculture, except as provided by the Secretary by rule.

Sec. 6. 6 V.S.A. § 4826 is amended to read:

§ 4826. COST ASSISTANCE FOR WASTE STORAGE FACILITIES

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for cost assistance. Using ~~state~~ State or federal funds, or both, a State assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a State assistance grant shall be made in the manner prescribed by the Secretary. ~~As used in this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section shall apply to concrete slabs used for agricultural waste management.~~

(b) If the Secretary lacks adequate funds necessary for the cost assistance awards required by subsection (a) of this section, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. If the Emergency Board fails to provide adequate funds, the design and construction requirements for waste storage facilities under subsection 4815(b) of this title and the AAPs for groundwater, as they relate to a waste storage facility, shall be suspended for a farm with a

waste storage facility subject to the requirements of subsection 4815(b) of this title until adequate funding becomes available. Suspension of the design and construction requirements of subsection 4815(b) of this title does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title from the remaining requirements of the owner's or operator's permit, including discharge standards, groundwater protection, nutrient management planning, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(c) The owner or operator of a farm with a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for a State assistance grant for the costs of complying with the U.S. Department of Agriculture Natural Resources Conservation Service requirements for inspection of a waste storage facility. Such grants shall not exceed 90 percent of the cost of the inspection of the waste storage facility. Application for a State assistance grant shall be made in the manner prescribed by the Secretary.

Sec. 7. 6 V.S.A. § 4827(e) and (f) are amended to read:

(e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(f) The Secretary may ~~contract~~ enter into grants with natural resources conservation districts, the University of Vermont Extension Service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans.

Sec. 8. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to ~~state~~ State waters, improve water quality of State waters, reduce odors from

manure application, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined ~~by rule~~ by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators and nonprofit organizations and that are located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site which is located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(d) [Repealed.]

Sec. 9. 6 V.S.A. § 4849 is amended to read:

§ 4849. RECYCLING ANIMAL WASTE NUTRIENTS

In order to best use the nutrients of animal waste generated by ~~large~~ farm operations, the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets together with the ~~department of public service~~ Department of Public Service shall use available resources to inform ~~large~~ farm operations of appropriate methods and resources available to digest and compost their animal wastes, and to capture methane for beneficial uses.

Sec. 10. 6 V.S.A. § 4850 is amended to read:

§ 4850. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Domestic fowl” means laying-hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(2) “Livestock” means cattle, mature cow/calf pairs, youngstock, heifers, bulls, swine, sheep, or goats, horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 11. 6 V.S.A. § 4851 is amended to read:

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the ~~secretary~~ Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts and, prior to approval of a permit under this subsection, shall issue a written determination regarding whether the applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a large farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations.

(b) A person shall apply for a permit in order to operate a farm which exceeds 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks if the livestock or domestic fowl are in a barn or adjacent barns owned by the same person, or if the barns share a common border or have a common waste disposal system. In order to receive this permit, the person shall demonstrate to the ~~secretary~~ Secretary that the farm has an adequately sized manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(c) The ~~secretary~~ Secretary shall approve, condition, or disapprove the application within 45 business days of the date of receipt of a complete application for a permit under this section. Failure to act within the 45 business days shall be deemed approval.

(d) A person seeking a permit under this section shall apply in writing to the ~~secretary~~ Secretary. The application shall include a description of the proposed barn or expansion of livestock or domestic fowl; a proposed nutrient management plan to accommodate the number of livestock or domestic fowl the barn is designed to house or the farm is intending to expand to; and a description of the manure management system to be used to accommodate agricultural wastes.

(e) The ~~secretary~~ Secretary may condition or deny a permit on the basis of odor, noise, traffic, insects, flies, or other pests.

(f) Before granting a permit under this section, the ~~secretary~~ Secretary shall make an affirmative finding that the animal wastes generated by the construction or expansion will be stored so as not to generate runoff from a 25-year, 24-hour storm event and shall be disposed of, in accordance with the accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(g) A farm that is permitted under this section and that withdraws more than 57,600 gallons of groundwater per day averaged over any 30 consecutive-day period shall annually report estimated water use to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of

Agriculture, Food and Markets shall share information reported under this subsection with the ~~agency of natural resources~~ Agency of Natural Resources.

Sec. 12. 6 V.S.A. § 4856 is amended to read:

§ 4856. ~~RECYCLING ANIMAL WASTE NUTRIENTS~~

~~In order best to use the nutrients of animal waste generated by farms to which this subchapter applies, the agency of agriculture, food and markets, together with the department of public service, shall use available resources to inform operators of such farms of appropriate methods and resources available to digest and compost their animal wastes and to capture methane for beneficial uses. [Repealed.]~~

Sec. 13. 6 V.S.A. § 4857 is amended to read:

§ 4857. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Animal feeding operation” (AFO) means a lot or facility where the livestock or domestic fowl have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO which are under common ownership and which adjoin each other or use a common area or system for the disposal of waste, shall be considered to be a single AFO if the combined number of livestock or domestic fowl resulting qualifies as a medium farm as defined in subdivision (2) of this section.

(2) “Medium farm” is an AFO which houses 200 to 699 mature dairy animals, 300 to 999 cattle or cow/calf pairs, 300 to 999 veal calves, 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing less than 55 pounds, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure handling system, 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500 to 124,999 chickens other than laying hens without a liquid manure handling system, 1,500 to 4,999 ducks with a liquid manure handling system or 10,000 to 29,999 ducks without a liquid manure handling system.

(3) “Small farm” is an AFO which houses no more than 199 mature dairy animals, 299 cattle or cow/calf pairs, 299 veal calves, 749 swine weighing over 55 pounds, 2,999 swine weighing less than 55 pounds, 149 horses, 2,999 sheep or lambs, 16,499 turkeys, 8,999 laying hens or broilers with a liquid manure handling system, 24,999 laying hens without a liquid manure handling system, 37,499 chickens other than laying hens without a

liquid manure handling system, 1,499 ducks with a liquid manure handling system or 9,999 ducks without a liquid manure handling system.

(4) “Domestic fowl” means laying hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(5) “Livestock” means cattle, swine, sheep, goats, and horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 14. 6 V.S.A. § 4858(c) is amended to read:

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title.

* * *

(d) Medium and small farms; individual permit. The ~~secretary~~ Secretary may require the owner or operator of a small or medium farm to obtain an individual permit to operate after review of the farm’s history of compliance,

application of accepted agricultural practices, the use of an experimental or alternative technology or method to meet a ~~state~~ State performance standard, or other factors set forth by rule. The owner or operator of a small farm may apply to the ~~secretary~~ Secretary for an individual permit to operate under this section. To receive an individual permit, an applicant shall in a manner prescribed by rule demonstrate that the farm has an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards, including setback requirements for waste application. An individual permit shall be valid for no more than five years. Any application for an individual permit filed under this subsection shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~agency of natural resources~~ Agency of Natural Resources, shall review any application for a permit under this subsection and, prior to issuance of an individual permit under this subsection, shall issue a written determination regarding whether the permit applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to federal regulations for concentrated animal feeding operations. If, upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a medium or small farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations. Coverage of a medium farm under a general permit adopted pursuant to this section or an individual permit issued to a medium or small farm under this section is rendered void by the issuance of a permit to a farm under 10 V.S.A. § 1263.

Sec. 15. 6 V.S.A. chapter 215, subchapter 6 is amended to read:

Subchapter 6. Vermont ~~Agricultural Buffer~~ Critical Area Seeding
and Filter Strip Program

§ 4900. VERMONT ~~AGRICULTURAL BUFFER~~ SEEDING AND FILTER
STRIP PROGRAM

(a) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets is authorized to develop a Vermont ~~agricultural buffer critical source area seeding and filter strip~~ program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative ~~buffers and installing conservation practices in ditch networks~~ grassed waterways and filter strips on agricultural ~~land~~ cropland perpendicular and adjacent to the surface waters of the ~~state~~ State, including ditches. Eligible acreage would include annually tilled cropland or a portion of cropland currently cropped as hay that will not be rotated into an annual crop for a 10-year period of time. Acreage that is currently managed as hay shall have a prior history of rotation as corn or other annual commodity crop.

(b) ~~The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed the combined federal and state payment that the relevant agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The incentive payment~~ Incentive payments from the Agency of Agriculture, Food and Markets shall be made annually at the end of the cropping season for a nonrenewable five year period at the outset of a 10-year agreement to establish or maintain the acreage as harvestable grassed waterway or filter strip.

(c) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont ~~agricultural buffer critical source area seeding and filter strip~~ program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the ~~state~~ State or any portion of it.

Sec. 16. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production,

minimize erosion potential, and reduce agricultural waste discharges. The following practices ~~shall~~ may be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
 - (2) cover cropping;
 - (3) strip cropping;
 - (4) cross-slope tillage;
 - (5) zone or no-tillage;
 - (6) pre-sidedress nitrate tests;
 - (7) annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;
 - (8) educational and instructional activities to inform the farmers and citizens of Vermont of:
 - (A) the impact on Vermont waters of agricultural waste discharges;
 - (B) the federal and State requirements for controlling agricultural waste discharges;
 - (9) implementing alternative manure application techniques; and
 - (10) additional soil erosion reduction practices.
- (b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

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

Sec. 17. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets shall be administered by a ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary~~ Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The ~~secretary~~ Secretary may:

* * *

(13) notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the ~~secretary~~ Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such multiyear licensure, permit, registration, or certificate on a pro-rated basis which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the ~~secretary~~ Secretary where the annual fee is more than \$125.00. The Secretary shall only provide refunds for overpayments of \$25.00 or more on a license, permit, registration, or certificate issued by the Secretary;

* * *

* * * Dairy Operations; Drugs * * *

Sec. 18. 6 V.S.A. § 2744a is amended to read:

§ 2744a. DRUGS

(a) No producer shall sell or offer for sale milk which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.

~~(1) In the event that milk from a dairy farm contains a drug, no more milk produced by that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. In the event of a second violation within a 12-month period, no more milk produced by that producer shall be received by any milk dealer or handler for a period of up to two days and until a sample of at least one complete milking has been collected and found negative. In the event of a third violation within a 12-month period, the secretary shall, at a minimum, take the same action as required for a second violation and may prohibit the producer from selling milk in this state. No handler or dealer shall accept milk from a producer whose ability to sell milk is suspended or terminated.~~

~~(2) In lieu of suspending a producer's ability to sell milk, the secretary may issue an administrative penalty. The amount of the penalty shall not exceed the value of the milk which could have been prohibited from sale. A producer who fails to pay an administrative penalty, after opportunity for hearing, shall have his or her ability to sell milk suspended until the penalty is paid. In lieu of suspending a producer's ability to sell milk, the secretary may~~

~~accept the assessment by the milk dealer or handler, against the producer, of damages beyond the milk dealer's or handler's control that occurred as a result of purchasing the contaminated milk, as an equivalent penalty.~~

(1) In the event that milk from a dairy producer contains a drug residue:

(A) No more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative.

(B) If a second drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of one day of milk production assessed.

(C) If a third drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of two days of milk production assessed. A hearing shall be warned to determine if the producer will be allowed to continue to ship milk.

(2) No handler or dealer shall accept milk from:

(A) a producer after a drug residue violation has occurred until a sample of at least one complete milking has been found negative; or

(B) a producer whose ability to sell milk is suspended or terminated.

(3) A producer who fails to pay an administrative penalty issued under this section within 30 days of issuance of a citation for violation of this section shall have his or her ability to sell milk suspended until the administrative penalty is paid. In lieu of suspending a producer's ability to sell milk, the Secretary may accept the assessment by the milk dealer against the producer.

~~(3)~~(4) Notwithstanding the provisions of subsection (c) of this section, the Secretary may at any time issue an emergency order prohibiting a producer from selling and a handler from accepting any milk until the milk tests negative for drugs.

(b)(1) No producer shall sell livestock for slaughter which contains livestock with bodily tissue containing any drug or drugs in excess of tolerances established by the United States U.S. Food and Drug Administration in the Code of Federal Regulations.

(2) In the event that bodily tissue obtained from livestock intended for slaughter is found to contain a drug or drugs in excess of levels established by the ~~United States~~ U.S. Food and Drug Administration in the Code of Federal Regulations at the time of sale, the ~~secretary~~ Secretary may assess an administrative penalty not to exceed \$1,000.00 for each violation and may require the farm to participate in a program approved by the Agency intended to mitigate further selling of animals for food that contain violative drug residues in their tissue.

(c) Before issuing an order or administrative penalty under this section, the ~~secretary~~ Secretary shall provide the producer and the handler or dealer an opportunity for hearing.

* * * Weights and Measures * * *

Sec. 19. 9 V.S.A. § 2633 is amended to read:

§ 2633. SPECIFIC POWERS AND DUTIES OF SECRETARY;
REGULATIONS

(a) The Secretary shall issue from time to time reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law. These regulations may include (1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form, (2) rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties, (3) exemptions from the sealing or marking requirements of section 2639 of this title with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question. These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in section 2635 of this title, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (1) that are not accurate, (2) that are of such construction that they are faulty—that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly—or (3) that facilitate the perpetration of fraud.

(b) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices, as adopted by the national conference on weights and measures and published in National Institute of Standards and Technology Handbook 44, “Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices,” and supplements thereto, or revisions

thereof, shall apply to weighing and measuring devices in the State, except insofar as modified or rejected by regulation.

(c) The uniform regulation for packaging and labeling, the uniform regulation for unit pricing, and the uniform regulation for the method of sale of commodities, except for bread, as adopted by the national conference on weights and measures, and published by the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," together with amendments, supplements, and revisions thereto, are adopted as part of this chapter except as modified or rejected by regulation.

* * * VEDA; Water Quality Initiatives * * *

Sec. 20. 10 V.S.A. § 280a is amended to read:

§ 280a. ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS

(a) The Authority may develop, modify, and implement any existing or new financing program, provided that any specific project that benefits from such program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title, and provided further that the program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title. These programs may include:

* * *

(11) a program that would award grants made to eligible and qualified recipients as directed by the Agency of Agriculture, Food and Markets or the Agency of Natural Resources for the purpose of funding ~~stream stability and conservation reserve enhancement environmental~~ water quality initiatives approved by the agencies, provided that the maximum amount of grants awarded by the Authority pursuant to the program shall not exceed \$1,340,238.00 in the aggregate.

* * *

Sec. 21. VEDA FINANCING OF WATER QUALITY INITIATIVES

Notwithstanding 32 V.S.A. § 706, the Vermont Economic Development Authority is authorized to transfer to the Agency of Agriculture, Food and Markets or the Agency of Natural Resources funds held by VEDA for water quality programs pursuant to 10 V.S.A. § 280a(11).

* * * Working Lands Enterprise Program * * *

Sec. 22. 6 V.S.A. § 4604 is amended to read:

§ 4604. LEGISLATIVE INTENT

It is the intent of the General Assembly in adopting this subchapter to create a working lands enterprise board to administer a fund and develop policy recommendations to:

* * *

(8) increase the amount of State investment in working lands enterprises, particularly when it leverages private and philanthropic funds; ~~and~~

(9) support the people and businesses that depend on Vermont's renewable land-based resources and the sustainable and productive use of the land by coordinating and integrating financial products and programs; ~~and~~

(10) provide priority funding to agricultural and forest product enterprises. The priority for funding agricultural and forest product enterprises is not intended to exclude funding for technical assistance that directly supports enterprise development.

Sec. 23. 6 V.S.A. § 4606(b) is amended to read:

(b) Organization of Board. The Board shall be composed of:

(1) the Secretary of Agriculture, Food and Markets or designee, who shall serve as chair;

(2) the Commissioner of Forests, Parks and Recreation or designee;

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

(4) the following members appointed by the Speaker of the House:

(A) one member who is a ~~representative of the Vermont forest industry who is also a~~ consulting forester;

(B) one member who is actively engaged in ~~commodity~~ maple production;

(C) one member who is actively engaged in on-farm value-added processing;

(D) one member who is actively engaged in manufacturing or distribution of Vermont agricultural products; and

(E) one member with expertise in sales, marketing, or market development;

(5) the following members appointed by the Senate Committee on Committees:

(A) one member who is actively engaged in wood products manufacturing;

(B) one member ~~who is a representative of one of the two largest membership-based agricultural organizations in Vermont who is not a dairy farmer~~ involved in production agriculture whose primary enterprise is not fluid milk;

(C) one member who is actively engaged in primary wood processing or logging;

(D) one member who is an agriculture and forestry enterprise funder; and

(E) one member who is a person with expertise in rural economic development; and

(6) the following members appointed by the Governor:

(A) one member who is a representative of Vermont's dairy industry who is also a dairy farmer;

(B) one member who is a representative of ~~a membership-based forestland owner organization~~ Vermont's forestry industry who is also a working forest landowner;

(C) one member with expertise in land planning and conservation efforts that support Vermont's working landscape; and

(D) one member who is an employee of a Vermont institution engaged in agriculture or forestry education, training, or research; and

~~(7) the following members appointed by the Vermont Agricultural and Forest Products Development Board:~~

~~(A) one member who is actively engaged in value-added agricultural products manufacturing; and~~

~~(B) two members actively engaged in providing marketing assistance, market development, or business and financial planning;~~

~~(8)~~(7) the following members, who shall serve as ex officio, nonvoting members:

(A) the Manager of the Vermont Economic Development Authority or designee;

(B) the Executive Director of the Vermont Sustainable Jobs Fund or designee; and

(C) the Executive Director of the Vermont Housing Conservation Board or designee.

Sec. 24. 6 V.S.A. § 4607 is amended to read:

§ 4607. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Duties. The Vermont Working Lands Enterprise Board is charged with:

(1) optimizing the agricultural and forest use of Vermont lands and other agricultural resources;

(2) expanding existing markets and identifying and developing new profitable in-state and out-of-state markets for food, fiber, forest products, and value-added agricultural products, including farm-derived renewable energy; and

(3) identifying opportunities and challenges related to access to capital, infrastructure, product development, marketing, training, research, and education.

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

(1) to design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the Board's activities;

(2) to gain information through the use of experts, consultants, and data to perform analysis as needed;

(3) to request services from State economists, State administrative agencies, and State programs;

(4) to obtain information from other planning entities, including the Farm to Plate Investment Program;

(5) to serve as a resource for and make recommendations to the Administration and the General Assembly on ways to improve Vermont's laws, regulations, and policies in order to attain the goals set forth in section 4604 of this title;

(~~4~~)(6) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or

forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;

~~(2)~~(7) to award grants and other investments, which may include loans underwritten and administered through the Vermont Economic Development Authority;

~~(3)~~(8) to enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) organizational, regulatory, and development assistance; and

(D) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies;

~~(4)~~(9) to identify workforce needs and programs in order to develop training and incentive opportunities for the agriculture and forest product sectors after consulting with the Department of Labor;

~~(5)~~(10) to identify strategic statewide infrastructure and investment priorities considering:

(A) leveraging opportunities;

(B) economic clusters;

(C) return-on-investment analysis;

(D) other considerations the Board determines appropriate; and

~~(6)~~(11) ~~to pursue and accept grants or other funding from any public or private source and to administer such grants or funding consistent with their terms.~~ to develop an annual operating budget, and:

(A) solicit and accept any grants, gifts, or appropriations necessary to implement the budget pursuant to 32 V.S.A. § 5; and

(B) expend any monies necessary to carry out the purposes of this section.

~~(b)~~(c) Staff support. The Agency of Agriculture, Food and Markets shall provide administrative support to the extent authorized by the Secretary of Agriculture, Food and Markets, and with the assistance of the Department of Forests, Parks and Recreation to the extent authorized by the Commissioner of

Forests, Parks and Recreation, in order to support the ~~board~~ Board in the performance of its duties pursuant to this section.

Sec. 25. REPEAL OF VERMONT AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD

6 V.S.A. § 2966 (Agricultural and Forest Products Development Board) shall be repealed on July 1, 2015.

* * * Animal Shelter * * *

Sec. 26. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

* * *

(c)(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs. The shelter shall be constructed of materials with a thermal resistance factor of 0.9 or greater and shall contain clean bedding material sufficient to retain the dog's normal body heat.

* * *

(e) A dog maintained out-of-doors ~~must~~ shall be provided with suitable housing or shelter that ~~assures~~ ensures that the dog is protected from wind and draft, and from excessive sun, rain, and other environmental hazards throughout the year. The housing or shelter shall be fully enclosed except for a portal. The portal shall be of a sufficient size to allow the dog unimpeded passage into and out of the structure. The portal shall be constructed with a baffle or other means of keeping wind and precipitation out of the interior. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

(f) A dog chained to a shelter must be on a tether chain at least ~~four~~ five 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. The chain or tether shall be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether shall be attached to a well-fitted collar or harness on the dog.

* * *

* * * Agricultural Equipment * * *

Sec. 27. 32 V.S.A. § 9741(25) is amended to read:

(25) ~~Sales~~ Sale to a farmer, as that term is defined in section 3752 of this title, of agricultural machinery and equipment for use and consumption directly and exclusively, except for isolated or occasional uses, in the production for sale of tangible personal property on farms (including stock, dairy, poultry, fruit, and truck farms), orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale. It shall be rebuttably presumed that uses are not isolated or occasional if they total more than ~~four~~ 50 percent of the time the machinery or equipment is operated.

* * * Motor Fuel Oil Prices; Agricultural Economy * * *

Sec. 28. MOTOR FUEL OIL PRICES; STUDY

(a) Findings. The General Assembly finds as follows:

(1) The price of motor fuel has a major effect on Vermonters and our economy as a whole, particularly the agricultural sector of our economy.

(2) In recent years, it has become apparent that, although fuel prices have decreased nationally and across Vermont, this cost reduction has not kept pace in the State's northwestern communities.

(3) Based on the most recent census data collected by the U.S. Department of Agriculture, in the year 2012 there were 1,444 farms spanning 278,897 acres in Chittenden, Franklin, and Grand Isle Counties.

(4) Combined, the gasoline, fuel, and oil expenses for the farms in those three counties were \$14.712 million.

(5) It is incumbent upon the proper authorities to ensure to the greatest extent possible that farm production expenses reflect fair pricing so that the many agricultural products placed into the greater stream of commerce are competitively priced.

(b) Definitions. As used in this section:

(1) "Control" means the power, whether or not exercised, to establish, fix, or direct the retail price of motor fuel sold by a dealer, through ownership of stock or assets used by the dealer or through contract, agency, consignment, or otherwise, whether that power can be exercised directly or indirectly or through parent corporations, subsidiaries, related persons and entities, or affiliates.

(2) "Dealer" means a person located in Vermont that sells motor fuel oil to an end user at a service station, filling station, or otherwise.

(3) "Distributor" means a person that sells motor fuel oil to a dealer or directly to an end user.

(4) "Motor fuel oil" means internal combustion fuel sold for use in a motor vehicle, as that term is defined in 23 V.S.A. § 4(21), or in a farm tractor, as that term is defined in 23 V.S.A. § 4(68).

(5) "Motor fuel oil sales" means the wholesale or retail sale of motor fuel oil.

(c) Reporting. On or before December 15, 2015, the Attorney General may require distributors and dealers to provide information about the ownership or control of dealers or of assets related to motor fuel oil sales, volume of motor fuel oil sold or supplied, and wholesale and retail motor fuel oil prices.

(d) Confidentiality. Information received by the Attorney General under this section is confidential and shall be treated in the same manner as provided in 9 V.S.A. § 2460(a)(4).

(e) Report. The Attorney General shall study any data deemed relevant to the retail price of motor fuel oil in Vermont, including the data identified in subsection (c) of this section, and, on or before December 15, 2015, shall report to the General Assembly with recommendations, if any, regarding market conduct, including pricing, in the motor fuel oil industry in Vermont.

(f) Exercise of authority. The authority of the Attorney General under subsection (c) of this section to require reporting of distributors and dealers shall be exercised only with respect to the requirements of this section and shall not be exercised after December 15, 2015.

* * * Unpasteurized Milk * * *

Sec. 29. 6 V.S.A. chapter 152 is amended to read:

CHAPTER 152. SALE OF UNPASTEURIZED (RAW) MILK

* * *

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

* * *

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when delivery is arranged in conformance with section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1)(A) Unpasteurized milk shall be derived from healthy animals which are subject to appropriate veterinary care, including tuberculosis and brucellosis testing and rabies vaccination; according to accepted testing and ~~vaccinations~~ vaccination standards as established by the Agency.

(B) Prior to the use of a dairy animal for the production and sale of unpasteurized milk under this chapter, a producer of unpasteurized milk shall test the dairy animal for brucellosis and tuberculosis. The producer shall test the dairy animal used for production and sale of unpasteurized milk for brucellosis and tuberculosis every two years from the date of the first test for brucellosis and tuberculosis accordingly.

(C) Test A producer shall post test results and verification of vaccinations shall be posted on the farm in a prominent place and be easily visible shall make results available to customers and the Agency.

* * *

(d) Unpasteurized milk shall conform to the following production and marketing standards:

* * *

(6) Customer inspection and notification.

~~(A) Prior to selling milk to a new customer, the new customer shall visit the farm and the~~ The producer shall provide the customer with the opportunity to tour the farm and any area associated with the milking operation. The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to reinspect any areas associated with the milking operation.

(B) A sign with the words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." and "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, elders, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn." shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

(e) ~~Producers~~ A producer selling 87.5 or fewer gallons (350 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk only from the farm on which it was produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of

this section, in which case the producer may deliver in accordance with section 2778 of this title.

(f) ~~Producers~~ A producer selling ~~6~~ more than 87.5 gallons to ~~280~~ 350 gallons (more than 350 to ~~1,120~~ 1,400 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

* * *

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory using accredited lab approved testing containers. Milk shall be tested for the following and the results shall be below these limits:

- (i) total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);
- (ii) total coliform count: 10 cfu/ml (cattle and goats);
- (iii) somatic cell count: 225,000/ml (cattle); 500,000/ml (goats).

(B) The producer shall ~~assure~~ ensure that all test results are forwarded to the Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

* * *

(D) The Secretary shall issue a warning to a producer when a monthly test exceeds the limits required under subdivision (3)(A) of this subsection (f). The producer shall retest unpasteurized milk from the farm no later than one week from the date of receipt of the test results indicating that unpasteurized milk exceeded the limits required under subdivision (3)(A) of this subsection.

(E) If a retest of unpasteurized milk under subdivision (3)(D) of this subsection (f) exceeds the limits required under subdivision (3)(A) of this subsection, the Secretary shall suspend the authority of the producer under this chapter to sell unpasteurized milk until the producer submits test results indicating that unpasteurized milk from the farm is below the limits required under subdivision (3)(A) of this subsection.

(F) If a retest required under subdivision (3)(D) of this subsection (f) exceeds the limits required under subdivision (3)(A) of this subsection, the producer shall warn customers that unpasteurized milk from the farm exceeds one or more of the limits required under subdivision (3)(A) of this subsection until the producer submits test results indicating that unpasteurized milk from the farm is below the limits required under subdivision (3)(A) of this

subsection. The producer may provide the warning by posting the test results on a sign that is located in a prominent manner and that is clearly visible to consumers at the point of delivery or by directly notifying customers.

* * *

(6) ~~Pearranged~~ Off-farm delivery. ~~Pearranged~~ The delivery of unpasteurized milk is permitted and shall be in compliance with section 2778 of this title.

(g) The sale of more than ~~280~~ 350 gallons (~~1,120~~ 1,400 quarts) of unpasteurized milk in any one week is prohibited.

§ 2778. DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Delivery of unpasteurized milk off the farm is permitted only within the State of Vermont and only of milk produced by ~~those producers~~ a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) Delivery shall conform to the following requirements:

(1) Delivery shall be to ~~customers who have~~ a customer who has:

~~(A) visited the farm as required under subdivision 2777(d)(4) of this title; and~~

~~(B) purchased milk in advance either by a one-time payment or through a subscription.~~ Milk is purchased in advance of delivery when payment is provided prior to delivery at the customer's home or prior to commencement of the farmers' market where the customer receives delivery.

(2) ~~Delivery shall be~~ A producer may deliver directly to the customer:

(A) at the customer's home or into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer;

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor;

(3) During delivery, unpasteurized milk shall be protected from exposure to direct sunlight.

(4) During delivery, unpasteurized milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the unpasteurized milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the unpasteurized milk in accordance with this section.

(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets, ~~on a form provided by the Agency,~~ written or electronic notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and proof of registration;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day or days of the week on which delivery will be made at a farmers' market.

(e) A producer delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This section and Sec. 29 (unpasteurized milk) shall take effect on passage.

(b) The remainder of the act shall take effect on July 1, 2015.

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

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Starr? Senator Benning raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that Section 28 of the proposal of amendment offered by Senator Starr was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and declared that the proposal of amendment offered by Senator Starr in Sec. 28 could *not* be considered by the Senate and Sec. 28 of the proposal of amendment was ordered stricken.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

By striking out Sec. 27 (agricultural equipment; sales and use tax) in its entirety and inserting in lieu thereof the following:

Sec. 27. [Deleted.]

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

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

In Sec. 21 (VEDA financing of water quality initiatives), after “the Agency of Agriculture, Food and Markets” and before “funds held by VEDA” by striking out the words “or the Agency of Natural Resources”

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

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

Thereupon, the question, Shall the recommendation of the Committee on Agriculture be amended as recommended by the Committee on Finance was agreed to on a division of the Senate, Yeas 16, Nays 8.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as amended?, was agreed to.

Thereupon, the pending the question, Shall the bill be read the third time?, Senator Benning requested that Sec. 26 be struck from the bill, which was agreed to on a division of the Senate, Yeas 16, Nays 7.

Thereupon, third reading of the bill was ordered.

**Report of Committee of Conference Accepted and Adopted on the Part of
the Senate**

S. 115.

Senator White, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

An act relating to expungement of convictions based on conduct that is no longer criminal.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

* * *

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of intoxicating liquor or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana or a disorderly conduct offense under section 1026 of this title.

(4) “Qualifying crime” means:

(A) a misdemeanor offense which is not a listed crime as defined in subdivision 5301(7) of this title, an offense involving sexual exploitation of children in violation of chapter 64 of this title, an offense involving violation of a protection order in violation of section 1030 of this title, a prohibited act as defined in section 2632 of this title, or a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief; ~~or~~

(C) a violation of section 2501 of this title related to grand larceny; or

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title.

Sec. 2. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD, POSTCONVICTION; PROCEDURE

(a)(1) A person ~~who was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence~~ may file a petition with the Court requesting expungement or sealing of the criminal history record

related to the conviction.—~~The State's Attorney or Attorney General shall be the respondent in the matter. if:~~

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence; or

(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense.

(2) The State's Attorney or Attorney General shall be the respondent in the matter.

(3) The Court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the Court, and the Court shall issue the petitioner a certificate and provide notice of the order in accordance with this section.

* * *

(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.

(2) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.

(3) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(4) The person successfully completed a term of regular employment or public service, independent of any service ordered as a part of the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:

(A) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;

(B) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing;

(C) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing; or

(D) at least one year of regular employment.

(5) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.

(6) The Court finds that expungement of the criminal history record serves the interest of justice.

(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) At least one year has elapsed since the completion of any sentence or supervision for the offense, whichever is later.

(2) Any restitution ordered by the Court has been paid in full.

(3) The Court finds that expungement of the criminal history record serves the interest of justice.

(f) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:

(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.

(2) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.

(g) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the Court shall make a finding that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

JEANETTE K. WHITE
ALICE W. NITKA
JOSEPH C. BENNING

Committee on the part of the Senate

MAXINE JO GRAD
BETTY A. NUOVO
THOMAS B. BURDITT

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Committee of Conference Appointed

S. 139.

An act relating to pharmacy benefit managers and hospital observation status.

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

Senator Ayer
Senator Kitchel
Senator Ashe

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

Rules Suspended; Action Messaged

On motion of Senator Baruth, the rules were suspended, and the action on the following bill was ordered messaged to the House forthwith:

S. 139.

Message from the House No. 66

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

Mr. President:

I am directed to inform the Senate that:

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

S. 138. An act relating to promoting economic development.

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

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

S. 93. An act relating to lobbying disclosures.

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

Rep. Townsend of South Burlington
Rep. LaClair of Barre Town
Rep. Martin of Wolcott

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Proposals of Amendment; Consideration Interrupted by Recess

H. 35.

Consideration was resumed on House bill entitled:

An act relating to improving the quality of State waters.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as proposed by Senators Sirotkin, Ashe, and Mullin was agreed to.

Thereupon, pending third reading of the bill, Senators Lyons and Ayer moved to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 40 (State Treasurer water quality report) in its entirety and inserting in lieu thereof a new Sec. 40 to read as follows:

Sec. 40. STATE TREASURER REPORT ON LONG-TERM FINANCING OF STATEWIDE WATER QUALITY IMPROVEMENT

On or before January 15, 2017, the State Treasurer, after consultation with the Secretary of Administration and the Commissioner of Taxes, shall submit to the Senate and House Committees on Appropriations, the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, the Senate Committee on Agriculture, the House Committee on Ways and Means, and the Senate Committee on Finance a recommendation for financing water quality improvement programs in the State. The recommendation shall include:

(1) Proposed revenue sources for water quality improvement programs that will replace the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a. The proposed revenue sources shall be designed to assess fees, taxes, or other revenue sources from a property, parcel use, parcel, type,

or an activity in proportion to the negative impacts of property, parcel use, parcel type, or activity on the water quality in the State.

(2) A recommendation for rewarding or incentivizing best management practices for a property or activity that is subject to the proposed fee, tax, or revenue source.

(3) An estimate of the amount of revenue to be generated from each proposed revenue source.

(4) A summary of how assessment of the proposed revenue source will be administered, collected, and enforced.

(5) A recommendation of whether the State should bond for the purposes of financing water quality improvement programs, including whether a proposed revenue source would be sufficient for issuance of water quality revenue bonds.

(6) A legislative proposal to implement each of the revenue sources proposed under this section.

Second: By striking out Sec. 39 (repeal of Clean Water Surcharge) in its entirety and inserting in lieu thereof a new Sec. 39 to read as follows:

Sec. 39. [Deleted.]

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senators Lyons and Ayer, Senator Sirotkin requested the question be divided.

Thereupon, the question, Shall the Senate proposal of amendment be amended as proposed in the *first* proposal of amendment was agreed to.

Thereupon, the question, Shall the Senate proposal of amendment be amended as proposed in the *second* proposal of amendment?, Senator Ayer requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending third reading of the bill, Senators Bray moved to amend the Senate proposal of amendment as follows:

First: In Sec. 3, in 6 V.S.A § 4871, by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Small farm definition. As used in this section, “small farm” means a parcel or parcels of land:

(1) on which 10 or more acres are used for farming;

(2) that house no more than the number of animals specified under section 4857 of this title; and

(3)(A) that house at least the number of mature animals that the Secretary of Agriculture, Food and Markets designates by rule under the Required Agricultural Practices; or

(B) that are used for the preparation, tilling, fertilization, planting, protection, irrigation, and harvesting of crops for sale.

and in subsection (d), in the first sentence, by striking out the following: “January 1, 2016” where it appears and inserting in lieu thereof the following: July 1, 2016 and by striking subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) Small farm inspection. The Secretary may inspect a small farm in the State at any time for the purposes of assessing compliance by the small farm with the required agricultural practices and determining consistency with a certification of compliance submitted by the person who owns or operates the small farm. The Secretary may prioritize inspections of small farms in the State based on identified water quality issues posed by a small farm. The Secretary shall adopt by rule, as part of the required agricultural practices, the required frequency of inspection of small farms.

Second: In Sec. 4, 6 V.S.A. § 4810a, in subdivision (a)(2)(B), after “within 200 feet of a water of the State” and before the period by inserting the following: , provided that the Secretary may authorize siting within 200 feet, but not less than 100 feet, of a private well or surface water if the Secretary determines that a manure stacking or piling site, fertilizer storage, or other nutrient storage will not have an adverse impact on groundwater quality or a surface water quality

Third: In Sec. 12, 6 V.S.A. § 4810, in subsection (c), by striking out the sixth sentence and inserting in lieu thereof the following:

Soil monitoring or innovative manure management implemented as a BMP shall be eligible for State assistance under the Clean Water Fund established under 10 V.S.A. chapter 47, subchapter 7.

Fourth: In Sec. 15, in 6 V.S.A. § 4981, in subsection (c), in the third sentence, by striking out the following: “On or before January 1, 2017,” where it appears and inserting in lieu thereof the following: On or before July 1, 2017.

Fifth: In Sec. 22, 10 V.S.A. § 1021, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) This subchapter shall not apply to ~~accepted agricultural or silvicultural practices, as defined by the Secretary of Agriculture, Food and Markets, or the Commissioner of Forests, Parks and Recreation, respectively;~~

(1) 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

(2) a farm that is implementing an approved U.S. Department of Agriculture Natural Resource Conservation Service streambank stabilization project or a streambank stabilization project approved by the Secretary of Agriculture, Food and Markets that is consistent with policies adopted by the Secretary of Natural Resources to reduce fluvial erosion hazards.

* * *

Sixth: In Sec. 30, 10 V.S.A. § 1251a(c), in the last sentence after “a permit under this chapter” and before the period by striking out the following: “and to a permit or coverage under a general permit issued a farm under 6 V.S.A. chapter 215 when the farm has the potential to discharge to State waters”

Seventh: In Sec. 31, 10 V.S.A. § 1264, by striking out subdivision (d)(1)(A) in its entirety and inserting in lieu thereof a new (d)(1)(A) to read as follows:

(A) Stormwater runoff from farms in compliance with agricultural practices adopted by the Secretary of Agriculture, Food and Markets, provided that this exemption shall not apply to construction stormwater permits required by subdivision (c)(4) of this section.

and by striking out subdivision (d)(1)(C) in its entirety and inserting in lieu thereof a new (d)(1)(C) to read as follows:

(C) Stormwater runoff from 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.

and by striking out the first sentence of subdivision (d)(2) in its entirety and inserting in lieu thereof the following:

No permit is required under subdivision (c)(1), (5), or (7) of this section and for which a municipality has assumed full legal responsibility as part of a permit issued to the municipality by the Secretary.

and in subsection (f), in the first sentence, after “adopt rules to manage” and before “stormwater runoff” by striking out “regulated”

and in subdivision (g)(1), after “general permits for classes of” and before “stormwater runoff” by striking out “regulated”

Eighth: In Sec. 40, in the first sentence after “Secretary of Administration” and before “and the Commissioner of Taxes” by inserting the following: , the Commissioner of Environmental Conservation.

Ninth: In Sec. 41, by striking out subdivision (a)(1) in its entirety and inserting in lieu thereof the following:

(1) In the Agency of Agriculture, Food and Markets—three (3) Water Quality Specialists, one (1) Chief Policy Enforcement Officer, one (1) Agriculture Systems Specialist, one (1) Financial Administrator II, one (1) GIS Project Supervisor, and one (1) Senior Agricultural Development Coordinator;

Tenth: In Sec. 44, 3 V.S.A. § 2822, in subsection (i), in the third sentence, by striking out “stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this section” and inserting in lieu thereof stormwater systems prescribed in subdivision (j)(2)(A)(iii)(I), (II), or (IV) and (j)(2)(B)(iv)(I), (II), or (V) of this section

and by striking out subdivision (j)(2)(A)(i)(I) and (II) in their entirety and inserting in lieu thereof:

(I) Individual permit: original application; amendment for increased flows; amendment for change in treatment process-;	\$0.0023 <u>\$0.003</u> per gallon design <u>permitted</u> flow; minimum \$50.00 <u>\$100.00</u> per outfall; maximum <u>\$30,000.00</u> per application.
(II) Renewal, transfer, or minor amendment of individual permit-;	\$0.00 <u>\$0.002</u> per gallon <u>permitted flow; minimum \$50.00 per outfall; maximum \$5,000.00 per application.</u>

and by striking out subdivision (j)(2)(B)(ii) in its entirety and inserting in lieu thereof the following:

(ii) Municipal-;	<u>\$0.003</u> per gallon of actual <u>permitted</u> flows. \$150.00 <u>\$200.00</u> minimum; maximum \$12,500.00.
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Eleventh: By striking out Secs. 51 and 52 in their entirety and inserting in lieu thereof new Secs. 51 and 52 to read as follows:

Sec. 51. 10 V.S.A. § 1259(f) is amended to read:

(f) The provisions of subsections (c), (d), and (e) of this section shall not regulate ~~accepted~~ required agricultural ~~or silvicultural~~ practices, as ~~such are defined~~ adopted by rule by the secretary of agriculture, food and markets and the commissioner of forests, parks and recreation, respectively, after an opportunity for a public hearing Secretary of Agriculture, Food and Markets, or 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; nor shall these provisions regulate discharges from concentrated animal feeding operations that require a permit under section 1263 of this title; nor shall those provisions prohibit stormwater runoff or the discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

Sec. 52. 24 V.S.A. § 4413(d) is amended to read:

(d) A bylaw under this chapter shall not regulate ~~accepted~~ required agricultural ~~and silvicultural~~ practices, including the construction of farm structures, as those practices are defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets or the commissioner of forests, parks and recreation, respectively, under 10 V.S.A. §§ 1021(f) and 1259(f) § 2622 and 6 V.S.A. § 4810 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.

* * *

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Bray, Senator Campbell requested that the Senate recess until two o'clock and thirty minutes.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Baruth the Senate recessed until two o'clock and forty-five minutes.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Proposals of Amendment; Third Reading Ordered; Bill Passed in Concurrence with Proposal of Amendment

H. 35.

Consideration was resumed on House bill entitled:

An act relating to improving the quality of State waters.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as proposed by Senator Bray?, was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 27, Nays 2.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, MacDonald.

The Senator absent and not voting was: McAllister.

Rules Suspended; House Proposal of Amendment Senate; Proposal of Amendment; Consideration Postponed

S. 73.

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

An act relating to State regulation of rent-to-own agreements for merchandise.

Was taken up for immediate consideration.

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

* * * Consumer Rent-to-Own Agreements * * *

Sec. 1. 9 V.S.A. § 41b is amended to read:

§ 41b. RENT-TO-OWN AGREEMENTS; DISCLOSURE OF TERMS

~~(a) The attorney general shall adopt by rule standards for the full and conspicuous disclosure to consumers of the terms of rent-to-own agreements. For purposes of this section a rent-to-own agreement means an agreement for~~

~~the use of merchandise by a consumer for personal, family, or household purposes, for an initial period of four months or less, that is renewable with each payment after the initial period and that permits the lessee to become the owner of the property. An agreement that complies with this article is not a retail installment sales contract, agreement or obligation as defined in this chapter or a security interest as defined in section 1-201(37) of Title 9A.~~

~~(b) The attorney general, or an aggrieved person, may enforce a violation of the rules adopted pursuant to this section as an unfair or deceptive act or practice in commerce under section 2453 of this title.~~

(a) Definitions. In this section:

(1) "Advertisement" means a commercial message that solicits a consumer to enter into a rent-to-own agreement for a specific item of merchandise that is conveyed:

(A) at a merchant's place of business;

(B) on a merchant's website; or

(C) on television or radio.

(2) "Cash price" means the price of merchandise available under a rent-to-own agreement that the consumer may pay in cash to the merchant at the inception of the agreement to acquire ownership of the merchandise.

(3) "Clear and conspicuous" means that the statement or term being disclosed is of such size, color, contrast, or audibility, as applicable, so that the nature, content, and significance of the statement or term is reasonably apparent to the person to whom it is disclosed.

(4) "Consumer" has the same meaning as in subsection 2451a(a) of this title.

(5) "Merchandise" means an item of a merchant's property that is available for use under a rent-to-own agreement. The term does not include:

(A) real property;

(B) a mobile home, as defined in section 2601 of this title;

(C) a motor vehicle, as defined in 23 V.S.A. § 4;

(D) an assistive device, as defined in section 41c of this title; or

(E) a musical instrument intended to be used primarily in an elementary or secondary school.

(6) "Merchant" means a person who offers, or contracts for, the use of merchandise under a rent-to-own agreement.

(7) “Merchant’s cost” means the documented actual cost, including actual freight charges, of merchandise to the merchant from a wholesaler, distributor, supplier, or manufacturer and net of any discounts, rebates, and incentives that are vested and calculable as to a specific item of merchandise at the time the merchant accepts delivery of the merchandise.

(8)(A) “Rent-to-own agreement” means a contract under which a consumer agrees to pay a merchant for the right to use merchandise and acquire ownership, which is renewable with each payment after the initial period, and which remains in effect until:

- (i) the consumer returns the merchandise to the merchant;
- (ii) the merchant retakes possession of the merchandise; or
- (iii) the consumer pays the total cost and acquires ownership of the merchandise.

(B) A “rent-to-own agreement” as defined in subdivision (7)(A) of this subsection is not:

- (i) a sale subject to 9A V.S.A. Article 2;
- (ii) a lease subject to 9A V.S.A. Article 2A;
- (iii) a security interest as defined in subdivision 9A V.S.A. § 1-201(a)(35); or
- (iv) a retail installment contract or retail charge agreement as defined in chapter 61 of this title.

(9) “Rent-to-own charge” means the difference between the total cost and the cash price of an item of merchandise.

(10) “Total cost” means the sum of all payments, charges, and fees that a consumer must pay to acquire ownership of merchandise under a rent-to-own agreement. The term does not include charges or fees for optional services or charges or fees due only upon the occurrence of a contingency specified in the agreement.

(b) General requirements.

(1) Prior to execution, a merchant shall give a consumer the opportunity to review a written copy of a rent-to-own agreement that includes all of the information required by this section for each item of merchandise covered by the agreement and shall not refuse a consumer’s request to review the agreement with a third party, either inside the merchant’s place of business or at another location.

(2) A disclosure required by this section shall be clear and conspicuous.

(3) In a rent-to-own agreement, a merchant shall state a numerical amount or percentage as a figure and shall print or legibly handwrite the figure in the equivalent of 12-point type or greater.

(4) A merchant may supply information not required by this section with the disclosures required by this section, but shall not state or place additional information in such a way as to cause the required disclosures to be misleading or confusing, or to contradict, obscure, or detract attention from the required disclosures.

(5) Except for price cards on site, a merchant shall preserve an advertisement, or a digital copy of the advertisement, for not less than two years after the date the advertisement appeared. In the case of a radio, television, or Internet advertisement, a merchant may preserve a copy of the script or storyboard.

(6) Subject to availability, a merchant shall make merchandise that is advertised available to all consumers on the terms and conditions that appear in the advertisement.

(7) A rent-to-own agreement that is substantially modified, including a change that increases the consumer's payments or other obligations or diminishes the consumer's rights, shall be considered a new agreement subject to the requirements of this chapter.

(8) For each rent-to-own agreement, a merchant shall keep the following information in an electronic or hard copy for a period of four years following the date the agreement ends:

(A) the rent-to-own agreement covering the item; and

(B) a record that establishes the merchant's cost for the item.

(9) A rent-to-own agreement executed by a merchant doing business in Vermont and a resident of Vermont shall be governed by Vermont law.

(c) Cash price; reduction for used merchandise; maximum limits.

(1) Except as otherwise provided in subdivision (2) of this subsection, the maximum cash price for an item of merchandise shall not exceed:

(A) for an appliance, 1.75 times the merchant's cost;

(B) for an item of electronics that has a merchant's cost of less than \$150.00, 1.75 times the merchant's cost;

(C) for an item of electronics that has a merchant's cost of \$150.00 or more, 2.00 times the merchant's cost;

(D) for an item of furniture or jewelry, 2.50 times the merchant's cost; and

(E) for any other item, 2.00 times the merchant's cost.

(2)(A) The cash price for an item of merchandise that has been previously used by a consumer shall be at least 10 percent less than the cash price calculated under subdivision (1) of this subsection.

(B) The merchant shall reduce the amount of the periodic payment in a rent-to-own agreement by the percentage of the cash price reduction for previously used merchandise established by the merchant.

(3) The total cost for an item of merchandise shall not exceed two times the maximum cash price for the item.

(d) Disclosures in advertising: prohibited disclosures.

(1) An advertisement that refers to or states the dollar amount of any payment for merchandise shall state:

(A) the cash price of the item;

(B) that the merchandise is available under a rent-to-own agreement;

(C) the amount, frequency, and total number of payments required for ownership;

(D) the total cost for the item;

(E) the rent-to-own charge for the item; and

(F) that the consumer will not own the merchandise until the consumer pays the total cost for ownership.

(2) A merchant shall not advertise that no credit check is required or performed, or that all consumers are approved for transactions, if the merchant subjects the consumer to a credit check.

(e) Disclosures on site. In addition to the information required in subsection (d) of this section, an advertisement at a merchant's place of business shall include:

(1) whether the item is new or used; and

(2) when the merchant acquired the item.

(f) Disclosures in rent-to-own agreement.

(1) The first page of a rent-to-own agreement shall include:

(A) a heading and clause in bold-face type that reads: "IMPORTANT INFORMATION ABOUT THIS RENT-TO-OWN AGREEMENT."

Do Not Sign this Agreement Before You Read It or If It Contains any Blank Spaces. You have a Right to Review this Agreement or Compare Costs Away from the Store Before You Sign.”; and

(B) the following information in the following order:

(i) the name, address, and contact information of the merchant;

(ii) the name, address, and contact information of the consumer;

(iii) the date of the transaction;

(iv) a description of the merchandise sufficient to identify the merchandise to the consumer and the merchant, including any applicable model and identification numbers;

(v) a statement whether the merchandise is new or used, and in the case of used merchandise, a statement that the merchandise is in good working order, is clean, and is free of any infestation.

(2) A rent-to-own agreement shall include the following cost disclosures, printed and grouped as indicated below, immediately preceding the signature lines:

(1) Cash Price: _____ \$

(2) Payments required to become owner:

\$ _____/(weekly)(biweekly)(monthly) × (# of payments) = \$ _____

(3) Mandatory charges and fees required to become owner (itemize):

_____ \$
 _____ \$
 _____ \$

Total required fees and charges: _____ \$

(4) Total cost: _____ (2) + (3) = \$ _____

(5) Rent-to-Own Charge: _____ (4) - (1) = \$ _____

(6) Tax _____ = \$ _____

(7) DO NOT SIGN BEFORE READING THIS AGREEMENT CAREFULLY

(g) Required provisions of rent-to-own agreement. A rent-to-own agreement shall provide:

(1) a statement of payment due dates;

(2) a line-item list of any other charges or fees the consumer could be charged or have the option of paying in the course of acquiring ownership or during or after the term of the agreement;

(3) that the consumer will not own the merchandise until he or she makes all of the required payments for ownership;

(4) that the consumer has the right to receive a receipt for a payment and, upon reasonable notice, a written statement of account;

(5) who is responsible for service, maintenance, and repair of an item of merchandise;

(6) that, except in the case of the consumer's negligence or abuse, if the merchant, during the term of the agreement, must retake possession of the merchandise for maintenance, repair, or service, or the item cannot be repaired, the merchant is responsible for providing the consumer with a replacement item of equal quality and comparable design;

(7) that the maximum amount of the consumer's liability for damage or loss to the merchandise is limited to an amount equal to the cash price multiplied by the ratio of:

(A) the number of payments remaining to acquire ownership under the agreement; to

(B) the total number of payments necessary to acquire ownership under the agreement.

(8) a statement that if any part of a manufacturer's express warranty covers the merchandise at the time the consumer acquires ownership the merchant shall transfer the warranty to the consumer if allowed by the terms of the warranty;

(9) a description of any damage waiver or insurance purchased by the consumer, or a statement that the consumer is not required to purchase any damage waiver or insurance;

(10) an explanation of the consumer's options to purchase the merchandise;

(11) an explanation of the merchant's right to repossess the merchandise; and

(12) an explanation of the parties' respective rights to terminate the agreement, and to reinstate the agreement.

(h) Warranties.

(1) Upon transfer of ownership of merchandise to a consumer, a merchant shall transfer to the consumer any manufacturer's or other warranty on the merchandise.

(2) A merchant creates an implied warranty to a consumer, which may not be waived, in the following circumstances:

(A) an affirmation of fact or promise made by the merchant to the consumer which relates to merchandise creates an implied warranty that the merchandise will substantially conform to the affirmation or promise;

(B) a description of the merchandise by the merchant creates an implied warranty that the merchandise will substantially conform to the description; and

(C) a sample or model exhibited to the consumer by the merchant creates an implied warranty that the merchandise actually delivered to the consumer will substantially conform to the sample or model.

(i) Maintenance and repairs.

(1) During the term of a rent-to-own agreement, the merchant shall maintain the merchandise in good working condition.

(2) If a repair cannot be completed within three days, the merchant shall provide a replacement to the consumer to use until the original merchandise is repaired. Replacement merchandise shall be at least comparable in quality, age, condition, and warranty coverage to the replaced original merchandise.

(3) A merchant is not required to repair or replace merchandise that has been damaged as a result of negligence or an intentional act by the consumer.

(j) Prohibited provisions of rent-to-own agreement. A rent-to-own agreement shall not include any of the following provisions, which shall be void and unenforceable:

(1) a provision requiring a confession of judgment;

(2) a provision requiring a garnishment of wages;

(3) a provision requiring arbitration or mediation of a claim that otherwise meets the jurisdictional requirements of a small claims proceeding under 12 V.S.A. chapter 187;

(4) a provision authorizing a merchant or its agent to enter unlawfully upon the consumer's premises or to commit any breach of the peace in the repossession of property;

(5) a provision requiring the consumer to waive any defense, counterclaim, or right of action against the merchant or its agent in collection of payment under the agreement or in the repossession of property; or

(6) a provision requiring the consumer to purchase a damage waiver or insurance from the merchant to cover the property.

(k) Option to purchase. Notwithstanding any other provision of this section, at any time after the first payment a consumer who is not in violation of a rent-to-own agreement may acquire ownership of the merchandise covered by the agreement by paying an amount equal to the cash price of the merchandise minus 50 percent of the value of the consumer's previous payments.

(l) Payment; notice of default. If a consumer fails to make a timely payment required in a rent-to-own agreement, the merchant shall deliver to the consumer a notice of default and right to reinstate the agreement at least 14 days before the merchant commences a civil action to collect amounts the consumer owes under the agreement.

(m) Collections; repossession of merchandise; prohibited acts. When attempting to collect a debt or enforce an obligation under a rent-to-own agreement, a merchant shall not:

(1) call or visit a consumer's workplace after a request by the consumer or his or her employer not to do so;

(2) use profanity or any language to abuse, ridicule, or degrade a consumer;

(3) repeatedly call, leave messages, knock on doors, or ring doorbells;

(4) ask someone, other than a spouse, to make a payment on behalf of a consumer;

(5) obtain payment through a consumer's bank, credit card, or other account without authorization;

(6) speak with a consumer more than six times per week to discuss an overdue account;

(7) engage in violence;

(8) trespass;

(9) call or visit a consumer at home or work after receiving legal notice that the consumer has filed for bankruptcy;

(10) impersonate others;

(11) discuss a consumer's account with anyone other than a spouse of the consumer;

(12) threaten unwarranted legal action; or

(13) leave a recorded message for a consumer that includes anything other than the caller's name, contact information, and a courteous request that the consumer return the call.

(n) Reinstatement of agreement.

(1) A consumer who fails to make a timely payment may reinstate a rent-to-own agreement without losing any rights or options that exist under the agreement by paying all past-due charges, the reasonable costs of pickup, redelivery, and any refurbishing, and any applicable late fee:

(A) within five business days of the renewal date of the agreement if the consumer pays monthly; or

(B) within three business days of the renewal date of the agreement if the consumer pays more frequently than monthly.

(2) If a consumer promptly returns or voluntarily surrenders merchandise upon a merchant's request, the consumer may reinstate a rent-to-own agreement during a period of not less than 180 days after the date the merchant retakes possession of the merchandise.

(3) In the case of a rent-to-own agreement that is reinstated pursuant to this subsection, the merchant is not required to provide the consumer with the identical item of merchandise and may provide the consumer with a replacement item of equal quality and comparable design.

(o) Reasonable charges and fees; late fees.

(1) A charge or fee assessed under a rent-to-own agreement shall be reasonably related to the actual cost to the merchant of the service or hardship for which it is charged.

(2) A merchant may assess only one late fee for each payment regardless of how long the payment remains due.

(p) Prohibition on rent-to-own businesses and licensed lenders. A person engaged in the business of selling merchandise under a rent-to-own agreement subject to this section shall not engage in any conduct or business at the same physical location that would require a license under 8 V.S.A. chapter 73 (licensed lenders).

(q) Enforcement; remedies; damages. A person who violates this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

* * * Financial Literacy * * *

Sec. 2. FINDINGS

The General Assembly finds:

(1) Many Vermonters are not learning the basics of personal finance in school or in life and their lack of knowledge and skill can have severe and negative consequences to themselves and Vermont's economy. Financial illiteracy affects everyone—men and women, young and old, and crosses all racial and socio-economic boundaries.

(2) Financial literacy is an essential 21st century life skill that young people need to succeed, yet recent studies and surveys show that our youth have not mastered these topics. For example, a 2013 report by Vermont Works for Women indicated that young women believe that a lack of personal finance training was a major deficiency in their education. Without improved financial literacy, the next generation of Vermont leaders, job creators, entrepreneurs, and taxpayers will lack skills they need to survive and to thrive in this increasingly complex financial world.

(3) The following are some facts about the lack of financial literacy in Vermont's k–12 schools:

(A) Vermont received a "D" grade in a national report card on State efforts to improve financial literacy in high schools, but more than one-half of the states received a grade of A, B, or C;

(B) in an Organisation for Economic Co-operation and Development (OECD) Programme for International Student Assessment (PISA) international financial literacy test of 15-year-olds, the United States ranked 9th out of 13 countries participating in the exam—statistically tied with the Russian Federation and behind China, Estonia, Czech Republic, Poland, and Latvia;

(C) only 10 percent of high schools in Vermont (7 out of 65) have a financial literacy graduation requirement;

(D) a 2011 survey shows that as many as 30 percent of Vermont high schools may not even offer a personal finance elective course for their students to take; and

(E) the same survey indicates that Vermont high school administrators estimate that more than two-thirds of the students graduate without achieving competence in financial literacy topics.

(4) Most students are not financially literate when they enter college and we know that many students leave college for "financial reasons." Too few Vermont college students have received personal finance education in k–12

school or at home. In fact, a Schwab survey indicated that parents are nearly as uncomfortable talking to their children about money as they are discussing sex. Except in some targeted programs and occasional courses, most college students in Vermont are not offered much in the way of financial literacy education. Personal finance education often consists of brief mandatory entrance and exit counseling for students with federal loans, along with reminders to Vermont students to repay their loans. Today's college graduates need to be financially sophisticated because they face greater challenges than previous generations experienced. As a result of the recent recession, many are worse off than their parents were at the same age, with more debt and stagnant or lower incomes. They have higher unemployment rates than older citizens, more live at home with their parents, while fewer own a home, have children or are married. A lack of financial skills is clearly a factor in the failure of many in this generation to launch, and is having a substantial impact on our overall economy.

(5) A more financially sophisticated collegiate student body can be expected to yield a corresponding increase in retention and persistence rates, fewer student loans, and lower student loan default rates and greater alumni giving.

(6) Several studies show that financially sophisticated college students have better outcomes. For example, three University of Arizona longitudinal studies that followed students through college and into the workforce clearly demonstrated that achieving financial self-sufficiency, a key developmental challenge of young adulthood, appears to be driven by financial behaviors practiced during emerging adulthood. The study indicated that college students who exhibited responsible early financial practices experienced smoother transitions to adulthood than students who had poor behaviors. The studies also found that those students who were most successful with this transition to adulthood had more financial education through personal finance or economics classes.

(7) Some troubling facts about college students lack of financial literacy include:

(A) 63 percent of Vermont four-year college students that graduated in 2012 had student loan debt that averaged \$28,299.00;

(B) nationally, nearly 11 percent of all student loan borrowers were delinquent in their payments by more than 90 days as of June 2014; and

(C) only 27 percent of parents in Vermont have set aside funds for their child's college education.

(8) Many of Vermont's adults struggle financially. The recent recession demonstrated that our citizens have trouble making complex financial decisions that are critical to their well-being. Nearly one-half of Vermont adults have subprime credit ratings, and thus pay more interest on auto and home loans and credit card debt; nearly two-thirds have not planned for retirement; and less than one-half of Vermont adults participate in an employment-based retirement plan.

(9) Personal economic stress results in lost productivity, increased absenteeism, employee turnover, and increased medical, legal, and insurance costs. Employers in Vermont and our overall economy will benefit from a decrease in personal economic stress that can result from more adult financial education.

(10) Some troubling facts about Vermont adults' lack of financial literacy:

(A) in a 2014 survey, 41 percent of U.S. adults gave themselves a grade of C, D, or F on their personal finance knowledge;

(B) nationally, 34 percent of adults indicated that they have no retirement savings;

(C) as of the third quarter of 2014, among those Vermonters owing money in revolving debt, including credit cards, private label cards, and lines of credit, the average balance was \$9,822.00 per borrower;

(D) 62 percent of Vermont adults do not have a rainy-day fund, a liquid emergency fund that would cover three months of life's necessities;

(E) nearly 20 percent of adult Vermonters are unbanked or underbanked; and

(F) 22 percent of Vermont adults used one or more nonbank borrowing methods in the past five years, including an auto title loan, payday loan, advance on tax refund, pawn shop, and rent-to-own.

(11) Vermonters need the skills and tools to take control of their financial lives. Studies have shown that financial literacy is linked to positive outcomes like wealth accumulation, stock market participation, retirement planning, and avoidance of high cost alternative financial products.

(12) When they graduate, Vermont high school students should, at a minimum, understand how credit works, how to budget, and how to save and invest. College graduates should understand those concepts in addition to the connection between income and careers, and how student loans work. Vermont adults need to understand the critical importance of rainy-day and retirement funds, and the amounts they will need in those funds.

(13) All Vermonters should have access to content and training that will help them increase their personal finance knowledge. Vermont students and adults need a clear path to building their personal finance knowledge and skills. Vermont needs to increase its focus on helping Vermonters become wiser consumers, savers, and investors. Financial literacy education is a helping hand that gives individuals knowledge and skills that can lift them out of a financial problem, or prevent difficulties from occurring.

(14) A more financially sophisticated and capable citizenry will help improve Vermont's economy and overall prosperity.

(15) In 2014, a Vermont Financial Literacy Task Force convened by the Center for Financial Literacy at Champlain College, recommended as one of its 13 action items that a Vermont Financial Literacy Commission be created to help improve the financial literacy and capability of all Vermonters.

Sec. 3. 9 V.S.A. chapter 151 is added to read:

CHAPTER 151. VERMONT FINANCIAL LITERACY COMMISSION

§ 6001. DEFINITIONS

In this chapter:

(1) "Financial capability" means:

(A) financial literacy and access to appropriate financial products; and

(B)(i) the ability to act, including knowledge, skills, confidence, and motivation; and

(ii) the opportunity to act, through access to beneficial financial products and institutions.

(2) "Financial literacy" means the ability to use knowledge and skills to manage financial resources effectively for a lifetime of financial well-being.

§ 6002. VERMONT FINANCIAL LITERACY COMMISSION

(a) There is created a Vermont Financial Literacy Commission to measurably improve the financial literacy and financial capability of Vermont's citizens.

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

(1) the Vermont State Treasurer or designee;

(2) the Secretary of Education or designee;

(3) one representative of the Executive Branch, appointed by the Governor, who is an employee of an agency or department that conducts

financial literacy education outreach efforts in Vermont, including the Department of Children and Families, Agency of Commerce and Community Development, Department of Financial Regulation, Department of Labor, Department of Libraries, or the Commission on Women, but not including the Agency of Education;

(4) a k–12 public school financial literacy educator appointed by the Vermont-NEA;

(5) one representative of k–12 public school administration, currently serving as a school board member, superintendent, or principal, appointed by the Governor based on nominees submitted by the Vermont School Board Association, the Vermont Superintendents Association, and the Vermont Principals Association;

(6) three representatives focused on collegiate financial literacy issues:

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

(B) one representative appointed by the Governor from either Vermont State Colleges or the University of Vermont; and

(C) one representative appointed by the Governor from an independent college in Vermont;

(7) two representatives from nonprofit entities engaged in providing financial literacy education to Vermont adults appointed by the Governor, one of which entities shall be a nonprofit that provides financial literacy and related services to persons with low income;

(8) one representative from Vermont's banking industry appointed by the Vermont Bankers Association, and one representative from Vermont's credit union industry appointed by the Association of Vermont Credit Unions; and

(9) one member of the public, appointed by the Governor.

(c) The Treasurer or designee and another member of the Commission, appointed by the Governor, who is not an employee of the State of Vermont, shall serve as co-chairs of the Commission.

(d)(1) Each member shall serve for a three-year term, provided that the Treasurer shall have the authority to designate whether an initial term for each appointee shall be for a one, two, or three-year initial term in order to ensure that no more than one-third of the terms expire in any given year.

(2) A vacancy shall be filled by the appointing authority as provided in subsection (a) of this section for the remainder of the term.

(3) A member of the Commission who is not an employee of the State of Vermont and who is not otherwise compensated or reimbursed for his or her attendance at a meeting of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(e) The Commission may request from any branch, division, department, board, commission, or other agency of the State or any entity that receives State funds, such information as will enable the Commission to perform its duties as required in this chapter.

§ 6003. POWERS AND DUTIES

The Vermont Financial Literacy Commission established by section 6002 of this title shall have the following powers and duties necessary and appropriate to achieve the purposes of this chapter:

(1) collaborate with relevant State agencies and departments, private enterprise, and nonprofit organizations;

(2) incentivize Vermont's k-16 educational system, businesses, community organizations, and governmental agencies to implement financial literacy and capability programs;

(3) advise the administration, governmental agencies and departments, and the General Assembly on the current status of our citizens' financial literacy and capability;

(4) create and maintain a current inventory of all financial literacy and capability initiatives available in the State, and in particular identify trusted options that will benefit our citizens;

(5) identify ways to equip Vermonters with the training, information, skills, and tools they need to make sound financial decisions throughout their lives and ways to help individuals with low income get access to needed financial products and services;

(6) identify ways to help Vermonters with low income save and build assets;

(7) identify ways to help increase the percentage of Vermont employees saving for retirement;

(8) recommend actions that can be taken by the public and private sector to achieve the goal of increasing the financial literacy and capability of all Vermonters;

(9) promote and raise the awareness in our State about the importance of financial literacy and capability;

(10) identify key indicators to be tracked regarding financial literacy and capability in Vermont;

(11) analyze data to monitor the progress in achieving an increase in the financial literacy and capability of Vermont's citizens;

(12) pursue and accept funding for, and direct the administration of, the Financial Literacy Commission Fund created in section 6004 of this title;

(13) consider and implement research and policy initiatives that provide effective and meaningful results; and

(14) issue a report during the first month of each legislative biennium on the Commission's progress and recommendations for increasing the financial literacy and capability of Vermont's citizens, including an accounting of receipts, disbursements, and earnings of the Financial Literacy Commission Fund, and whether the Commission should be reconfigured, to:

(A) the Governor;

(B) the House Committees on Commerce and Economic Development, on Education, on Government Operations, and on Human Services; and

(C) the Senate Committees on Economic Development, Housing and General Affairs, on Education, on Government Operations, and on Health and Welfare.

§ 6004. FINANCIAL LITERACY COMMISSION FUND

(a) There is created within the Office of the State Treasurer the Financial Literacy Commission Fund, a special fund created pursuant to 32 V.S.A. chapter 7, subchapter 5 that shall be administered by the Treasurer under the direction of the Financial Literacy Commission.

(b) The Fund shall consist of sums appropriated to the Fund and monies from any source accepted for the benefit of the Fund and interest earned from the investment of Fund balances. Any interest earned and any remaining balance at the end of the fiscal year shall be carried forward in the Fund and shall not revert to the General Fund.

(c) The purpose of the Fund shall be to enable the Commission to pursue and accept funding from diverse sources outside of State government in the form of gifts, grants, federal funding, or from any other sources public or private, consistent with this chapter, in order to support financial literacy projects.

(d) The Treasurer, under the supervision of the Commission, shall have the authority:

(1) to expend monies from the Fund for financial literacy projects in accordance with 32 V.S.A. § 462; and

(2) to invest monies in the Fund in accordance with 32 V.S.A. § 434.

Sec. 3A. REPEAL

9 V.S.A. chapter 151 (Vermont Financial Literacy Commission) shall be repealed on July 1, 2018.

* * * Fees for Automatic Dialing Service * * *

Sec. 4. 9 V.S.A. § 2466b is added to read:

§ 2466b. DISCLOSURE OF FEE FOR AUTOMATIC DIALING SERVICE

(a) In this section:

(1) “Automatic dialing service” means a service of a home or business security, monitoring, alarm, or similar system, by which the system automatically initiates a call or connection to an emergency service provider, either directly or through a third person, upon the occurrence of an action specified within the system to initiate a call or connection.

(2) “Emergency functions” include services provided by the department of public safety, firefighting services, police services, sheriff’s department services, medical and health services, rescue, engineering, emergency warning services, communications, evacuation of persons, emergency welfare services, protection of critical infrastructure, emergency transportation, temporary restoration of public utility services, other functions related to civilian protection and all other activities necessary or incidental to the preparation for and carrying out of these functions.

(3) “Emergency service provider” means a person that performs emergency functions.

(b) Before executing a contract for the sale or lease of a security, monitoring, alarm, or similar system that includes an automatic dialing service, the seller or lessor of the system shall disclose in writing:

(1) any fee or charge the seller or lessor charges to the buyer or lessee for the service; and

(2) that the buyer or lessor may be subject to additional fees or charges imposed by another person for use of the service.

(c) A person who fails to provide the disclosure required by subsection (b) of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

* * * Consumer Litigation Funding * * *

Sec. 5. 8 V.S.A. § 2246 is added to read:

§ 2246. CONSUMER LITIGATION FUNDING

(a) Findings. The General Assembly finds that the relatively new business of consumer litigation funding, as defined in subsection (b) of this section, raises concerns about whether and, if so, to what extent such transactions should be regulated by the Commissioner of Financial Regulation. Concerns include: finance charges and fees; terms and conditions of contracts; rescission rights; licensure or registration; disclosure requirements; enforcement and penalties; and any other standards and practices the Commissioner deems relevant.

(b) Definition. As used in this section, “consumer litigation funding” means a nonrecourse transaction in which a person provides personal expense funds to a consumer to cover personal expenses while the consumer is a party to a civil action or legal claim and, in return, the consumer assigns to such person a contingent right to receive an amount of the proceeds of a settlement or judgment obtained from the consumer’s action or claim. If no such proceeds are obtained, the consumer is not required to repay the person the funded amount, any fees or charges, or any other sums.

(c) Recommendation. On or before December 1, 2015, the Commissioner of Financial Regulation and the Attorney General shall submit a recommendation or draft legislation to the General Assembly reflecting an appropriate balance between:

(1) providing a consumer access to funds for personal expenses while the consumer is a party to a civil action or legal claim; and

(2) protecting the consumer from any predatory practices by a person who provides consumer litigation funding.

(d) Moratorium. A person shall not offer or enter into a consumer litigation funding contract on or after July 1, 2015 unless authorized to do so by further enactment of the General Assembly.

(e) Enforcement. A person who violates subsection (d) of this section shall be subject to the powers and penalties of the Commissioner of Financial Regulation under sections 13 (subpoenas and examinations) and 2215 (licensed lender penalties) of this title.

* * * Internet Dating Services * * *

Sec. 6. 9 V.S.A. chapter 63, subchapter 8 is added to read:

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

(1) "Account change" means a change to the password, e-mail address, age, identified gender, gender of members seeking to meet, primary photo unless it has previously been approved by the Internet dating service, or other conspicuous change to a member's account or profile with or on an Internet dating service.

(2) "Banned member" means the member whose account or profile is the subject of a fraud ban.

(3) "Fraud ban" means barring a member's account or profile from an Internet dating service because, in the judgment of the service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means.

(4) "Internet dating service" means a person or entity that is in the business of providing dating services principally on or through the Internet.

(5) "Member" means a person who submits to an Internet dating service information required to access the service and who obtains access to the service.

(6) "Vermont member" means a member who provides a Vermont residential or billing address or zip code when registering with the Internet dating service.

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

(a) An Internet dating service shall disclose to all of its Vermont members known to have previously received and responded to an on-site message from a banned member:

(1) the user name, identification number, or other profile identifier of the banned member;

(2) the fact that the banned member was banned because in the judgment of the Internet dating service the banned member may have been using a false identity or may pose a significant risk of attempting to obtain money from other members through fraudulent means;

(3) that a member should never send money or personal financial information to another member; and

(4) a hyperlink to online information that clearly and conspicuously addresses the subject of how to avoid being defrauded by another member of an Internet dating service.

(b) The notification required by subsection (a) of this section shall be:

(1) clear and conspicuous;

(2) by e-mail, text message, or other appropriate means of communication; and

(3) sent within 24 hours after the fraud ban, or at a later time if the service has determined based on an analysis of effective messaging that a different time is more effective, but in no event later than three days after the fraud ban.

(c) An Internet dating service shall disclose in an e-mail, text message, or other appropriate means of communication, in a clear and conspicuous manner, within 24 hours after discovery of any account change to a Vermont member's account or profile:

(1) the fact that information on the member's account or personal profile has been changed;

(2) a brief description of the change; and

(3) if applicable, how the member may obtain further information on the change.

§ 2482c. IMMUNITY

(a) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for disclosing to any member that it has banned a member, the user name or identifying information of the banned member, or the reasons for the Internet dating service's decision to ban such member.

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

(c) This subchapter does not diminish or adversely affect the protections for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal Communications Decency Act).

§ 2482d. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as is provided under subchapter 1 of this chapter.

* * * Discount Membership Programs * * *

Sec. 7. 9 V.S.A. § 2470hh is amended to read:

§ 2470hh. VIOLATIONS

(a) ~~A violation of this subchapter is deemed to be a violation of section 2453 of this title~~ A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as is provided under subchapter 1 of this chapter.

(c) It is an unfair and deceptive act and practice in commerce for any person to provide substantial assistance to the seller of a discount membership program that has engaged or is engaging in an unfair or deceptive act or practice in commerce, when the person or the person's authorized agent:

(1) receives notice from a regulatory, law enforcement, or similar governmental authority that the seller of the discount membership program is in violation of this subchapter;

(2) knows from information received or in its possession that the seller of the discount membership program is in violation of this subchapter; or

(3) consciously avoids knowing that the seller of the discount membership program is in violation of this subchapter.

(d) Subject to section 2452 of this title, a person who provides only incidental assistance, which does not further the sale of a discount membership program, to the seller of the program, or who does not receive a benefit from providing assistance to the seller of a discount membership, shall not be liable under this section unless the person receives notice, knows, or consciously avoids knowing, pursuant to subdivision (c)(1), (2), or (3) of this section, that a discount membership program is in violation of this chapter.

* * * Security Breach Notice Act * * *

Sec. 8. 9 V.S.A. § 2435(b)(6) is amended to read:

(6) ~~For purposes of this subsection, notice to consumers may be provided~~ A data collector may provide notice of a security breach to a consumer by one or more of the following methods:

(A) Direct notice ~~to consumers~~, which may be by one of the following methods:

(i) ~~Written~~ written notice mailed to the consumer's residence;

(ii) ~~Electronic~~ electronic notice, for those consumers for whom the data collector has a valid e-mail address if:

(I) ~~the data collector does not have contact information set forth in subdivisions (i) and (iii) of this subdivision (6)(A);~~ the data collector's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(II) the notice ~~provided~~ is consistent with the provisions regarding electronic records and signatures for notices ~~as set forth~~ in 15 U.S.C. § 7001; or

(iii) ~~Telephonic~~ telephonic notice, provided that telephonic contact is made directly with each affected consumer; and ~~the telephonic contact is not through a prerecorded message.~~

(B)(i) Substitute notice, if:

(I) the data collector demonstrates that the cost of providing written or telephonic notice, ~~pursuant to subdivision (A)(i) or (iii) of this subdivision (6),~~ to affected consumers would exceed \$5,000.00; ~~or that~~

(II) the ~~affected~~ class of affected consumers to be provided written or telephonic notice, ~~pursuant to subdivision (A)(i) or (iii) of this subdivision (6),~~ exceeds 5,000; or

(III) the data collector does not have sufficient contact information.

(ii) ~~Substitute notice shall consist of all of the following~~ A data collector shall provide substitute notice by:

(i)(I) ~~conspicuous~~ conspicuously posting of the notice on the data collector's website ~~page~~ if the data collector maintains one; and

(ii)(II) ~~notification to~~ notifying major statewide and regional media.

* * * Limitation of Liability for Advertisers * * *

Sec. 9. 9 V.S.A. § 2452 is amended to read:

§ 2452. LIMITATION

(a) Nothing in this chapter shall apply to the owner or publisher of a newspaper, magazine, publication, or printed matter, or to a provider of an

interactive computer service, wherein an advertisement or offer to sell appears, or to the owner or operator of a radio or television station which disseminates an advertisement or offer to sell, when the owner, publisher or operator, or provider has no knowledge of the fraudulent intent, design, or purpose of the advertiser or operator offeror, and is not responsible, in whole or in part, for the creation or development of the advertisement or offer to sell.

(b) In this section, “interactive computer service” has the same meaning as in 47 U.S.C. § 230(f)(2).

* * * Effective Dates * * *

Sec. 10. EFFECTIVE DATES

(a) This section, Secs. 2–5, and 7–9 shall take effect on July 1, 2015.

(b) Sec. 1 shall take effect on September 1, 2015.

(c) In Sec. 6:

(1) 9 V.S.A. §§ 2482a, 2482c, and 2482d shall take effect on passage.

(2) 9 V.S.A. § 2482b shall take effect on January 1, 2016.

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

An act relating to consumer protection laws.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Balint moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: In Sec. 1, in 9 V.S.A. § 41b(c)(2), by striking out “(A)” and by striking out subdivision (B) in its entirety.

Second: In Sec. 1, in 9 V.S.A. § 41b(e), by striking out subdivisions (1)–(2) in their entirety and inserting in lieu thereof subdivisions (1)–(3) to read as follows:

(1) whether the item is new or used;

(2) when the merchant acquired the item; and

(3) the number of times a consumer has taken possession of the item under a rent-to-own agreement.

Third In Sec. 3, in 9 V.S.A. § 6002(b), by striking out subdivision (6) in its entirety (three representatives focused on collegiate financial literacy issues) and inserting in lieu thereof a new subdivision (6) to read as follows:

(6) two representatives focused on collegiate financial literacy issues:

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

(B) one representative appointed by the Governor from the Vermont State Colleges, the University of Vermont, or an independent college in Vermont;

Fourth: In Sec. 3, in 9 V.S.A. § 6002(b), by striking out subdivision (7) in its entirety (two representatives from non-profit entities) and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) a representative from a nonprofit entity that provides financial literacy and related services to persons with low income;

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as proposed by Senator Balint?, Senator Campbell moved that consideration be postponed.

Which was agreed to.

**Rules Suspended; House Proposal of Amendment Not Concurred In;
Committee of Conference Requested**

S. 138.

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

An act relating to promoting economic development.

Was taken up for immediate consideration.

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

A. General Commerce

* * * Facilitating Business Rapid Response to Declared State Disasters * * *

Sec. A.1. 11 V.S.A. chapter 16 is added to read:

**CHAPTER 16. BUSINESS RAPID RESPONSE TO
DECLARED STATE DISASTERS**

§ 1701. DEFINITIONS

In this chapter:

(1) “Critical infrastructure” means property and equipment owned or used by communications networks and electric generation, transmission, and distribution systems.

(2)(A) “Declared State disaster or emergency” means:

(i) a disaster or emergency event for which a Governor’s state of emergency proclamation has been issued;

(ii) a disaster or emergency event for which a Presidential declaration of a federal major disaster or emergency has been issued; or

(iii) a disaster or emergency event within the State for which a good faith response effort is required, and for which the Commissioner of Public Service is given notification from the registered business and the Commissioner, in consultation with the Director of Emergency Management, Department of Public Safety, designates the event as a disaster or emergency, thereby invoking the provisions of this chapter.

(B) “Declared State disaster or emergency” does not include an emergency or situation arising solely from a labor dispute.

(3) “Disaster response period” means a period that begins ten days prior to the first day of the Governor’s proclamation, the President’s declaration, or designation by another authorized official of the State as set forth in this chapter, whichever occurs first, and that extends 60 calendar days after the declared State disaster or emergency.

(4) “Disaster- or emergency-related work” means repairing, renovating, installing, building, rendering services, or other nonretail business activities in areas of the State affected by the declared State disaster or emergency that relate to critical infrastructure that has been damaged, impaired, or destroyed by the declared State disaster or emergency.

(5) “Mutual Assistance Agreement” means an agreement to which one or more registered businesses and one or more out-of-state businesses are party and pursuant to which an electric or telephone utility may request and receive assistance from an out-of-state business for performance of disaster- or emergency-related work by the out-of-state business during the disaster response period.

(6)(A) “Out-of-state business” means a business entity that, except for disaster- or emergency-related work, has no presence in the State and conducts no business in the State whose services are requested pursuant to a Mutual Assistance Agreement by a registered business or by a State or local government for purposes of performing disaster- or emergency-related work on critical infrastructure in the State.

(B) “Out-of-state-business” also includes a business entity that is affiliated with a registered business in the State solely through common ownership.

(C) An out-of-state business has no registrations or tax filings or nexus in the State other than disaster- or emergency-related work during the tax year immediately preceding the declared State disaster or emergency.

(7) “Out-of-state employee” means an employee who does not work in the State, except for disaster- or emergency-related work during the disaster response period.

(8) “Registered business in the State” or “registered business” means a business entity that is currently registered with the Secretary of State to do business in the State prior to the declared State disaster or emergency.

§ 1702. OBLIGATIONS AFTER DISASTER RESPONSE PERIOD

(a) Business and employee status during the disaster response period.

(1)(A) An out-of-state business that conducts operations within the State for purposes of performing work or services related to a declared State disaster or emergency during the disaster response period shall not be considered to have established a level of presence that would require that business to register, file, or remit State or local taxes or that would require that business or its out-of-state employees to be subject to any State licensing or registration requirements.

(B) This includes any State or local business licensing or registration requirements or State and local taxes or fees, including unemployment insurance, State or local occupational licensing fees, ad valorem tax on equipment brought into the State temporarily for use during the disaster response period and subsequently removed from the State, and Public Service Board or Secretary of State licensing and regulatory requirements.

(C) For purposes of any State or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business that is conducted in this State pursuant to this chapter shall be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the out-of-state business may be a part.

(D) For the purpose of apportioning income, revenue, or receipts, the performance by an out-of-state business of any work in accordance with this section shall not be sourced to or shall not otherwise impact or increase the amount of income, revenue, or receipts apportioned to this State.

(2)(A) An out-of-state employee shall not be considered to have established residency or a presence in the State that would require that person or that person's employer to file and pay income taxes or to be subjected to tax withholdings or to file and pay any other State or local tax or fee during the disaster response period.

(B) This includes any related State or local employer withholding and remittance obligations, but does not include any transaction taxes or fees as described in subsection (b) of this section.

(b) Transaction taxes and fees. An out-of-state business and an out-of-state employee shall be required to pay transaction taxes and fees, including fuel tax and sales and use tax on materials or services consumed or used in the State subject to sales and use tax, rooms and meals tax, car rental taxes or fees that the out-of-state affiliated business or out-of-state employee purchases for use or consumption in the State during the disaster response period, unless such taxes are otherwise exempted during a disaster response period. An out-of-state business making retail sales of tangible personal property during the disaster response period shall be subject to all sales tax registration, collection, reporting, and other requirements set forth in 32 V.S.A. chapter 233.

(c) Business or employee activity after disaster response period. An out-of-state business or out-of-state employee that remains in the State after the disaster response period will become subject to the State's normal standards for establishing presence, residency, or doing business in the State and will therefore become responsible for any business or employee tax requirements that ensue.

§ 1703. ADMINISTRATION

(a) Notification of out-of-state business during the disaster response period.

(1) The out-of-state business that enters the State shall, upon request, provide to the Secretary of State a statement that it is in the State for purposes of responding to the disaster or emergency, which statement shall include the business's name, state of domicile, principal business address, federal tax identification number, date of entry, and contact information.

(2) A registered business in the State shall, upon request, provide the information required in subdivision (1) of this subsection for any affiliate that enters the State that is an out-of-state business.

(3) The notification shall also include contact information for the registered business in the State.

(b) Notification of intent to remain in State. An out-of-state business or an out-of-state employee that remains in the State after the disaster response

period shall complete State and local registration, licensing, and filing requirements that ensue as a result of establishing the requisite business presence or residency in the State applicable under the existing law.

(c) Procedures. The Secretary of State may adopt necessary rules, develop and issue forms or online processes, and maintain and make available an annual record of any designations pursuant to this chapter to carry out these administrative procedures.

* * * Manufacture or Import of Gun Suppressors * * *

Sec. A.2.A. 13 V.S.A. § 4010 is amended to read:

§ 4010. GUN ~~SILENCERS~~ SUPPRESSORS

~~A person who manufactures, sells, uses, or possesses with intent to sell or use an appliance known as or used for a gun silencer shall be fined \$25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers by:~~

~~(1) a Level III certified law enforcement officer or Department of Fish and Wildlife employee in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's or employee's agency or department; or~~

~~(2) the Vermont National Guard in connection with its duties and responsibilities.~~

(a) As used in this section, "gun suppressor" means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.

(b)(1) Except as provided in subsection (c) of this section, a person shall not manufacture, make, or import a gun suppressor.

(2) A person who violates subdivision (1) of this subsection shall be fined not less than \$500.00.

(c) Subsection (b) of this section shall not apply to:

(1) a licensed manufacturer, as defined in 18 U.S.C. § 921, who is registered as a manufacturer pursuant to 26 U.S.C. § 5802;

(2) a licensed importer, as defined in 18 U.S.C. § 921, who is registered as an importer pursuant to 26 U.S.C. § 5802; or

(3) a person who makes a gun suppressor in compliance with the requirements of 26 U.S.C. § 5822.

Sec. A.2.B. 10 V.S.A. § 4704 is amended to read:

§ 4704. USE OF MACHINE GUNS ~~AND~~, AUTOLOADING RIFLES, AND GUN SUPPRESSORS

(a) A person engaged in hunting for wild animals shall not use, carry, or have in his or her possession:

(1) a machine gun of any kind or description ~~or~~;

(2) an autoloading rifle with a magazine capacity of over six cartridges, except a .22 caliber rifle using rim fire cartridges; or

(3) a gun suppressor.

(b) As used in this section, “gun suppressor” means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.

Sec. A.2.C. 10 V.S.A. § 4502 is amended to read:

§ 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

(a) A uniform point system which assigns points to those convicted of a violation of a provision of this part is established. The conviction report from the ~~court~~ Court shall be prima facie evidence of the points assessed. In addition to other penalties assessed for violation of fish and wildlife statutes, the Commissioner shall suspend licenses issued under this part which are held by a person who has accumulated ten or more points in accordance with the provisions of subsection (c) of this section.

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

* * *

(2) Ten points shall be assessed for:

* * *

(G) § 4704. Use of machine guns ~~and~~, autoloading rifles, and gun suppressors

* * *

* * * Blockchain Technology * * *

Sec. A.3. STUDY AND REPORT; BLOCKCHAIN TECHNOLOGY

On or before January 15, 2016, the Secretary of State, the Commissioner of Financial Regulation, and the Attorney General shall consult with one or more Vermont delegates to the National Conference of Commissioners on Uniform State Laws and with the Center for Legal Innovation at Vermont Law School, and together shall submit a report to the General Assembly their finding and recommendations on the potential opportunities and risks of creating a presumption of validity for electronic facts and records that employ blockchain technology and addressing any unresolved regulatory issues.

* * * Fortified Wines * * *

Sec. A.4. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(15) “Manufacturer’s or rectifier’s license”: a license granted by the Liquor Control Board that permits the holder to manufacture or rectify ~~spirituous liquors~~ spirits or fortified wines for export and sale to the Liquor Control Board, or malt beverages and vinous beverages for export and sale to bottlers or wholesale dealers. This license permits a manufacturer of vinous beverages or fortified wines to receive from another manufacturer licensed in or outside this ~~state~~ State bulk shipments of vinous beverages to rectify with the licensee’s own product, provided that the vinous beverages or fortified wines produced by a Vermont manufacturer may contain no more than 25 percent imported vinous beverage. The Liquor Control Board may grant to a licensed manufacturer or rectifier a first-class restaurant or cabaret license or first- and third-class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer’s premises, which, for the purposes of a manufacturer of malt beverages, includes up to two licensed establishments that are located on the contiguous real estate of the holder of the manufacturer’s license, provided the manufacturer owns or has direct control over those establishments. A manufacturer of malt beverages who also holds a first-class restaurant or cabaret license may serve to a customer malt beverage by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass. The Liquor Control Board may grant to a licensed manufacturer or a rectifier of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer’s or rectifier’s premises. A licensed

manufacturer or rectifier of vinous beverages may serve, with or without charge, at an event held on premises of the licensee or the vineyard property, spirits and vinous beverages and malt beverages, provided the licensee gives the Department written notice of the event, including details required by the Department, at least five days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Liquor Control Board.

* * *

(19) "Second-class license": a license granted by the control commissioners permitting the licensee to export malt or vinous beverages and to sell malt beverages or vinous beverages to the public for consumption off the premises for which the license is granted. The Liquor Control Board may grant a second-class licensee a fortified wine permit that permits the licensee to export and to sell fortified wines to the public for consumption off the licensed premises.

(20) "Spirits" or "spirituous liquors": beverages that contain more than one percent of alcohol obtained by distillation, by chemical synthesis, or through concentration by freezing; ~~and~~ vinous beverages containing more than ~~16~~ 23 percent of alcohol; ~~and all vermouths of any alcohol content;~~ malt beverages containing more than 16 percent of alcohol or more than six percent of alcohol if the terminal specific gravity thereof is less than 1.009; in each case measured by volume at 60 degrees Fahrenheit.

* * *

(22) "Third-class license": a license granted by the Liquor Control Board permitting the licensee to sell ~~spirituous liquors~~ spirits and fortified wines for consumption only on the premises for which the license is granted.

(23) "Vinous beverages": all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits, or other agricultural product, containing sugar, the alcoholic content of which is not less than one percent nor more than 16 percent by volume at 60 degrees Fahrenheit, ~~except that all vermouths shall be purchased and retailed by and through the Liquor Control Board as authorized in chapters 5 and 7 of this title.~~

* * *

(27) "Special events permit": a permit granted by the Liquor Control Board permitting a person holding a manufacturer's or rectifier's license to sell by the glass or by unopened bottle spirits, fortified wines, malt beverages, or vinous beverages manufactured or rectified by the license holder at an event

open to the public that has been approved by the local licensing authority. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder by the glass no more than two ounces per product and eight ounces total of malt beverages or vinous beverages and no more than one ounce in total of spirits or fortified wines to each individual. No more than ~~36~~ 104 special events permits may be issued to a holder of a manufacturer's or rectifier's license during a year. A special event permit shall be valid for the duration of each public event or four days, whichever is shorter. Requests for a special events permit, accompanied by the fee as required by subdivision 231(13) of this title, shall be submitted to the Department of Liquor Control at least five days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer's or rectifier's ~~36~~ 104 special-event-permit limitation.

(28) "Fourth-class license" or "farmers' market license": the license granted by the Liquor Control Board permitting a manufacturer or rectifier of malt ~~or~~ beverages, vinous beverages, fortified wines, or spirits to sell by the unopened container and distribute, by the glass, with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth-class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth-class license location, a manufacturer or rectifier of vinous beverages, malt beverages, fortified wines, or spirits may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, fortified wines, or spirits produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier of vinous beverages, malt beverages, fortified wines, or spirits may sell its product to no more than five additional manufacturers or rectifiers. A fourth-class licensee may distribute by the glass no more than two ounces of malt beverages or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits or fortified wine with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A fourth class licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the manufacturer's premises. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

(38) "Fortified wines": vinous beverages, including those to which spirits have been added during manufacture, containing at least 16 percent

alcohol but no more than 23 percent alcohol by volume at 60 degrees Fahrenheit, and all vermouths containing no more than 23 percent alcohol by volume at 60 degrees Fahrenheit.

(39) "Public library or museum permit": a permit granted by the Liquor Control Board permitting a public library or museum to serve malt beverages or vinous beverages, or both, by the glass to the public for a period of not more than six hours during an event held for a charitable or educational purpose, provided that the event is approved by the local licensing authority. A permit holder may purchase malt beverages or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the Board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the Department in a form required by the Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(24) of this title. As used in this section, "public library" has the same meaning as in 22 V.S.A. § 101 and "museum" has the same meaning as in 27 V.S.A. § 1151.

Sec. A.5. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall have supervision and management of the sale of ~~spirituous liquors~~ spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor Control shall:

* * *

Sec. A.6. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

~~The commissioner of liquor control~~ Commissioner of Liquor Control shall:

* * *

(2) Make regulations subject to the approval of the ~~board~~ Board governing the hours during which such agencies shall be open for the sale of ~~spirituous liquors~~, spirits and fortified wines and governing the qualifications ~~and, department, and salaries of the agencies' employees therein and the salaries thereof.~~

(3) Make regulations subject to the approval of the ~~board~~ Board governing:

(A) the prices at which spirituous liquors spirits shall be sold in such by local agencies, and the method of for their delivery thereof, and the quantities of spirituous liquors to spirits that may be sold to any one person at any one time; and

(B) the minimum prices at which fortified wines shall be sold by local agencies and second-class licensees that hold fortified wine permits, the method for their delivery, and the quantities of fortified wines that may be sold to any one person at any one time.

(4) Supervise the quantities and qualities of ~~spiruous liquor~~ spirits and fortified wines to be kept as stock in ~~such local agency agencies~~ and make regulations subject to the approval of the ~~board~~ Board regarding the filling of requisitions therefor on the ~~commissioner of liquor control~~ Commissioner of Liquor Control.

(5) Purchase through the ~~commissioner of buildings and general services~~ spiruous liquors Commissioner of Buildings and General Services spirits and fortified wines for and in behalf of the ~~liquor control board~~ Liquor Control Board, supervise the storage thereof and the distribution to local agencies, druggists ~~and~~, licensees of the third class, and holders of fortified wine permits, and make regulations subject to the approval of the ~~board~~ Board regarding the sale and delivery from ~~such~~ the central storage plant.

* * *

Sec. A.7. 7 V.S.A. § 110 is amended to read:

§ 110. SPECIAL BRANDS; PURCHASE BY COMMISSIONER OF LIQUOR CONTROL

If any person shall desire to purchase any class, variety, or brand of ~~spiruous liquor~~ spirits or fortified wine which any local agency or fortified wine permit holder does not have in stock, the ~~commissioner of liquor control~~ Commissioner of Liquor Control shall order the same through the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services upon the payment of a reasonable deposit by the purchaser in such proportion of the approximate cost of the order as shall be prescribed by the regulations of the ~~liquor control board~~ Liquor Control Board.

Sec. A.8. 7 V.S.A. § 112 is amended as follows:

§ 112. LIQUOR CONTROL FUND

The ~~liquor control fund~~ Liquor Control Fund is hereby established. It shall consist of all receipts from the sale of spirits, fortified wines, and other items by the ~~department of liquor control~~ Department of Liquor Control; fees paid to the ~~department of liquor control~~ Department of Liquor Control for the benefit of the ~~department~~ Department; all other amounts received by the ~~department of liquor control~~ Department of Liquor Control for its benefit; and all amounts ~~which~~ that are from time to time appropriated to the ~~department of liquor control~~ Department of Liquor Control.

Sec. A.9. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST- AND SECOND-CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the Liquor Control Board, the control commissioners may grant the following licenses to a retail dealer for the premises where the dealer carries on business ~~the following~~:

* * *

(2) Upon making application ~~and~~, paying the license fee provided in section 231 of this title, and upon satisfying the Board that such premises are leased, rented, or owned by the retail dealer and are a safe, sanitary, and proper place from which to sell malt and vinous beverages, a second-class license ~~for the premises where such dealer shall carry on the business,~~ which shall authorize such dealer to export malt and vinous beverages, and to sell malt and vinous beverages to the public from such premises for consumption off the premises ~~and upon satisfying the Board that such premises are leased, rented, or owned by such retail dealers and are safe, sanitary, and a proper place from which to sell malt and vinous beverages.~~ A retail dealer carrying on business in more than one place shall be required to acquire a second-class license for each place where ~~he or she shall so sell~~ the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a second-class licensee to a minor.

* * *

(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.

(B) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time.

(C) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of ~~spirituous liquors~~ spirits or fortified wines to a single customer at one time.

(6) The Liquor Control Board may grant a fortified wine permit to a second-class licensee if the licensee files an application accompanied by the license fee as provided in section 231 of this title. The holder of a fortified wine permit may sell fortified wines to the public from the licensed premises for consumption off the premises. The Liquor Control Board shall issue no more than 150 fortified wine permits in any single year. The holder of a fortified wine permit shall purchase all fortified wines to be offered for sale to

the public pursuant to the permit through the Liquor Control Board at a price equal to no more than 75 percent of the current retail price for the fortified wine established by the Commissioner pursuant to subdivision 107(3)(B) of this title.

Sec. A.10. 7 V.S.A. § 224 is amended to read:

§ 224. ~~THIRD-CLASS~~ THIRD-CLASS LICENSES; OPEN CONTAINERS

(a) The ~~liquor control board~~ Liquor Control Board may grant to a person who operates a hotel, restaurant, cabaret, or club a license of the third class if the person files an application accompanied by the license fee as provided in section 231 of this title for the premises in which the business of the hotel, restaurant, cabaret, or club is carried on. The holder of a ~~third-class~~ third-class license may sell ~~spirituous liquors~~ spirits and fortified wines for consumption only on the premises covered by the license. The applicant for a ~~third-class~~ third-class license shall satisfy the ~~liquor control board~~ Liquor Control Board that the applicant is the bona fide owner or lessee of the premises and that the premises are operated for the purpose covered by the license.

* * *

(c) A person who holds a ~~third-class~~ third-class license shall purchase from the ~~liquor control board~~ Liquor Control Board all ~~spirituous liquors~~ spirits and fortified wines dispensed in accordance with the provisions of the ~~third-class~~ third-class license and this title.

Sec. A.11. 7 V.S.A. § 225 is amended to read:

§ 225. EDUCATIONAL SAMPLING EVENT PERMIT

(a) The ~~liquor control board~~ Liquor Control Board may grant an educational sampling event permit to a person to conduct an event that is open to the public and at which malt beverages, vinous beverages, fortified wines, or ~~spirituous liquors~~ spirits, or all ~~three~~ four are served only for the purposes of marketing and educational sampling, provided the event is also approved by the local licensing authority. At least 15 days prior to the event, an applicant shall submit an application to the ~~department~~ Department in a form required by the ~~department~~ Department. The application shall include a list of the alcoholic beverages to be acquired for sampling at the event, and the application shall be accompanied by a fee in the amount required pursuant to section 231 of this title. No more than four educational sampling event permits shall be issued annually to the same person. An educational sampling event permit shall be valid for no more than four consecutive days. The permit holder shall ~~assure~~ ensure all the following:

* * *

(b) An educational sampling event permit holder:

* * *

(2) May transport malt beverages, vinous beverages, fortified wines, and ~~spirituous liquors~~ spirits to the event site, and those beverages may be served at the event by the permit holder or the holder's employees, volunteers, or representatives of a manufacturer, bottler, or importer participating in the event, provided they meet the server age and training requirements under this chapter.

(3) ~~[Deleted.]~~ [Repealed.]

* * *

(d) Taxes for the alcoholic beverages served at the event shall be paid as follows:

* * *

(3) Spirituous liquors: \$19.80 per gallon served.

(4) Fortified wines: \$19.80 per gallon served.

Sec. A.12. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(23) For a fortified wine permit, \$100.00.

(24) For a public library or museum permit, \$20.00.

* * *

Sec. A.13. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON ~~SPIRITUOUS LIQUOR~~ SPIRITS AND FORTIFIED WINES

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

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

(2) if the gross revenue of the seller is between \$500,000.00 and \$750,000.00, the rate of tax is \$25,000.00 plus 10 percent of the gross revenues over \$500,000.00;

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

* * *

Sec. A.14. STATUTORY REVISION

The Legislative Council, in its statutory revision capacity pursuant to 2 V.S.A. § 424, is authorized to correct instances of the words “spirituous liquors” and “spirits” appearing in Title 7 of the Vermont Statutes Annotated to “spirits and fortified wines” as necessary to implement the intent of the revisions to 7 V.S.A. § 2 in this act.

* * *

Sec. A.15. STUDY; REPORT

(a) On or before January 15, 2018, the Commissioner of Liquor Control, in consultation with the holders of second-class licenses and fortified wine permits, shall evaluate whether the number of fortified wine permits issued pursuant to 7 V.S.A. § 222 is sufficient, and how the issuance of fortified wine permits has affected the sales of fortified wines in Vermont and the variety of fortified wines available to Vermont consumers.

(b) The Commissioner of Liquor Control shall report to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding his or her findings on or before January 15, 2018. The Commissioner’s report shall include a recommendation regarding the appropriate number of fortified wine permits to be issued pursuant to 7 V.S.A. § 222.

Sec. A.16. VERMONT LIQUOR CONTROL SYSTEM MODERNIZATION STUDY COMMITTEE

(a) Creation. There is created a Vermont Liquor Control System Modernization Study Committee to evaluate Vermont’s liquor control system and the Department of Liquor Control and determine whether and how the system and the Department can be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety.

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

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

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

(3) the Chair of the Liquor Control Board or designee;

(4) the State Auditor or designee; and

(5) the Commissioner of Taxes or designee.

(c) Powers and duties. The Committee shall study and evaluate Vermont's liquor control system and the Department of Liquor Control and determine whether and how the system and the Department can be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety. In particular, the Committee shall:

(1) examine and evaluate the governance and operation of the Department of Liquor Control in comparison with the governance and operation of liquor control agencies in other states, and identify various measures by which the governance and operation of the Department of Liquor Control could be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety;

(2) examine and evaluate any changes to licensing, enforcement, education, fees, and taxes related to the production, sale, and distribution of alcoholic beverages that would be necessary to implement the various measures identified pursuant to subdivision (1) of this subsection;

(3) evaluate the impact of the various measures identified pursuant to subdivision (1) of this subsection with respect to:

(A) public health and safety;

(B) the tax revenue and income generated by the Department;

(C) any savings in the cost of the services provided by the Department;

(D) any economic impact on the businesses licensed by the Department; and

(E) the price and availability of alcoholic beverages for consumers in Vermont.

(4) examine and evaluate Vermont's regulatory system for the production, sale, and distribution of spirits and fortified wines in comparison with the systems employed by other states, including systems in which spirits and fortified wines are distributed by private entities, public entities, or a combination of private and public entities;

(5) identify various measures by which Vermont's regulatory system for the production, sale, and distribution of spirits and fortified wines could be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety;

(6) examine and evaluate any changes to licensing, enforcement, education, fees, and taxes related to the production, sale, and distribution of alcoholic beverages that would be necessary to implement the various measures identified pursuant to subdivision (5) of this subsection; and

(7) evaluate the impact of the various measures identified pursuant to subdivision (5) of this subsection with respect to:

(A) public health and safety;

(B) the tax revenue and income generated by the Department;

(C) any savings in the cost of the services provided by the Department;

(D) any economic impact on the businesses licensed by the Department; and

(E) the price and availability of alcoholic beverages for consumers in Vermont.

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

(e) Report. On or before December 15, 2015, the Committee shall submit a report to the House Committees on Commerce and Economic Development; on General, Housing and Military Affairs; and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations with its findings and proposed changes to the Department of Liquor Control and Vermont's liquor control system, as well as a recommendation for any legislative action necessary to implement the changes proposed by the Committee. The report of the Committee may take the form of draft legislation.

(f) Meetings.

(1) The Co-Chairs of the Committee shall call the first meeting of the Committee to occur on or before July 30, 2015.

(2) A member from the House of Representatives designated by the Speaker of the House and a member from the Senate designated by the Senate Committee on Committees shall be the Co-Chairs of the Committee.

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

(4) The Committee shall cease to exist on January 15, 2016.

(g) Reimbursement. 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 six meetings.

B. Uniform Commercial Code

* * * Uniform Commercial Code; Article 4A * * *

Sec. B.1. 9A V.S.A. § 4A-108 is amended to read:

§ 4A-108. ~~EXCLUSION OF CONSUMER TRANSACTIONS GOVERNED BY FEDERAL LAW~~ RELATIONSHIP TO ELECTRONIC FUND TRANSFER ACT

(a) ~~This~~ Except as provided in subsection (b) of this section, this article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (15 U.S.C. § 1693 et seq.) as amended from time to time.

(b) This article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. § 1693o-1) as amended from time to time, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. § 1693a) as amended from time to time.

(c) In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

* * * Uniform Commercial Code; Article 7 * * *

Sec. B.2. REPEAL

9A V.S.A. article 7 is repealed.

Sec. B.3. 9A V.S.A. article 7 is added to read:

ARTICLE 7. DOCUMENTS OF TITLE

Part 1. General

§ 7-101. SHORT TITLE

This article may be cited as Uniform Commercial Code-Documents of Title.

§ 7-102. DEFINITIONS AND INDEX OF DEFINITIONS

(a) In this article, unless the context otherwise requires:

(1) “Bailee” means a person that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

(2) “Carrier” means a person that issues a bill of lading.

(3) “Consignee” means a person named in a bill of lading to which or to whose order the bill promises delivery.

(4) “Consignor” means a person named in a bill of lading as the person from which the goods have been received for shipment.

(5) “Delivery order” means a record that contains an order to deliver goods directed to a warehouse, carrier, or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(6) “Goods” means all things that are treated as movable for the purposes of a contract for storage or transportation.

(7) “Issuer” means a bailee that issues a document of title, or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer’s instructions.

(8) “Person entitled under the document” means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(9) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic sound, symbol, or process.

(10) “Shipper” means a person that enters into a contract of transportation with a carrier.

(11) “Warehouse” means a person engaged in the business of storing goods for hire.

(b) Definitions in other articles applying to this article and the sections in which they appear are:

(1) “Contract for sale,” Section 2-106.

(2) “Lessee in the ordinary course of business,” Section 2A-103.

(3) “Receipt” of goods, Section 2-103.

(c) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

§ 7-103. RELATION OF ARTICLE TO TREATY OR STATUTE

(a) This article is subject to any treaty or statute of the United States or regulatory statute of this State to the extent the treaty, statute, or regulatory statute is applicable.

(b) This article does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee’s business in respects not specifically treated in this article. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(c) This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et. seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

(d) To the extent there is a conflict between the Uniform Electronic Transactions Act (9 V.S.A. chapter 20) and this article, this article governs.

§ 7-104. NEGOTIABLE AND NONNEGOTIABLE DOCUMENT OF TITLE

(a) Except as otherwise provided in subsection (c) of this section, a document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person.

(b) A document of title other than one described in subsection (a) of this section is nonnegotiable. A bill of lading that states that the goods are consigned to a named person is not made negotiable by a provision that the

goods are to be delivered only against an order in a record signed by the same or another named person.

(c) A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

§ 7-105. REISSUANCE IN ALTERNATIVE MEDIUM

(a) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(1) the person entitled under the electronic document surrenders control of the document to the issuer; and

(2) the tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(b) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (a) of this section:

(1) the electronic document ceases to have any effect or validity; and

(2) the person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(c) Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(1) the person entitled under the tangible document surrenders possession of the document to the issuer; and

(2) the electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(d) Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection (c) of this section:

(1) the tangible document ceases to have any effect or validity; and

(2) the person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

§ 7-106. CONTROL OF ELECTRONIC DOCUMENT OF TITLE

(a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a) of this section, and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6) of this subsection, unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

Part 2. Warehouse Receipts: Special Provisions§ 7-201. PERSON THAT MAY ISSUE A WAREHOUSE RECEIPT; STORAGE UNDER BOND

(a) A warehouse receipt may be issued by any warehouse.

(b) If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if issued by a person that is the owner of the goods and is not a warehouse.

§ 7-202. FORM OF WAREHOUSE RECEIPT; EFFECT OF OMISSION

(a) A warehouse receipt need not be in any particular form.

(b) Unless a warehouse receipt provides for each of the following, the warehouse is liable for damages caused to a person injured by its omission:

(1) a statement of the location of the warehouse facility where the goods are stored;

(2) the date of issue of the receipt;

(3) the unique identification code of the receipt;

(4) a statement whether the goods received will be delivered to the bearer, to a named person, or to a named person or its order;

(5) the rate of storage and handling charges, unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;

(6) a description of the goods or the packages containing them;

(7) the signature of the warehouse or its agent;

(8) if the receipt is issued for goods that the warehouse owns, either solely, jointly, or in common with others, a statement of the fact of that ownership; and

(9) a statement of the amount of advances made and of liabilities incurred for which the warehouse claims a lien or security interest, unless the precise amount of advances made or liabilities incurred, at the time of the issue of the receipt, is unknown to the warehouse or to its agent that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(c) A warehouse may insert in its receipt any terms that are not contrary to this title and do not impair its obligation of delivery under section 7-403 of this title or its duty of care under section 7-204 of this title. Any contrary provision is ineffective.

§ 7-203. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION

A party to or purchaser for value in good faith of a document of title, other than a bill of lading, that relies upon the description of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) the document conspicuously indicates that the issuer does not know whether all or part of the goods in fact were received or conform to the description, such as a case in which the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by "contents, condition, and quality unknown," "said to contain," or words of similar import, if the indication is true; or

(2) the party or purchaser otherwise has notice of the nonreceipt or misdescription.

§ 7-204. DUTY OF CARE; CONTRACTUAL LIMITATION OF WAREHOUSE'S LIABILITY

(a) A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise care with regard to the goods that a reasonably careful person would exercise under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the exercise of that care.

(b) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage beyond which the warehouse is not liable. Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On request of the bailor in a record at the time of signing the storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be increased on part or all of the goods covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on an increased valuation of the goods.

(c) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the bailment may be included in the warehouse receipt or storage agreement.

§ 7-205. TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN CERTAIN CASES

A buyer in ordinary course of business of fungible goods sold and delivered by a warehouse that is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even if the receipt is negotiable and has been duly negotiated.

§ 7-206. TERMINATION OF STORAGE AT WAREHOUSE'S OPTION

(a) A warehouse, by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title or, if a period is not fixed, within a stated period not less than 30 days after the warehouse gives notice. If the goods are not removed before the date specified in the notice, the warehouse may sell them pursuant to section 7-210 of this title.

(b) If a warehouse in good faith believes that goods are about to deteriorate or decline in value to less than the amount of its lien within the time provided

in subsection (a) of this section and section 7-210 of this title, the warehouse may specify in the notice given under subsection (a) of this section any reasonable shorter time for removal of the goods and, if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(c) If, as a result of a quality or condition of the goods of which the warehouse did not have notice at the time of deposit, the goods are a hazard to other property, the warehouse facilities, or other persons, the warehouse may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose of them in any lawful manner and does not incur liability by reason of that disposition.

(d) A warehouse shall deliver the goods to any person entitled to them under this article upon due demand made at any time before sale or other disposition under this section.

(e) A warehouse may satisfy its lien from the proceeds of any sale or disposition under this section but shall hold the balance for delivery on the demand of any person to which the warehouse would have been bound to deliver the goods.

§ 7-207. GOODS SHALL BE KEPT SEPARATE; FUNGIBLE GOODS

(a) Unless the warehouse receipt provides otherwise, a warehouse shall keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. However, different lots of fungible goods may be commingled.

(b) If different lots of fungible goods are commingled, the goods are owned in common by the persons entitled thereto and the warehouse is severally liable to each owner for that owner's share. If, because of overissue, a mass of fungible goods is insufficient to meet all the receipts the warehouse has issued against it, the persons entitled include all holders to which overissued receipts have been duly negotiated.

§ 7-208. ALTERED WAREHOUSE RECEIPTS

If a blank in a negotiable tangible warehouse receipt has been filled in without authority, a good-faith purchaser for value and without notice of the lack of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

§ 7-209. LIEN OF WAREHOUSE

(a) A warehouse has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its possession for charges for storage or transportation, including demurrage and terminal charges, insurance, labor, or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse also has a lien against the goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession for those charges and expenses, whether or not the other goods have been delivered by the warehouse. However, as against a person to which a negotiable warehouse receipt is duly negotiated, a warehouse's lien is limited to charges in an amount or at a rate specified in the warehouse receipt or, if no charges are so specified, to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.

(b) A warehouse may also reserve a security interest against the bailor for the maximum amount specified on the receipt for charges other than those specified in subsection (a) of this section, such as for money advanced and interest. The security interest is governed by article 9 of this title.

(c) A warehouse's lien for charges and expenses under subsection (a) of this section or a security interest under subsection (b) of this section is also effective against any person that so entrusted the bailor with possession of the goods that a pledge of them by the bailor to a good-faith purchaser for value would have been valid. However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) actual or apparent authority to ship, store, or sell;

(B) power to obtain delivery under section 7-403 of this title; or

(C) power of disposition under sections 2-403, 2A-304(2), 2A-305(2), 9-320, or 9-321(c) of this title, or other statute or rule of law; or

(2) acquiesce in the procurement by the bailor or its nominee of any document.

(d) A warehouse's lien on household goods for charges and expenses in relation to the goods under subsection (a) of this section is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subsection, "household goods" means furniture, furnishings, or personal effects used by the depositor in a dwelling.

(e) A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

§ 7-210. ENFORCEMENT OF WAREHOUSE'S LIEN

(a) Except as otherwise provided in subsection (b) of this section, a warehouse's lien may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification shall include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the warehouse is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market therefore, sells at the price current in that market at the time of the sale, or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) A warehouse may enforce its lien on goods, other than goods stored by a merchant in the course of its business, only if the following requirements are satisfied:

(1) All persons known to claim an interest in the goods shall be notified.

(2) The notification shall include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than 10 days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(3) The sale shall conform to the terms of the notification.

(4) The sale shall be held at the nearest suitable place to where the goods are held or stored.

(5) After the expiration of the time given in the notification, an advertisement of the sale shall be published once a week for two weeks

consecutively in a newspaper of general circulation where the sale is to be held. The advertisement shall include a description of the goods, the name of the person on whose account the goods are being held, and the time and place of the sale. The sale shall take place at least 15 days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement shall be posted at least 10 days before the sale in not fewer than six conspicuous places in the neighborhood of the proposed sale.

(c) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but shall be retained by the warehouse subject to the terms of the receipt and this article.

(d) A warehouse may buy at any public sale held pursuant to this section.

(e) A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods free of any rights of persons against which the lien was valid, despite the warehouse's noncompliance with this section.

(f) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the warehouse would have been bound to deliver the goods.

(g) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(h) If a lien is on goods stored by a merchant in the course of its business, the lien may be enforced in accordance with subsection (a) or (b) of this section.

(i) A warehouse is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

Part 3. Bills Of Lading: Special Provisions

§ 7-301. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION; "SAID TO CONTAIN"; "SHIPPER'S WEIGHT, LOAD, AND COUNT"; IMPROPER HANDLING

(a) A consignee of a nonnegotiable bill of lading which has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in

which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by “contents or condition of contents of packages unknown,” “said to contain,” “shipper’s weight, load, and count,” or words of similar import, if that indication is true.

(b) If goods are loaded by the issuer of a bill of lading;

(1) the issuer shall count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(2) words such as “shipper’s weight, load, and count,” or words of similar import indicating that the description was made by the shipper are ineffective except as to goods concealed in packages.

(c) If bulk goods are loaded by a shipper that makes available to the issuer of a bill of lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper’s request in a record to do so. In that case, “shipper’s weight” or words of similar import are ineffective.

(d) The issuer of a bill of lading, by including in the bill the words “shipper’s weight, load, and count,” or words of similar import, may indicate that the goods were loaded by the shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading.

(e) A shipper guarantees to an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of indemnity does not limit the issuer’s responsibility or liability under the contract of carriage to any person other than the shipper.

§ 7-302. THROUGH BILLS OF LADING AND SIMILAR DOCUMENTS OF TITLE

(a) The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier, is liable to any person entitled to recover on the bill or other document for any breach by the other person or the performing carrier of its obligation under the bill or other document. However, to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(b) If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the bill or other document and does not include liability for breach by any other person or by the issuer.

(c) The issuer of a through bill of lading or other document of title described in subsection (a) of this section is entitled to recover from the performing carrier, or other person in possession of the goods when the breach of the obligation under the bill or other document occurred:

(1) the amount it may be required to pay to any person entitled to recover on the bill or other document for the breach, as may be evidenced by any receipt, judgment, or transcript of judgment; and

(2) the amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the bill or other document for the breach.

§ 7-303. DIVERSION; RECONSIGNMENT; CHANGE OF INSTRUCTIONS

(a) Unless the bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(1) the holder of a negotiable bill;

(2) the consignor on a nonnegotiable bill, even if the consignee has given contrary instructions;

(3) the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill; or

(4) the consignee on a nonnegotiable bill, if the consignee is entitled as against the consignor to dispose of the goods.

(b) Unless instructions described in subsection (a) of this section are included in a negotiable bill of lading, a person to which the bill is duly negotiated may hold the bailee according to the original terms.

§ 7-304. TANGIBLE BILLS OF LADING IN A SET

(a) Except as customary in international transportation, a tangible bill of lading may not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(b) If a tangible bill of lading is lawfully issued in a set of parts, each of which contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitutes one bill.

(c) If a tangible negotiable bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to which the first due negotiation is made prevails as to both the document of title and the goods even if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrendering its part.

(d) A person that negotiates or transfers a single part of a tangible bill of lading issued in a set is liable to holders of that part as if it were the whole set.

(e) The bailee shall deliver in accordance with part 4 of this article against the first presented part of a tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's obligation on the whole bill.

§ 7-305. DESTINATION BILLS

(a) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

(b) Upon request of any person entitled as against a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering the goods, the issuer, subject to section 7-105 of this title, may procure a substitute bill to be issued at any place designated in the request.

§ 7-306. ALTERED BILLS OF LADING

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

§ 7-307. LIEN OF CARRIER

(a) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to

law. However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, a reasonable charge.

(b) A lien for charges and expenses under subsection (a) of this section on goods that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those charges and expenses. Any other lien under subsection (a) of this section is effective against the consignor and any person that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked authority.

(c) A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

§ 7-308. ENFORCEMENT OF CARRIER'S LIEN

(a) A carrier's lien on goods may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification shall include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale, or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but shall be retained by the carrier, subject to the terms of the bill of lading and this article.

(c) A carrier may buy at any public sale pursuant to this section.

(d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against which the lien was valid, despite the carrier's noncompliance with this section.

(e) A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the carrier would have been bound to deliver the goods.

(f) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(g) A carrier's lien may be enforced pursuant to either subsection (a) of this section or the procedure set forth in subsection 7-210(b) of this title.

(h) A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

§ 7-309. DUTY OF CARE; CONTRACTUAL LIMITATION OF CARRIER'S LIABILITY

(a) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall exercise the degree of care in relation to the goods which a reasonably careful person would exercise under similar circumstances. This subsection does not affect any statute, regulation, or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

(b) Damages may be limited by a term in the bill of lading or in a transportation agreement that the carrier's liability may not exceed a value stated in the bill or transportation agreement if the carrier's rates are dependent upon value and the consignor is afforded an opportunity to declare a higher value and the consignor is advised of the opportunity. However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

(c) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the shipment may be included in a bill of lading or a transportation agreement.

Part 4. Warehouse Receipts and Bills of Lading:

General Obligations

§ 7-401. IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR CONDUCT OF ISSUER

The obligations imposed by this article on an issuer apply to a document of title even if:

(1) the document does not comply with the requirements of this article or of any other statute, rule, or regulation regarding its issuance, form, or content;

(2) the issuer violated laws regulating the conduct of its business;

(3) the goods covered by the document were owned by the bailee when the document was issued; or

(4) the person issuing the document is not a warehouse but the document purports to be a warehouse receipt.

§ 7-402. DUPLICATE DOCUMENT OF TITLE; OVERISSUE

A duplicate or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost, stolen, or destroyed documents, or substitute documents issued pursuant to section 7-105 of this title. The issuer is liable for damages caused by its overissue or failure to identify a duplicate document by a conspicuous notation.

§ 7-403. OBLIGATION OF BAILEE TO DELIVER; EXCUSE

(a) A bailee shall deliver the goods to a person entitled under a document of title if the person complies with subsections (b) and (c) of this section, unless and to the extent that the bailee establishes any of the following:

(1) delivery of the goods to a person whose receipt was rightful as against the claimant;

(2) damage to or delay, loss, or destruction of the goods for which the bailee is not liable;

(3) previous sale or other disposition of the goods in lawful enforcement of a lien or on a warehouse's lawful termination of storage;

(4) the exercise by a seller of its right to stop delivery pursuant to section 2-705 of this title or by a lessor of its right to stop delivery pursuant to section 2A-526 of this title;

(5) a diversion, reconsignment, or other disposition pursuant to section 7-303 of this title;

(6) release, satisfaction, or any other personal defense against the claimant; or

(7) any other lawful excuse.

(b) A person claiming goods covered by a document of title shall satisfy the bailee's lien if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the charges are paid.

(c) Unless a person claiming the goods is a person against which the document of title does not confer a right under subsection 7-503(a) of this title:

(1) the person claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(2) the bailee shall cancel the document or conspicuously indicate in the document the partial delivery or the bailee is liable to any person to which the document is duly negotiated.

§ 7-404. NO LIABILITY FOR GOOD-FAITH DELIVERY PURSUANT TO DOCUMENT OF TITLE

A bailee that in good faith has received goods and delivered or otherwise disposed of the goods according to the terms of a document of title or pursuant to this article is not liable for the goods even if:

(1) the person from which the bailee received the goods did not have authority to procure the document or to dispose of the goods; or

(2) the person to which the bailee delivered the goods did not have authority to receive the goods.

Part 5. Warehouse Receipts And Bills Of Lading:
Negotiation And Transfer

§ 7-501. FORM OF NEGOTIATION AND REQUIREMENTS OF DUE NEGOTIATION

(a) The following rules apply to a negotiable tangible document of title:

(1) If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery. After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone.

(2) If the document's original terms run to bearer, it is negotiated by delivery alone.

(3) If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.

(4) Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person and delivery.

(5) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation.

(b) The following rules apply to a negotiable electronic document of title:

(1) If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.

(2) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(3) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

(d) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.

§ 7-502. RIGHTS ACQUIRED BY DUE NEGOTIATION

(a) Subject to sections 7-205 and 7-503 of this title, a holder to which a negotiable document of title has been duly negotiated acquires thereby:

(1) title to the document;

(2) title to the goods;

(3) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(4) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this article, but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(b) Subject to section 7-503 of this title, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee and are not impaired even if:

(1) the due negotiation or any prior due negotiation constituted a breach of duty;

(2) any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; or

(3) a previous sale or other transfer of the goods or document has been made to a third person.

§ 7-503. DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN CASES

(a) A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) actual or apparent authority to ship, store, or sell;

(B) power to obtain delivery under section 7-403 of this title; or

(C) power of disposition under section 2-403, subdivisions 2A-304(2) or 2A-305(2), section 9-320, or subsection 9-321(c) of this title or other statute or rule of law; or

(2) acquiesce in the procurement by the bailor or its nominee of any document.

(b) Title to goods based upon an unaccepted delivery order is subject to the rights of any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. That title may be defeated under section 7-504 of this title to the same extent as the rights of the issuer or a transferee from the issuer.

(c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person to which a bill issued by the freight forwarder is duly negotiated. However, delivery by the carrier in accordance with part 4 of this article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

§ 7-504. RIGHTS ACQUIRED IN ABSENCE OF DUE NEGOTIATION; EFFECT OF DIVERSION; STOPPAGE OF DELIVERY

(a) A transferee of a document of title, whether negotiable or nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the title and rights that its transferor had or had actual authority to convey.

(b) In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:

(1) by those creditors of the transferor which could treat the transfer as void under section 2-402 or 2A-308 of this title;

(2) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer's rights;

(3) by a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or

(4) as against the bailee, by good-faith dealings of the bailee with the transferor.

(c) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading which causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

(d) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under section 2-705 of this title or a lessor under section 2A-526 of this title, subject to the requirements of due notification in those sections. A bailee that honors the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

§ 7-505. INDORSER NOT GUARANTOR FOR OTHER PARTIES

The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or previous indorsers.

§ 7-506. DELIVERY WITHOUT INDORSEMENT: RIGHT TO COMPEL INDORSEMENT

The transferee of a negotiable tangible document of title has a specifically enforceable right to have its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

§ 7-507. WARRANTIES ON NEGOTIATION OR DELIVERY OF DOCUMENT OF TITLE

If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under section 7-508 of this title, unless otherwise agreed, the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

(1) the document is genuine;

(2) the transferor does not have knowledge of any fact that would impair the document's validity or worth; and

(3) the negotiation or delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

§ 7-508. WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS OF TITLE

A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the delivery of the documents only its own good faith and authority even if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

§ 7-509. ADEQUATE COMPLIANCE WITH COMMERCIAL CONTRACT

Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease, or the conditions of a letter of credit is determined by article 2, 2A, or 5 of this title.

Part 6. Warehouse Receipts and Bills of Lading:
Miscellaneous Provisions

§ 7-601. LOST, STOLEN, OR DESTROYED DOCUMENTS OF TITLE

(a) If a document of title is lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with the order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was nonnegotiable, the court may require security. The court may also order payment of the bailee's reasonable costs and attorney's fees in any action under this subsection.

(b) A bailee that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery which files a notice of claim within one year after the delivery.

§ 7-602. JUDICIAL PROCESS AGAINST GOODS COVERED BY NEGOTIABLE DOCUMENT OF TITLE

Unless a document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

§ 7-603. CONFLICTING CLAIMS; INTERPLEADER

If more than one person claims title to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an action for interpleader. The bailee may assert an interpleader either in defending an action for nondelivery of the goods or by original action.

Sec. B.4. 9A V.S.A. article 1 is amended to read:

ARTICLE 1. GENERAL PROVISIONS

* * *

§ 1-201. GENERAL DEFINITIONS

* * *

(b) Subject to definitions contained in other articles of this title that apply to particular articles or parts thereof:

* * *

(5) "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) “Bill of lading” means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

* * *

(15) “Delivery,” with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument, a tangible document of title, or chattel paper, means voluntary transfer of possession.

(16) “Document of title” ~~includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which~~ means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the document record and the goods it the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass ~~The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass~~ An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

* * *

(21) “Holder” means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; ~~or~~

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

* * *

(42) “Warehouse receipt” means a ~~receipt~~ document of title issued by a person engaged in the business of storing goods for hire.

* * *

Sec. B.5. 9A V.S.A. article 2 is amended to read:

ARTICLE 2. SALES

* * *

§ 2-103. DEFINITIONS AND INDEX OF DEFINITIONS

* * *

(3) ~~The~~ “Control” as provided in section 7-106 of this title and the following definitions in other articles apply to this article:

“Check”. Section 3-104.

“Consignee”. Section 7-102.

“Consignor”. Section 7-102.

“Consumer goods”. Section 9-102.

“Dishonor”. Section 3-502.

“Draft”. Section 3-104.

* * *

§ 2-104. DEFINITIONS: “MERCHANT”; “BETWEEN MERCHANTS”; “FINANCING AGENCY”

* * *

(2) “Financing agency” means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller’s draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. “Financing agency” includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (§ 2-707).

* * *

§ 2-310. OPEN TIME FOR PAYMENT OR RUNNING OF CREDIT; AUTHORITY TO SHIP UNDER RESERVATION

Unless otherwise agreed:

(a) payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and

(b) if the seller is authorized to send the goods he or she may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (§ 2-513); and

(c) if delivery is authorized and made by way of documents of title otherwise than by subsection (b) of this section then payment is due regardless of where the goods are to be received (i) at the time and place at which the buyer is to receive delivery of the tangible documents or regardless of where the goods are to be received (ii) at the time the buyer is to receive delivery of the electronic documents and at the seller's place of business, or if none, the seller's residence; and

(d) where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but post-dating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.

* * *

§ 2-323. FORM OF BILL OF LADING REQUIRED IN OVERSEAS SHIPMENT; "OVERSEAS"

* * *

(2) Where in a case within subsection (1) of this section a tangible bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set:

* * *

§ 2-401. PASSING OF TITLE; RESERVATION FOR SECURITY; LIMITED APPLICATION OF THIS SECTION

* * *

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods:

(a) if the seller is to deliver a tangible document of title, title passes at the time when and the place where he or she delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b) if the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting.

* * *

§ 2-503. MANNER OF SELLER'S TENDER OF DELIVERY

* * *

(4) Where goods are in the possession of a bailee and are to be delivered without being moved:

(a) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgment by the bailee of the buyer's right to possession of the goods; but

(b) tender to the buyer of a ~~non-negotiable~~ nonnegotiable document of title or of a ~~written direction to~~ record directing the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in article 9 of this title receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the ~~non-negotiable~~ nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents:

(a) he or she must tender all such documents in correct form, except as provided in this article with respect to bills of lading in a set (§ 2-323(2)); and

(b) tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes ~~non-acceptance~~ nonacceptance or rejection.

§ 2-505. SELLER'S SHIPMENT UNDER RESERVATION

(1) Where the seller has identified goods to the contract by or before shipment:

(a) his or her procurement of a negotiable bill of lading to his or her own order or otherwise reserves in him a security interest in the goods. His or her procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.

(b) a non-negotiable bill of lading to himself or herself or his or her nominee reserves possession of the goods as security but except in a case of conditional delivery (§ 2-507(2)) a ~~non-negotiable~~ nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.

§ 2-506. RIGHTS OF FINANCING AGENCY

* * *

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular ~~on its face~~.

* * *

§ 2-509. RISK OF LOSS IN THE ABSENCE OF BREACH

* * *

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer:

(a) on his or her receipt of possession or control of a negotiable document of title covering the goods; or

(b) on acknowledgment by the bailee of the buyer's right to possession of the goods; or

(c) after his or her receipt of possession or control of a ~~non-negotiable~~ nonnegotiable document of title or other ~~written~~ direction to deliver in a record, as provided in § subdivision 2-503(4)(b) of this title.

* * *

§ 2-605. WAIVER OF BUYER'S OBJECTIONS BY FAILURE TO PARTICULARIZE

* * *

(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent ~~on the face of~~ in the documents.

* * *

§ 2-705. SELLER'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE

* * *

(2) As against such buyer the seller may stop delivery until:

(a) receipt of the goods by the buyer; or

(b) acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or

(c) such acknowledgment to the buyer by a carrier by reshipment or as ~~warehouseman~~ a warehouse; or

(d) negotiation to the buyer of any negotiable document of title covering the goods.

(3)(a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document.

* * *

Sec. B.6. 9A V.S.A. article 2A is amended to read:

ARTICLE 2A. LEASES

* * *

§ 2A-103. DEFINITIONS AND INDEX OF DEFINITIONS

(1) In this article unless the context otherwise requires:

(a) “Buyer in ordinary course of business” means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ acquiring goods or documents of title under a ~~pre-existing~~ preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

* * *

(o) “Lessee in ordinary course of business” means a person who in good faith and without knowledge that the lease to him ~~(or her)~~ or her is in violation of the ownership rights or security interest or leasehold interest of a third party

in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ acquiring goods or documents of title under a ~~pre-existing~~ preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

* * *

§ 2A-514. WAIVER OF LESSEE'S OBJECTIONS

* * *

(2) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent ~~on the face of~~ in the documents.

* * *

§ 2A-526. LESSOR'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE

* * *

(2) In pursuing its remedies under subsection (1) of this section, the lessor may stop delivery until:

- (a) receipt of the goods by the lessee;
- (b) acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or
- (c) such an acknowledgment to the lessee by a carrier via reshipment or as ~~warehouseman~~ a warehouse.

* * *

Sec. B.7. 9A V.S.A. article 4 is amended to read:

ARTICLE 4. BANK DEPOSITS AND COLLECTIONS

* * *

§ 4-104. DEFINITIONS AND INDEX OF DEFINITIONS

* * *

(c) ~~The~~ "Control" as provided in section 7-106 of this title and the following definitions in other articles apply to this article:

"Acceptance" § 3-409

"Alteration" § 3-407

“Cashier’s check” § 3-104

“Certificate of deposit” § 3-104

“Certified check” § 3-409

“Check” § 3-104

“Demand draft” § 3-104

“Holder in due course” § 3-302

“Instrument” § 3-104

“Notice of dishonor” § 3-503

“Order” § 3-103

“Ordinary care” § 3-103

“Person entitled to enforce” § 3-301

“Presentment” § 3-501

“Promise” § 3-103

“Prove” § 3-103

“Teller’s check” § 3-104

“Unauthorized signature” § 3-403

* * *

§ 4-210. SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING DOCUMENTS AND PROCEEDS

* * *

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to ~~Article~~ article 9 of this title, but:

(1) no security agreement is necessary to make the security interest enforceable (§ 9-203(b)(3)(A));

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

* * *

Sec. B.8. 9A V.S.A. article 8 is amended to read:

ARTICLE 8. INVESTMENT SECURITIES

* * *

§ 8-102. DEFINITIONS

(a) In this article:

* * *

(9) “Financial asset,” except as otherwise provided in section 8-103 of this title, means:

(i) a security;

(ii) an obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this article.

As the context requires, the term means either the interest itself or the means by which a person’s claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

* * *

§ 8-103. RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS

* * *

(g) A document of title is not a financial asset unless subdivision 8-102(a)(9)(iii) of this title applies.

* * *

Sec. B.9. 9A V.S.A. article 9 is amended to read:

ARTICLE 9. SECURED TRANSACTIONS

* * *

§ 9-102. DEFINITIONS AND INDEX OF DEFINITIONS

(a) In this article:

* * *

(30) “Document” means a document of title or a receipt of the type described in ~~subdivision 7-201(2)~~ subsection 7-201(b) of this title.

* * *

(b) ~~The~~ “Control” as provided in section 7-106 of this title and the following definitions in other articles apply to this article:

“Applicant” Section 5-102.

“Beneficiary” Section 5-102.

“Broker” Section 8-102.

“Certificated security” Section 8-102.

“Check” Section 3-104.

“Clearing corporation” Section 8-102.

“Contract for sale” Section 2-106.

“Customer” Section 4-104.

“Entitlement holder” Section 8-102.

“Financial asset” Section 8-102.

“Holder in due course” Section 3-302.

“Issuer” (with respect to a letter of credit or letter-of-credit right) Section 5-102.

“Issuer” (with respect to documents of title) Section 7-102.

“Issuer” (with respect to a security) Section 8-201.

“Lease” Section 2A-103.

“Lease agreement” Section 2A-103.

“Lease contract” Section 2A-103.

“Leasehold interest” Section 2A-103.

“Lessee” Section 2A-103.

“Lessee in ordinary course of business” Section 2A-103.

“Lessor” Section 2A-103.

“Lessor’s residual interest” Section 2A-103.

“Letter of credit” Section 5-102.

“Merchant” Section 2-104.
“Negotiable instrument” Section 3-104.
“Nominated person” Section 5-102.
“Note” Section 3-104.
“Proceeds of a letter of credit” Section 5-114.
“Prove” Section 3-103.
“Sale” Section 2-106.
“Securities account” Section 8-501.
“Securities intermediary” Section 8-102.
“Security” Section 8-102.
“Security certificate” Section 8-102.
“Security entitlement” Section 8-102.
“Uncertificated security” Section 8-102.

(c) Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

* * *

§ 9-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST; PROCEEDS; SUPPORTING OBLIGATIONS; FORMAL REQUISITES

* * *

(b) Except as otherwise provided in subsections (c) through (i) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

- (1) value has been given;
- (2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and
- (3) one of the following conditions is met:
 - (A) the debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;
 - (B) the collateral is not a certificated security and is in the possession of the secured party under section 9-313 of this title pursuant to the debtor’s security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 8-301 pursuant to the debtor's security agreement; or

(D) the collateral is deposit accounts, electronic chattel paper, investment property, ~~or~~ letter-of-credit rights, or electronic documents, and the secured party has control under section 7-106, 9-104, 9-105, 9-106, or 9-107 of this title pursuant to the debtor's security agreement.

* * *

§ 9-207. RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL

* * *

(c) Except as otherwise provided in subsection (d) of this section, a secured party having possession of collateral or control of collateral under section 7-106, 9-104, 9-105, 9-106, or 9-107 of this title:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

* * *

§ 9-208. ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL

* * *

(b) Within 10 days after receiving an authenticated demand by the debtor:

* * *

(4) a secured party having control of investment property under section 8-106(d)(2) or 9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; ~~and~~

(5) a secured party having control of a letter-of-credit right under section 9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; and

(6) a secured party having control of an electronic document shall:

(A) give control of the electronic document to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

* * *

§ 9-301. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS

Except as otherwise provided in sections 9-303 through 9-306 of this title, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

* * *

(3) Except as otherwise provided in subdivision (4) of this section, while tangible negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

* * *

§ 9-310. WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN; SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY

* * *

(b) The filing of a financing statement is not necessary to perfect a security interest:

* * *

(5) in certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under section 9-312(e), (f), or (g);

(6) in collateral in the secured party's possession under section 9-313;

(7) in a certificated security which is perfected by delivery of the security certificate to the secured party under section 9-313;

(8) in deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights which is perfected by control under section 9-314;

* * *

§ 9-312. PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER-OF-CREDIT RIGHTS, AND MONEY; PERFECTION BY PERMISSIVE FILING; TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION

* * *

(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

* * *

§ 9-313. WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING

(a) Perfection by possession or delivery. Except as otherwise provided in subsection (b), a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 8-301.

* * *

§ 9-314. PERFECTION BY CONTROL

(a) A security interest in investment property, deposit accounts, letter-of-credit rights, ~~or~~ electronic chattel paper, or electronic documents may be perfected by control of the collateral under section 7-106, 9-104, 9-105, 9-106, or 9-107.

(b) A security interest in deposit accounts, electronic chattel paper, ~~or~~ letter-of-credit rights, or electronic documents is perfected by control under section 7-106, 9-104, 9-105, or 9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

* * *

§ 9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF
SECURITY INTEREST OR AGRICULTURAL LIEN

* * *

(b) Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of ~~collateral other than tangible chattel paper, tangible documents, goods, instruments, or~~ accounts, electronic chattel paper, electronic documents, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

* * *

§ 9-338. PRIORITY OF SECURITY INTEREST OR AGRICULTURAL
LIEN PERFECTED BY FILED FINANCING STATEMENT PROVIDING
CERTAIN INCORRECT INFORMATION

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in subdivision 9-516(b)(5) of this title which is incorrect at the time the financing statement is filed:

(1) the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral.

* * *

§ 9-601. RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT;
CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER,
PAYMENT INTANGIBLES, OR PROMISSORY NOTES

* * *

(b) A secured party in possession of collateral or control of collateral under section 7-106, 9-104, 9-105, 9-106, or 9-107 has the rights and duties provided in section 9-207.

* * *

C. Workforce Education, Training, and Development

* * * Vermont Strong Scholars and Internship Initiative * * *

Sec. C.1. VERMONT STRONG SCHOLARS LOAN FORGIVENESS
FINDINGS; INTENT

The General Assembly finds that the fundamental fairness, integrity, and success of the Vermont Strong Scholars loan forgiveness program under Sec. C.2 of this act, whereby graduating high school students will be counseled and encouraged to apply to Vermont schools, take certain courses, graduate and then take certain Vermont jobs, in exchange for student loan forgiveness, is critically dependent on the State providing reliable, sustainable, and adequate funding for the loan forgiveness that does not diminish resources for other State workforce education and training programs.

Sec. C.2. 16 V.S.A. § 2888 is amended to read:

§ 2888. VERMONT STRONG SCHOLARS AND INTERNSHIP
INITIATIVE

(a) Creation.

(1) There is created a postsecondary loan forgiveness and internship initiative designed to forgive a portion of Vermont Student Assistance Corporation loans of students employed in ~~economic sectors~~ occupations identified as important to Vermont's economy and to build internship opportunities for students to gain work experience with Vermont employers.

(2) The initiative shall be known as the Vermont Strong Scholars and Internship Initiative and is designed to:

(A) encourage students to:

(i) consider ~~jobs in economic sectors~~ occupations that are critical to the Vermont economy;

(ii) enroll and remain enrolled in a Vermont postsecondary institution; and

(iii) live and work in Vermont upon graduation;

(B) reduce student loan debt for postsecondary ~~education in targeted fields~~ degrees involving a course of study related to, and resulting in, employment in target occupations;

(C) provide experiential learning through internship opportunities with Vermont employers; and

(D) support a ~~pipeline~~ steady stream of qualified talent for ~~employment with~~ Vermont's employers.

(b) Vermont Strong Loan Forgiveness Program.

(1) ~~Economic sectors~~ Occupations; projections.

(A) Annually, on or before November 15, the Secretary of Commerce and Community Development and the Commissioner of Labor, in consultation with the Vermont State Colleges, the University of Vermont, the Association of Vermont Independent Colleges, the Vermont Student Assistance Corporation, the Secretary of Human Services, and the Secretary of Education, shall identify ~~economic sectors~~ occupations, projecting at least four years into the future, that are or will be critical to the Vermont economy.

(B) Based upon the identified ~~economic sectors~~ occupations and the number of students anticipated to qualify for loan forgiveness under this section, the Secretary of Commerce and Community Development shall annually provide the General Assembly with the estimated cost of the Vermont Student Assistance Corporation's loan forgiveness awards under the Loan Forgiveness Program during the then-current fiscal year and each of the four following fiscal years.

(2) Eligibility. A graduate of a public or private Vermont postsecondary institution shall be eligible for forgiveness of a portion of his or her Vermont Student Assistance Corporation postsecondary education loans under this section if he or she:

(A) was a Vermont resident, as defined in subdivision 2822(7) of this title, at the time he or she was graduated;

(B) enrolled in his or her first year of study at a postsecondary institution on or after July 1, 2015 and completed an associate's degree within three years, or a bachelor's degree within six years of his or her enrollment date;

(C) becomes employed on a full-time basis in Vermont within 12 months of graduation in an ~~economic sector~~ occupation identified by the Secretary and Commissioner under subdivision (1) of this subsection;

(D) remains employed on a full-time basis in Vermont throughout the period of loan forgiveness in an ~~economic sector~~ occupation identified by the Secretary and Commissioner under subdivision (1) of this subsection; and

(E) remains a Vermont resident throughout the period of loan forgiveness.

(3) Loan forgiveness. An eligible individual shall have a portion of his or her Vermont Student Assistance Corporation loan forgiven as follows:

(A) ~~For~~ for an individual awarded an associate's degree, in an amount equal to the comprehensive in-state tuition rate for 15 credits at the Vermont State Colleges during the individual's final semester of enrollment, to be prorated over the three years following graduation;

(B) ~~For~~ for an individual awarded a bachelor's degree, in an amount equal to the comprehensive in-state tuition rate for 30 credits at the Vermont State Colleges during the individual's final year of enrollment, to be prorated over the five years following graduation;

(C) ~~Loan~~ loan forgiveness may be awarded on a prorated basis to an otherwise eligible Vermont resident who transfers to ~~and is graduated from~~ a Vermont postsecondary institution and graduates after July 1, 2017, with an associate's degree or after July 1, 2019, with a bachelor's degree.

(4) Management.

(A) The Secretary of Commerce and Community Development shall develop all organizational details of the Loan Forgiveness Program consistent with the purposes and requirements of this section.

(B) The Secretary shall enter into a memorandum of understanding with the Vermont Student Assistance Corporation for management of the Loan Forgiveness Program.

(C) The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the Program.

(c) Vermont Strong Internship Program.

(1) ~~Internship Program management.~~

~~(A)~~ The Commissioner of Labor and the Secretary of Commerce and Community Development shall jointly develop ~~and implement~~ the organizational details of the Internship Program consistent with the purposes and requirements of this section ~~and may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to.~~ The Commissioner shall implement the Internship Program and shall have the authority to adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the Program pursuant to this section.

~~(B) The Commissioner, in consultation with the Secretary, shall issue a request for proposals for a person to serve as an Internship Program Intermediary, who shall perform the duties and responsibilities pursuant to the terms of a performance contract negotiated by the Commissioner and the Intermediary~~

(2) The Commissioner and the Secretary shall design the Vermont Strong Internship Program to complement and coordinate with the Vermont Career Internship Program in 10 V.S.A. § 544.

(C) The Department of Labor, the Agency of Commerce and Community Development, and the regional development corporations, ~~and the Intermediary~~, shall have responsibility for building connections within the business community to ensure broad private sector participation in the Internship Program.

(D) ~~The Program Intermediary~~ Commissioner of Labor shall:

(i) ~~identify and foster postsecondary internships that are rigorous, productive, well-managed, and mentored;~~

(ii) ~~cultivate~~ coordinate relationships ~~with~~ between and among employers, employer-focused organizations, and State and regional government bodies;

(iii) build relationships with Vermont postsecondary institutions and facilitate recruitment of students to apply for available internships;

(iv) ~~create and maintain a registry of participating employers and associated internship opportunities~~ develop a clearinghouse of information and opportunities for internships; and

(v) ~~coordinate and provide support to the participating student, the employer, and the student's postsecondary institution;~~

(vi) ~~develop and oversee a participation contract between each student and employer, including terms governing the expectations for the internship, a work plan, mentoring and supervision of the student, reporting by the employer and student, and compensation terms; and~~

(vii) carry out any additional activities and duties as directed by the Commissioner.

~~(2) Qualifying internships.~~

~~(A) Criteria. To qualify for participation in the Internship Program an internship shall at minimum:~~

~~(i) be with a Vermont employer as approved by the Intermediary in consultation with the Commissioner and Secretary;~~

~~(ii) pay compensation to an intern of at least the prevailing minimum wage; and~~

~~(iii) meet the quality standards and expectations as established by the Intermediary.~~

~~(B) Employment of interns. Interns shall be employed by the sponsoring employer except, with the approval of the Commissioner on a case-by-case basis, interns may be employed by the Intermediary and assigned to work with a participating Vermont employer, in which case the sponsoring employer shall contribute funds as determined by the Commissioner.~~

~~(3) Student eligibility. To participate in the Internship Program, an individual shall be:~~

~~(A) a Vermont resident enrolled in a postsecondary institution in or outside Vermont;~~

~~(B) a student who graduated from a postsecondary institution within 24 months of entering the program who was classified as a Vermont resident during that schooling or who is a student who attended a postsecondary institution in Vermont; or~~

~~(C) a student enrolled in a Vermont postsecondary institution.~~

(d) Funding.

(1) Loan Forgiveness Program.

(A) Loan forgiveness; State funding.

(i) There is created a special fund to be known as the Vermont Strong Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5, which shall be used and administered by the Secretary of Commerce and Community Development solely for the purposes of loan forgiveness pursuant to this section.

(ii) The Fund shall consist of sums to be identified by the Secretary from any source accepted for the benefit of the Fund and interest earned from the investment of Fund balances.

(iii) Any interest earned and any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

(iv) The availability and payment of loan forgiveness awards under this ~~subdivision~~ chapter is subject to State funding available for the awards.

(B) Loan forgiveness; Vermont Student Assistance Corporation. The Vermont Student Assistance Corporation shall have the authority to grant loan

forgiveness pursuant to this section by using the private loan forgiveness capacity associated with bonds issued by the Corporation to raise funds for private loans that are eligible for forgiveness under this section, if available.

(2) Internship Program. Notwithstanding any provision of law to the contrary, the Commissioner of Labor shall have the authority to use funds allocated to the Workforce Education and Training Fund established in 10 V.S.A. § 543 to implement the Internship Program created in this section.

* * * Workforce Education and Training Fund * * *

Sec. C.3. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

* * *

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created a Workforce Education and Training Fund in the Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. ~~The Fund shall be used exclusively~~ Department shall use the Fund for the following purposes:

(1) training for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another; and

(2) internships to provide students with work-based learning opportunities with Vermont employers; ~~and~~

(3) ~~apprenticeship-related instruction~~ apprenticeship, preapprenticeship, and industry-recognized credential training; and

(4) other workforce development initiatives related to current and future job opportunities in Vermont as determined by the Commissioner of Labor.

(c) Administrative ~~Support and other support.~~ Administrative ~~The Department of Labor shall provide administrative support for the grant award process shall be provided by the Department of Labor. Technical support shall be provided whenever. When appropriate and reasonable by the State Workforce Investment Board and all other public entities involved in economic development and workforce education and training shall provide other support in the process.~~

(d) Eligible ~~Activities.~~ Awards activities.

(1) The Department shall grant awards from the Fund ~~shall be made to employers and entities that offer programs that require collaboration between~~

~~employees and businesses, including private, public, and nonprofit entities, institutions of higher education, high schools, technical centers, and workforce education and training programs. Funding shall be for training programs and student internship programs that:~~

(A) create jobs, offer education, training, apprenticeship, pre-apprenticeship and industry-recognized credentials, mentoring, or work-based learning activities, or any combination;

(B) that employ innovative—intensive student-oriented competency based or collaborative approaches to workforce education and training; and

(C) that link workforce education and economic development strategies. Training

(2) The Department may fund programs or projects that demonstrate actual increased income and economic opportunity for employees and employers may be funded for more than one year.

(3) ~~Student~~ The Department may fund student internships and training programs that involve the same employer may be funded multiple times, provided that new students participate in multiple years with approval of the Commissioner.

(e) [Repealed].

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce Investment Board, shall develop award criteria and may ~~make grant~~ awards to the following:

(1) Training Programs.

(A) Public, private, and nonprofit entities, including employers and education and training providers, for existing or new innovative training programs that enhance the skills of Vermont workers and:

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available programs training funded with public money;

(iii) ~~articulate clear goals and demonstrate readily accountable, reportable, and measurable results~~ provide a project timeline, including performance goals, and identify how the effectiveness and outcomes of the

program will be measured, including for the individual participants, the employers, and the program as a whole; and

(iv) ~~demonstrate an integrated connection between training and specific new or continuing employment opportunities~~ articulate the need for the training and the direct connection between the training and the job.

(B) Awards The Department shall grant awards under this subdivision ~~shall be made~~ (1) to programs or projects that:

(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, or any combination of these;

(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed ~~due to changing workplace demands by increasing productivity and developing new skills for incumbent workers~~, and workers who are in transition from one job or career to another; ~~or~~

(iii) address the needs of employers to hire new employees, or retrain incumbent workers, when the employer has demonstrated a need not within the normal course of business, with priority to training that results in new or existing job openings for which the employer intends to hire; or

(iv) in the discretion of the Commissioner, otherwise serve the purposes of this chapter.

(2) Vermont Career Internship Program. Funding for eligible internship programs and activities under the Vermont Career Internship Program established in section 544 of this title.

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(g) [Repealed.]

§ 544. VERMONT CAREER INTERNSHIP PROGRAM

(a)(1) The Department of Labor, in consultation with the Agency of Education, shall develop, and the Department shall implement, a statewide Vermont Career Internship Program for ~~Vermonters~~ students who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont

employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont Career Internship Program may be used to build and administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that ~~do all the following~~:

(A) do not replace or supplant existing positions;

(B) expose students to the workplace or create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate ~~secondary and postsecondary students and recent graduates~~ participants through work-based learning opportunities with Vermont employers ~~that are likely to lead to real employment~~;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; ~~and or~~

(F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) As used in this section, “internship” means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, State-funded postsecondary educational institutions, the State Workforce Investment Board, and other State agencies and departments that have workforce education and training and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont Career Internship Program;

(2) collect data and establish program goals and ~~quantifiable~~ performance measures that demonstrate program results for internship programs funded through the Vermont Career Internship Program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the State in the Internship Program to expand internship opportunities with State government and with entities awarded State contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the State.

* * * Youth Employment Working Group * * *

Sec. C.4. YOUTH EMPLOYMENT WORKING GROUP

(a) There is created a youth employment working group to recommend measures to increase work-experience opportunities for 16 and 17 year olds in Vermont.

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

(1) the Commissioner of Labor or designee;

(2) the Department of Labor Workforce Education and Training Coordinator;

(3) the Secretary of Education or designee;

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

(5) one member from a regional technical center to be appointed by the Secretary of Education;

(6) one member from the House of Representatives to be appointed by the Speaker;

(7) one member of the Senate to be appointed by the Committee on Committees;

(8) one member of the Associated General Contractors of Vermont;

(9) one member of the labor community to be appointed by the Governor; and

(10) one member appointed by the Vermont Insurance Agents Association.

(c) The group shall:

(1) study how to increase work-experience opportunities for 16 and 17 year olds, including issues of financing, insurance requirements, workplace safety, and educational requirements;

(2) make recommendations to increase work-experience opportunities; and

(3) develop the metrics to assess the progress to increase work-experience opportunities.

(d) The Commissioner of Labor shall convene the first meeting of the group, at which meeting the members of the group shall elect a chair.

(e) Legislative members of the group shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406 for not more than four meetings.

(f) The Department of Labor shall provide administrative support to the group.

(g) On or before January 15, 2016, the group shall report its findings and recommended draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

* * * Vermont Governor's Committee on Employment
of People with Disabilities * * *

Sec. C.5. 21 V.S.A. § 497a is amended to read:

§ 497a. COMMITTEE ESTABLISHED

There is hereby established a permanent committee to be known as the Vermont ~~governor's committee on employment of people with disabilities~~ Governor's Committee on Employment of People with Disabilities, to consist of 24 23 members, including a one representative ~~of each from~~ the Vermont ~~employment service division~~ Department of Labor's Workforce Development Division and the Jobs for Veterans State Grant, one representative ~~of from~~ the ~~vocational rehabilitation division of the department of disabilities, aging, and independent living~~ Department of Disabilities, Aging, and Independent Living, Vocational Rehabilitation Division and one from the Division for the Blind and Visually Impaired, one representative of the ~~veterans' administration, one representative of the veterans' employment service~~ U.S. Department of Veterans Affairs, one representative of the State of Vermont Office of Veterans Affairs, and 17 members to be appointed by the ~~governor~~ Governor. The appointive members shall hold office for the term specified or until their successors are named by the ~~governor~~ Governor. The members shall receive no salary for their services as such, but the necessary expenses of the ~~committee~~ Committee shall be paid by the ~~state~~ State. ~~Those persons acting as said committee on June 29, 1963 shall continue as such until their successors are appointed as herein provided.~~

* * * Vermont ABLE Savings Program * * *

Sec. C.6. PURPOSE

The purpose of this act is:

(1) to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities in maintaining health, independence, and quality of life.

(2) to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program under Title XIX of the Social Security Act, the supplemental security income program under Title XVI of such Act, the beneficiary's employment, and other sources.

Sec. C.7. 33 V.S.A. chapter 80 is added to read:

CHAPTER 80. VERMONT ACHIEVING A BETTER LIFE
EXPERIENCE (ABLE) SAVINGS PROGRAM

§ 8001. PROGRAM ESTABLISHED

(a) The State Treasurer or designee shall have the authority to establish the Vermont Achieving A Better Life Experience (ABLE) Savings Program consistent with the provisions of this chapter under which a person may make contributions for a taxable year, for the benefit of an individual who is an eligible individual for such taxable year, to an ABLE account which is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account; and which:

(1) limits a designated beneficiary to one ABLE account for purposes of this section;

(2) allows for the establishment of an ABLE account only for a designated beneficiary who is a resident of Vermont or a resident of a contracting State; and

(3) meets the other requirements of this chapter.

(b)(1) The Treasurer or designee may solicit proposals from financial organizations to implement the Program as account depositories and managers.

(2) A financial organization that submits a proposal shall describe the investment instruments which will be held in accounts.

(3) The Treasurer shall select from among the applicants one or more financial organizations that demonstrate the most advantageous combination, both to potential program participants and this State, of the following criteria:

(A) the financial stability and integrity of the financial organization;

(B) the safety of the investment instrument offered;

(C) the ability of the financial organization to satisfy recordkeeping and reporting requirements;

(D) the financial organization's plan for promoting the program and the investment the organization is willing to make to promote the program;

(E) the fees, if any, proposed to be charged to the account owners;

(F) the minimum initial deposit and minimum contributions that the financial organization will require;

(G) the ability of the financial organization to accept electronic withdrawals, including payroll deduction plans; and

(H) other benefits to the State or its residents included in the proposal, including fees payable to the State to cover expenses of operation of the Program.

(c) 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.

§ 8002. DEFINITIONS

In this chapter:

(1) "ABLE account" means an account established by an eligible individual, owned by the eligible individual, and maintained under the Vermont ABLE Savings Program.

(2) "Designated beneficiary" means the eligible individual who establishes an ABLE account under this chapter and is the owner of the account.

(3) "Disability certification" means a certification to the satisfaction of the Secretary by the individual or the parent or guardian of the individual that:

(A) certifies that:

(i) the individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, or the individual is blind within the meaning of Section 1614(a)(2) of the Social Security Act, and

(ii) such blindness or disability occurred before the individual attained 26 years of age; and

(B) includes a copy of the individual's diagnosis relating to the individual's relevant impairment or impairments, signed by a physician meeting the criteria of Section 1861(r)(1) of the Social Security Act.

(4) "Eligible individual" means:

(A) a person who during a taxable year is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained 26 years of age; or

(B) a person for whom a disability certification is filed with the Secretary for the taxable year.

(5) "Financial organization" means an organization authorized to do business in this State and that is:

(A) licensed or chartered by the Department of Financial Regulation;

(B) chartered by an agency of the federal government; or

(C) subject to the jurisdiction and regulation of the federal Securities and Exchange Commission.

(6) "Member of family" means a brother, sister, stepbrother, or stepsister of a designated beneficiary.

(7) "Qualified disability expense" means an expense related to the eligible individual's blindness or disability which is made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the Secretary under regulations and consistent with the purposes of this section.

(8) "Secretary" means the Secretary of the U.S. Department of the Treasury.

§ 8003. PROGRAM LIMITATIONS

(a) Cash contributions. The Treasurer or designee shall not accept a contribution:

(1) unless it is in cash; or

(2) except in the case of a contribution under 26 U.S.C. § 529A(c)(1)(C) (relating to a change in a designated beneficiary or program), if such contribution to an ABLE account would result in aggregate contributions from

all contributors to the ABLE account for the taxable year exceeding the amount in effect under subsection 2503(b) of this title for the calendar year in which the taxable year begins.

(b) Separate accounting. The Treasurer or designee shall provide separate accounting for each designated beneficiary.

(c) Limited investment direction. A designated beneficiary may, directly or indirectly, direct the investment of any contributions to the Vermont ABLE Savings Program, or any earnings thereon, no more than two times in any calendar year.

(d) No pledging of interest as security. A person shall not use an interest in the Vermont ABLE Savings Program, or any portion thereof, as security for a loan.

(e) Prohibition on excess contributions. The Treasurer or designee shall adopt adequate safeguards under the Vermont ABLE Savings Program to prevent aggregate contributions on behalf of a designated beneficiary in excess of the limit established by the State pursuant to 26 U.S.C. § 529(b)(6).

§ 8004. REPORTS

(a) In general. The Treasurer or designee shall make such reports regarding the Program to the Secretary and to designated beneficiaries with respect to contributions, distributions, the return of excess contributions, and such other matters as the Secretary may require.

(b) Notice of establishment of account. The Treasurer or designee shall submit a notice to the Secretary upon the establishment of an ABLE account that includes the name and state of residence of the designated beneficiary and such other information as the Secretary may require.

(c) Electronic distribution statements. The Treasurer or designee shall submit electronically on a monthly basis to the Commissioner of Social Security, in the manner specified by the Commissioner, statements on relevant distributions and account balances from all ABLE accounts created under the Vermont ABLE Savings Program.

(d) Requirements. The Treasurer or designee shall file the reports and notices required under this section at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

Sec. C.8. VERMONT ABLE TASK FORCE; REPORTS

The State 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 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).

* * * Enhancing Eligibility and Work Incentives for the Medicaid for Working Persons with Disabilities Program * * *

Sec. C.9. MEDICAID FOR WORKING PEOPLE WITH DISABILITIES; RULEMAKING

(a) On or before October 1, 2015, the Agency of Human Services shall request permission from the Centers for Medicare and Medicaid Services (CMS) in order to increase to \$10,000.00 per individual and \$15,000.00 per couple the asset limit for eligibility for the Medicaid for Working People with Disabilities program. Within 30 days following CMS approval of the increased asset limit, the Agency of Human Services shall commence the rulemaking process pursuant to 3 V.S.A. chapter 25 to amend its rules accordingly.

(b) On or before October 1, 2015, the Agency of Human Services shall request permission from CMS to disregard the income of a spouse who is a Medicaid for Working People with Disabilities beneficiary when calculating the eligibility of the other spouse to receive traditional Medicaid benefits. Within 30 days following CMS approval of the income disregard, the Agency of Human Services shall commence the rulemaking process pursuant to 3 V.S.A. chapter 25 to amend its rules accordingly.

(c) On or before October 1, 2015, the Agency of Human Services shall request permission from CMS to disregard the income of an applicant's or

beneficiary's spouse when determining the applicant's or beneficiary's eligibility for the Medicaid for Working People with Disabilities program, after a determination has been made that the applicant's or beneficiary's net family income is below 250 percent of the federal poverty level for a family of the applicable size. Within 30 days following CMS approval of the income disregard, the Agency of Human Services shall commence the rulemaking process pursuant to 3 V.S.A. chapter 25 to amend its rules accordingly.

(d) On or before October 1, 2015, the Agency of Human Services shall request permission from CMS to disregard Social Security retirement income for the purpose of calculating eligibility for the Medicaid for Working People with Disabilities program for beneficiaries who have reached the Social Security retirement age and whose Social Security Disability Insurance benefits have automatically converted to Social Security retirement benefits. Within 30 days following CMS approval of the income disregard, the Agency of Human Services shall commence the rulemaking process pursuant to 3 V.S.A. chapter 25 to amend its rules accordingly.

(e) The Agency of Human Services shall engage the assistance of benefits counselors at public and nonprofit organizations to increase public awareness of the Medicaid for Working People with Disabilities program and of other work incentives for individuals with disabilities.

(f) On or before January 15, 2016, the Agency of Human Services shall provide a report on the implementation of this section to the House Committees on Commerce and Economic Development and on Human Services and to the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare.

* * * Vermont Career Technical Education * * *

Sec. C.10. VERMONT CAREER TECHNICAL EDUCATION

(a). Findings and intent.

(1) The "on time" graduation rate for high school students in Vermont is 86.6 percent (2013).

(2) The postsecondary continuation rate for 12th grade graduates is approximately 60 percent. Many states have set a target of 80 percent for students graduating from high school and transitioning to further education or training, or both.

(3) According to the Vermont Department of Labor, in 2014 the total number of people considered as "underutilized" labor in Vermont was 31,700.

(4) Vermont's workforce is aging, with 27.7 percent of all workers over 55 years of age.

(5) According to a report issued by the McClure Foundation, with assistance from the Vermont Department of Labor, Labor Market Information Division, there are currently, and will be, many high-wage, high-skill job openings in Vermont between now and 2020.

(6) In order to support the creation and growth of high paid jobs in Vermont, we must provide our students with the needed education, skills, and competencies for these positions.

(7) Vermont's Career and Technical Education Centers (CTEs) are a key resource in preparing Vermonters for careers and meeting the workforce needs of Vermont employers.

(8) CTE learning is designed to prepare students to be ready for their next step, including further training, college, jobs, and careers.

(9) Vermont's CTEs do not currently offer enough programs of study of the size, scope, and quality necessary to prepare high school students for these current and anticipated high-skill, high-wage, high-demand job openings.

(10) Due to the demands and complexity of these jobs, CTE programming should provide new courses in a sequence from grades 9-12, including dual enrollment, with smooth transitions to postsecondary training or further education, or both.

(11) There is an approved project within the Vermont Comprehensive Economic Development Strategies (CEDS) that identifies six high-priority cluster programs of study which the Agency of Education is currently implementing: Travel/Tourism and Business Systems (Culinary, Hospitality, Accounting, Management, Entrepreneurship); Manufacturing/Engineering (STEM); Construction/Green Building and Design; Agriculture, Local Food Systems, Natural Resources; Information Technology (Networking, Software Development, Website Design); Health/Medical.

(12) The CEDS project for high-priority CTE programs of study will provide uniform high-quality programs at the centers throughout the State.

(13) The Vermont Department of Labor, the Agency of Commerce and Community Development, the Agency of Education, and the Vermont State Colleges should collaborate more closely to develop high school CTE programs of study, including adult technical education programs, aligned with the needs of Vermont's employers.

(14) In some cases, the funding models for the CTEs act as a disincentive for school districts to send their students to regional technical centers.

(15) The purpose of this section is to direct the Department of Labor, the Agency of Commerce and Community Development, the Agency of Education, and the Vermont State Colleges to collaborate on how to better utilize Vermont's CTEs.

(b) Study and report. The Agency of Education, the Department of Labor, the Agency of Commerce and Community Development, and the Vermont State Colleges shall convene, develop suggestions, and report on or before December 1, 2015 to the House Committees on Commerce and Economic Development and on Education and the Senate Committees on Economic Development, Housing and General Affairs and on Education on how Vermont's CTEs can be better utilized to provide training aligned with high-wage, high-skills, high-demand employment opportunities in Vermont, including:

(1) how the Agency of Education will develop priority pathway programs of study with regional CTEs in collaboration with the Department of Labor, the Agency of Commerce and Community Development, and the Vermont State Colleges;

(2) how these programs can include opportunities for post-secondary enrollment in apprenticeships, internships, approved training programs, sub-baccalaureate programs, and adult technical education programs;

(3) how to ensure equitable and appropriate access to CTE programs of study developed and implemented in grades 9 through 12;

(4) what barriers or challenges exist to the development and implementation of high-quality priority pathways as described in the CEDS approved project; and

(5) one or more recommendations to address the financial disincentive for school districts to send students to the CTEs created by the CTE funding model.

D. Tourism and Economic Development Marketing

D.1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) The State of Vermont is a worldwide leader in the global tourism market. Visitors from around the world come to Vermont to recreate and the Vermont brand is now recognized and admired throughout the world.

(2) Vermont is rapidly developing a reputation as a place where entrepreneurs and innovators can succeed, and where they can come to start and grow great businesses.

(3) The Department of Tourism and Marketing should continue its very successful tourism marketing efforts in order to maintain our standing in the global tourism market.

(4) The Department should also develop an economic development marketing program, highlighting the many positive features that make Vermont a great place to live, work, and do business, including:

(A) Vermont's long history of innovation, including agricultural, business, and technical innovation; product design; and entrepreneurship;

(B) the multitude and diversity of successful start-up businesses in environmental technology, health technology, advanced manufacturing, services technology, biotechnology, recreation technology, and social technology;

(C) the benefits of Vermont's size, scale, and accessibility to government officials and resources, which make Vermont a state where business can start, grow, and prosper; and

(D) the benefits of Vermont's educational and workforce development resources, and its highly skilled and highly educated population.

(b) The purpose of Secs. D.2 and D.3 of this act is to expand the mission of the Department of Tourism and Marketing to ensure a focus on economic development marketing.

Sec. D.2. 3 V.S.A. chapter 47 is amended to read:

Chapter 47: Commerce and Community Development

* * *

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS DEVELOPMENT

(a) The ~~department of housing and community affairs is created within the agency of commerce and community development~~ Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The ~~department~~ Department shall:

(1) Be the central ~~state~~ State agency to coordinate, consolidate, and operate, to the extent possible, all housing programs enacted hereafter by the ~~general assembly~~ General Assembly or created by executive order of the ~~governor~~ Governor.

(2) Be the central ~~state~~ State agency for local and regional planning and coordination.

(3) Administer the community development block grant program pursuant to 10 V.S.A. chapter 29. When awarding municipal planning grants prior to fiscal year 2012, the ~~department~~ Department shall give priority to grants for downtowns, new town centers, growth centers, and Vermont neighborhoods.

(4) In partnership with the ~~division for historic preservation~~ Division of Historic Preservation, direct, supervise, and administer the Vermont downtown program, and any other program designed to preserve the continued economic vitality of the ~~state's~~ State's traditional commercial districts.

(b) Neither the Vermont ~~state housing authority~~ State Housing Authority or the Vermont ~~home mortgage guarantee board agency~~ Housing Finance Agency shall be considered part of the ~~department of housing and community affairs~~ Department, but shall keep the ~~department~~ Department advised of programs and activities being conducted.

* * *

§ 2473. DIVISION FOR HISTORIC PRESERVATION

The ~~division for historic preservation~~ Division of Historic Preservation is created within the ~~department of housing and community affairs~~ Department of Housing and Community Development as the successor to and the continuation of the ~~board of historic sites~~ Board of Historic Sites and the ~~division of historic sites~~ Division of Historic Sites.

* * *

§ 2476. DEPARTMENT OF TOURISM AND MARKETING

(a) ~~The department of tourism and marketing of the agency is created, as successor to the department of travel~~ The Department of Tourism and Marketing is created within the Agency of Commerce and Community Development. The ~~department~~ Department shall be administered by a ~~commissioner~~ Commissioner.

(b) Tourism marketing. The ~~department of tourism and marketing~~ Department shall be responsible for ~~the promotion of Vermont goods and services as well as the~~ promotion of Vermont's travel, recreation, and cultural attractions through advertising and other informational programs, and for provision of travel and recreation information and services to visitors to the ~~state~~ State, in coordination with other agencies of ~~state~~ State government, chambers of commerce and travel associations, and the private sector in order to increase the benefits of tourism marketing, including:

(1) enhancing Vermont's image as a tourist destination in the regional, national, and global marketplace;

- (2) increasing occupancy rates;
- (3) increasing visitor spending throughout the State; and
- (4) increasing State revenues generated through the rooms and meals tax.

(c) Economic development marketing. The Department shall be responsible for the promotion of Vermont as great place to live, work, and do business in order to increase the benefits of economic development marketing, including:

- (1) attracting additional private investment in Vermont businesses;
- (2) recruiting new businesses;
- (3) attracting more innovators and entrepreneurs to locate in Vermont;
- (4) attracting, recruiting, and growing the workforce to fill existing vacancies in growing businesses; and
- (5) promoting and supporting Vermont businesses, goods, and services.

(d) On and after July 1, 1997, all departments engaging in marketing activities shall submit to and coordinate marketing plans with the commissioner of the department of tourism and marketing Commissioner.

~~(d) [Repealed.]~~

(e) The ~~department of tourism and marketing~~ Department may conduct direct marketing activities pursuant to this chapter or ~~chapter 27 of Title 10 V.S.A. chapter 27,~~ but and shall ~~make best reasonable efforts~~ work to increase marketing activities conducted in partnership with one or more private sector partners to maximize State marketing resources and to enable Vermont businesses to align their own brand identities with the Vermont brand, enhancing the reputations of both the business and the State.

(f) Building on established, successful collaboration with private partners in travel and tourism, agriculture, and other industry sectors, the ~~department~~ ~~should~~ Department shall have the authority ~~undertake reasonable efforts~~ to extend its marketing and promotional resources to include partners in the arts and humanities, as well as other partners that depend on tourism for a significant part of their annual revenue.

(g) The Department shall expand its outreach and information-gathering procedures to allow Vermont businesses and other interested stakeholders to comment on the design and implementation of its tourism marketing and economic development marketing initiatives and also to provide ongoing feedback to the Department on the effectiveness of its initiatives.

Sec. D.3. DEPARTMENT OF TOURISM AND MARKETING; ECONOMIC DEVELOPMENT MARKETING; LEGISLATIVE PROPOSAL AND REPORT TO DEFINE PROGRAM GOALS, TARGETS, PERFORMANCE MEASURES, AND RESULTS

(a) On or before January 15, 2016, the Department of Tourism and Marketing shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs to identify the goals, targets, performance measures, and results of its economic development marketing programs, including testimony or a written report addressing:

(1) Department functions, including:

(A) the mission and objectives of the Department and its programs;

(B) measurable goals for success;

(C) a profile of specific target audiences;

(D) research necessary to engage those audiences;

(E) strategies to identify and document Vermont's unique offerings and benefits to those audiences; and

(F) tactics to accomplish each strategy.

(2) Desired goals, including:

(A) new people, employees, and businesses relocate and invest in Vermont; and

(B) current Vermonters and businesses stay and prosper here.

(3) Measurable targets, including an increase in:

(A) student applications to Vermont schools;

(B) workforce participants;

(C) employment opportunities and jobs;

(D) number of businesses;

(E) investment in Vermont businesses; and

(F) the number of homeowners.

(4) Methods for identifying and collecting data indicators, and analyzing results.

D.4. APPROPRIATION

In fiscal year 2016 there is appropriated from the General Fund to the Department of Tourism and Marketing the amount of \$500,000.00 for the purpose of preparing and implementing an economic development marketing proposal pursuant to Sec. D.3 of this act.

* * * Domestic Export Program * * *

Sec. D.5. 6 V.S.A. chapter 207 is amended to read:

CHAPTER 207. PROMOTION AND MARKETING OF VERMONT FOODS AND PRODUCTS

* * *

Subchapter 3. Agricultural Exports

§ 4621. DOMESTIC EXPORT PROGRAM

(a) The Secretary of Agriculture, Food and Markets, in collaboration with the Agency of Commerce and Community Development and the Chief Marketing Officer, shall have the authority to create a Domestic Export Program, the purpose of which may include:

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

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

(3) providing one-time matching grants to attend trade shows and similar events to expand producers' market presence in other U.S. states, subject to available funding.

(b) The Secretary shall collect data on the activities and outcomes of the program authorized under this section and submit his or her findings and recommendations in a report on or before January 15 of each year to the House Committees on Agriculture and Forest Products and on Commerce and Economic Development and to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs.

Sec. D.6. IMPLEMENTATION; DOMESTIC EXPORT PROGRAM

The Secretary of Agriculture, Food and Markets shall pursue grants, funding, and other resources, and shall continue to identify operational efficiencies within the Agency, in order to sustain adequately the creation and implementation of activities under the domestic export program authorized in 6 V.S.A. § 4621.

E. Access to Capital

* * * Vermont Economic Development Authority (VEDA); Lending; Green
Manufacture of Microbead Alternatives * * *

Sec. E.1. 10 V.S.A. § 280bb is amended to read:

§ 280bb. VERMONT ENTREPRENEURIAL LENDING PROGRAM

(a) There is created the Vermont Entrepreneurial Lending Program to be administered by the Vermont Economic Development Authority. The Program shall seek to meet the working capital and capital-asset financing needs of Vermont-based businesses in seed, start-up, and growth stages. The Program shall specifically seek to fulfill capital requirement needs that are unmet in Vermont, including:

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

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

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

(4) loans to advanced manufacturers and other Vermont businesses for product development and intellectual property design.

(b) The Authority shall adopt regulations, policies, and procedures for the Program as are necessary to increase the amount of investment funds available to Vermont businesses whose capital requirements are not being met by conventional lending sources.

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

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

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

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

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

(5) The business will create environmental benefits or will manufacture environmentally responsible products.

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

Sec. E.2. 10 V.S.A. § 212 is amended to read:

§ 212. DEFINITIONS

As used in this chapter:

* * *

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the authority that meets the criteria established in the Vermont Sustainable Jobs Strategy adopted by the Governor under section 280b of this title, including land and rights in land, air, or water, buildings, structures, machinery, and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of state, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing. Such enterprises or endeavors may include:

(A) quarrying, mining, manufacturing, processing, including the further processing of agricultural products, assembling, or warehousing of goods or materials for sale or distribution or the maintenance of safety standards in connection therewith, and including Vermont-based manufacturers that are adversely impacted by the State’s regulation or ban of products as they transition from the manufacture of the regulated or banned products to the design and manufacture of environmentally sound substitutes.

* * *

* * * Vermont State Treasurer; Local Investments * * *

Sec. E.3. Sec. 25 of Act 199 of 2014 (sunset of Treasurer's credit facility for local investments and Treasurer's local investment advisory committee) is amended to read:

Sec. 25. SUNSET

Secs. 23–24 of this act shall be repealed on July 1, ~~2015~~ 2016.

* * * Licensed Lender Exemption for Commercial Loans * * *

Sec. E.4. 8 V.S.A. § 2201 is amended to read:

§ 2201. LICENSES REQUIRED

* * *

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

* * *

(10) Persons who lend, other than residential mortgage loans, an aggregate of less than ~~\$75,000.00~~ \$250,000.00 in any one year at rates of interest of no more than 12 percent per annum.

* * *

F. Natural Resources, Land Use, and Planning

* * * Giving Deference to Regional Planning and Planners in Mitigating Adverse Economic Impacts of Major Employers * * *

Sec. F.1. 24 V.S.A. § 2787 is added to read:

§ 2787. ECONOMIC DEVELOPMENT STRATEGY; DEFERENCE TO REGIONAL PLANS; CEDS

In the event a major employer in an economic region announces a closure, relocation, or other significant action that will impact directly and indirectly jobs or wages in the region, and a regional planning commission has adopted a regional plan pursuant to section 4348 of this title or a Comprehensive Economic Development Strategy (CEDS) approved by the U.S. Economic Development Administration, or both, and the plan or CEDS, or both, includes mitigation strategies to address substantial local and regional economic and fiscal challenges related to that employer, including closure, relocation, or reduction in workforce, then:

(1) the Executive Branch shall defer to the regional plan and CEDS when using or distributing funds or other resources meant to mitigate anticipated local and regional economic and fiscal challenges, or shall provide

the regional planning commission for the region with its basis for not deferring to the plan and the CEDS; and

(2) the Executive Branch shall involve the regional planning commission and regional development corporation for the region in decisions regarding the use or distribution of those funds or resources;

* * * Southern Vermont Economic Development Zone * * *

Sec. F.2. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) the Agency of Commerce and Community Development projects that the forty-four Vermont towns served by the two most Southern regional development corporations and regional planning commissions in Vermont will lose 3.5 percent of their population by 2030 and that the total population of individuals over 65 years of age in this combined region will increase from 17 percent in 2010 to 30 percent in 2030;

(2) the number of visitors to the Southern Vermont visitor center has decreased 25 percent since 2006;

(3) since 2006, growth in the region's rooms and meals tax is 10 percent, as compared to 25 percent in the Chittenden County region;

(4) the rate of residential construction in the region is currently half of the prerecession level;

(5) the two Southern Vermont regions have collaborated on business recovery programming after Tropical Storm Irene, including development of individualized downtown and village revitalization plans and development of the Southern Vermont Sustainable Marketing program; and

(6) the two regions, having also worked together on some workforce development and internship initiatives, are seeking to establish a more formal structure for their workforce and recruitment efforts.

(b) The purposes of Secs. F.3 and F.4 of this act are:

(1) to establish officially a Southern Vermont Economic Development Zone comprising of the geographic areas served by the Brattleboro Development Credit Corporation and the Bennington County Industrial Corporation; and

(2) to establish a study committee that will assist the General Assembly, the Governor, and partners within the Zone in establishing a replicable framework for regional cooperation by and between public sector and private sector partners concerning economic development initiatives; workforce training, retention, and recruitment; and sustainable business investment.

(c) The General Assembly acknowledges the challenges in Southern Vermont and intends for this formal designation to accelerate economic development initiatives that are underway or are needed in the future.

Sec. F.3. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1: ~~THE FUTURE OF~~ ECONOMIC DEVELOPMENT

* * *

~~SUBCHAPTER 1: THE VERMONT BUSINESS RECRUITMENT
PARTNERSHIP~~

§ 8. SOUTHERN VERMONT ECONOMIC DEVELOPMENT ZONE

There is created the Southern Vermont Economic Development Zone, comprising of the geographic areas served by the Brattleboro Development Credit Corporation and the Bennington County Industrial Corporation.

* * *

Sec. F.4. SOUTHERN VERMONT ECONOMIC DEVELOPMENT ZONE;
STUDY COMMITTEE; REPORT

(a) There is created the Southern Vermont Economic Development Zone Study Committee the purpose of which shall be to reverse the decline in the workforce from 2000–2014 and to revitalize economic growth within the Southern Vermont Economic Development Zone created in 10 V.S.A. § 8.

(b) The Study Committee shall consist of the following members:

(A) five members who represent the interests of the private sector and represent a balance of geographic interests within the Zone:

(i) one member appointed by the Governor;

(ii) two members appointed by the Speaker of the House of Representatives; and

(iii) two members appointed by the Senate Committee on Committees;

(B) one member each from the Brattleboro Development Credit Corporation and the Bennington County Industrial Corporation; and

(C) one member each from the Windham Regional Commission and the Bennington County Regional Commission.

(c) On or before December 1, 2015, the Committee shall submit a report to the Secretary of the Agency of Commerce and Community Development, the House Committee on Commerce and Community Development, and the Senate Committee on Economic Development, Housing and General Affairs that includes proposals:

(1) to establish an integrated investment strategy for retaining businesses within and recruiting business to the Zone;

(2) to establish an implementation plan for the Southern Vermont Sustainable Recruitment and Marketing Project created in 2014 and contained in the Windham Region's federally recognized Comprehensive Economic Development Strategy;

(3) to outline the benefits and obstacles within the Zone involved in integrating internship and career exposure programs, workforce development programs, and young professional activities;

(4) to propose an organizational and operational structure of a public-private partnership with the mission of aggregating capital and coordinating investment in small- and medium-size businesses located within the Zone; and

(5) to recommend whether and in what configuration the Study Committee or other group should continue and its mission.

(d) Meetings.

(1) The members of the Committee who represent the regional development corporations shall jointly call the first meeting, to occur on or before August 1, 2015.

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

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

(4) The Committee shall cease to exist on July 1, 2016.

* * *

* * * Act 250; Criterion 9(L) * * *

Sec. F.5. ACT 250; IMPLEMENTATION OF SETTLEMENT PATTERNS CRITERION

(a) The General Assembly finds that:

(1) 2014 Acts and Resolves No. 147, Sec. 2 amended 10 V.S.A. § 6086(a)(9)(L) (Criterion 9L) to become a settlement patterns criterion. The purpose of the amendment was to guide and accomplish coordinated, efficient,

and economic development in the State that is consistent with Vermont's historic settlement pattern of compact centers separated by rural countryside.

(2) Effective on October 17, 2014, the Natural Resources Board (NRB) adopted a procedure to implement Criterion 9L (the Criterion 9L Procedure).

(b) The General Assembly determines that additional opportunity for public comment on the Criterion 9L Procedure, as well as additional education and improved guidance, would be beneficial in implementing the criterion.

(1) The NRB shall review the Criterion 9L Procedure in full collaboration with the Agency of Commerce and Community Development (ACCD) and the Agency of Natural Resources (ANR).

(A) As part of this review, the NRB shall solicit input from affected parties and the public, including planners, developers, municipalities, environmental advocacy organizations, regional planning commissions, regional development corporations, and business advocacy organizations such as State and regional chambers of commerce.

(B) Based on this review, the NRB shall adopt revisions in the form of a procedure under 3 V.S.A. chapter 25.

(2) ACCD shall work with the NRB and ANR to develop outreach material on Criterion 9L, including illustrative examples of appropriate development design, and implement a training plan on the criterion for local elected officials, municipal boards, State and regional organizations and associations, environmental groups, consultants, and developers.

* * * Municipal Land Use; Neighborhood Development Area * * *

Sec. F.6. 24 V.S.A. § 4471(e) is amended to read:

(e) ~~Vermont neighborhood~~ Neighborhood development area. Notwithstanding subsection (a) of this section, a determination by an appropriate municipal panel shall not be subject to appeal if the determination is that a proposed residential development within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area seeking conditional use approval will not result in an undue adverse effect on the character of the area affected, ~~as provided in~~ under subdivision 4414(3)(A)(ii) of this title.

* * * Act 250; Primary Agricultural Soils * * *

Sec. F.7. 10 V.S.A. § 6086(a)(9)(B) is amended to read:

(B) Primary agricultural soils. A permit will be granted for the development or subdivision of primary agricultural soils only when it is

demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the agricultural potential of the primary agricultural soils; or:

(i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; ~~and~~

(ii) except in the case of an application for a project located in a designated ~~growth-center~~ area listed in subdivision 6093(a)(1) of this title, there are no lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; ~~and~~

(iii) except in the case of an application for a project located in a designated ~~growth-center~~ area listed in subdivision 6093(a)(1) of this title, the subdivision or development has been planned to minimize the reduction of agricultural potential of the primary agricultural soils through innovative land use design resulting in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; and

(iv) suitable mitigation will be provided for any reduction in the agricultural potential of the primary agricultural soils caused by the development or subdivision, in accordance with section 6093 of this title and rules adopted by the Natural Resources Board.

* * * Acquisition of Land by Public Agencies; Conservation Easements * * *

Sec. F.8. 10 V.S.A. § 6310 is added to read:

§ 6310. CONSERVATION EASEMENT HOLDER; NONMERGER

If a holder of a conservation easement is or becomes the owner in fee simple of property subject to the easement, the easement shall continue in effect and shall not be extinguished.

Sec. F.9. 30 V.S.A. § 248(q) is amended to read:

(q)(1) A certificate under this section shall be required for a plant using methane derived from an agricultural operation ~~shall be required~~ as follows:

(A) With respect to a plant that constitutes farming pursuant to 10 V.S.A. § 6001(22)(F), only for the equipment used to generate electricity from biogas, the equipment used to refine biogas into natural gas, the structures housing such equipment used to generate electricity or refine biogas, and the interconnection to electric and natural gas distribution and transmission systems. The certificate shall not be required for the methane digester, the

digester influents and non-gas effluents, the buildings and equipment used to handle such influents and non-gas effluents, or the on-farm use of heat and exhaust produced by the generation of electricity, and these components shall not be subject to jurisdiction under this section.

(B) With respect to a plant that does not constitute farming pursuant to 10 V.S.A. § 6001(22)(F) but which receives feedstock from off-site farms, for all on-site components of the plant, for the transportation of feedstock to the plant from off-site contributing farms, and the transportation of effluent or digestate back to those farms. The certificate shall not regulate any farming activities conducted on the contributing farms that provide feedstock to a plant or use of effluent or digestate returned to the contributing farms from the plant.

* * *

G. Tax Credits and Business Incentives

* * * Vermont Employment Growth Incentive (VEGI) * * *

Sec. G.1. 32 V.S.A. § 5930a(c)(2) is amended to read:

(2) The new jobs should make a net positive contribution to employment ~~in the area, and meet or exceed the prevailing compensation level including wages and benefits, for the particular employment sector~~ consistent with the applicable wage threshold for the labor market area. The new jobs should offer benefits and opportunities for advancement and professional growth consistent with the employment sector.

Sec. G.2. 32 V.S.A. § 5930b is amended to read:

§ 5930b. VERMONT EMPLOYMENT GROWTH INCENTIVE

(a) Definitions. As used in this section:

* * *

~~(20) “Qualifying jobs” means new, full-time Vermont jobs held by nonowners that meet the wage threshold~~

(20) “Qualifying job” means a new, full-time Vermont job held by a nonowner that meets the wage threshold and for which the employer provides at least three of the following:

(A) health care benefits with 50 percent or more of the premium paid by the employer;

(B) dental assistance;

(C) paid vacation;

(D) paid holidays;

(E) child care;

(F) other extraordinary employee benefits;

(G) retirement benefits;

(H) other paid time off, including paid sick days;

* * *

(24) “Wage threshold” means the minimum annualized Vermont gross wages and salaries paid, as determined by the Council, but not less than:

(A) 60 percent above the minimum wage at the time of application;
in order for a new job to be a qualifying job under this section; or

(B) for a business located in a labor market area in which the unemployment rate is at least 0.5 percentage points higher than the average unemployment rate for the State, the greater of:

(i) 40 percent above the State minimum wage at the time of application; or

(ii) \$13.00 per hour.

(25) “Labor market area” means a labor market area as designated by the Vermont Department of Labor.

(b) Authorization process.

(1) A business may apply to the Vermont Economic Progress Council for approval of a performance-based employment growth incentive to be paid out of the business’s withholding account upon approval by the Department of Taxes pursuant to the conditions set forth in this section. Businesses shall not be permitted to deduct approved incentives from withholding liability payments otherwise due. In addition to any other information that the Council may require in order to fulfill its obligations under section 5930a of this title, an employment growth incentive application shall include all the following information:

(A) application base number of jobs;

(B) total jobs at time of application;

(C) application base payroll;

(D) total payroll at time of application;

(E) jobs target for each year in the award period;

(F) payroll target for each year in the award period;

(G) capital investment target for each year in the award period; and

(H) a statement signed by the president or chief executive officer or equivalent acknowledging that to the extent the applicant fails to meet the minimum capital investment by the end of the award period, any incentives remaining to be earned shall be limited, and any incentives taken shall be subject to complete or partial reversal, pursuant to subdivisions (c)(10) and (11) of this section.

(2) The Council shall review each application in accordance with section 5930a of this title, except that the Council may provide for an initial approval pursuant to the conditions set forth in subsection 5930a(c), followed by a final approval at a later date, before December 31 of the calendar year in which the economic activity commences.

(3) Except as provided in subdivision (5) of this subsection, the value of the incentives will be dependent upon the net fiscal benefit resulting from projected qualifying payroll and qualifying capital investment. An incentive ratio shall be applied to the net fiscal benefit generated by the cost-benefit model in order to determine the maximum award the Council may authorize for each application it approves. The Council may establish a threshold for wages in excess of, but not less than, the wage threshold, as defined in subsection (a) of this section for individual applications the Council wishes to approve. The Council shall calculate an incentive percentage for each approved application as follows:

Authorized award amount ÷ the five-year sum of all payroll targets

(4) An approval shall specify: the application base jobs at the time of the application; total jobs at time of application; the application base payroll; total payroll at time of application; the incentive percentage; the wage threshold; the payroll thresholds; a job target for each year of the award period; a payroll target for each year of the award period; a capital investment target for each year of the award period and description sufficient for application of subdivisions (c)(10) and (11) of this section of the nature of qualifying capital investment over the award period upon which approval shall be conditioned; and the amount of the total award. The Council shall provide a copy of each approval to the Department of Taxes along with a copy of the application submitted by that applicant.

(5)(A) Notwithstanding subdivision (3) of this subsection, the Council may authorize incentives in excess of net fiscal benefit multiplied by the incentive ratio ~~not to exceed an annual authorization established by law for awards to businesses located in a labor market area in which the unemployment rate is greater than the average unemployment rate for the State or in which the average annual wage is below the average annual wage for the State.~~

(B)(i) Except as provided in subdivision (B)(ii) of this subdivision (5), the total amount of employment growth incentives the Vermont Economic Progress Council is authorized to approve under subdivision (A) of this subdivision (5) shall not exceed \$1,000,000.00 from the General Fund.

(ii) The Council shall have the authority to exceed the cap imposed in subdivision (B)(i) of this subdivision (5) upon application to and approval by the Emergency Board.

(c) Claiming an employment growth incentive.

* * *

(6)(A) A business whose application is approved and, in the first, second, or third year of the award period, fails to meet or exceed its payroll target and one out of two of its jobs and capital investment targets may not claim incentives in that year. To the extent such business reaches its first, second, or third year award period targets within the succeeding two calendar year reporting periods immediately succeeding year one, two, or three of the award period, or within the extended period if an extension is granted under subdivision (B) of this subdivision (6), whichever is applicable, such business may claim incentives in five-year installments as provided in subdivisions (1) through (4) of this subsection. A business which fails to meet or exceed its payroll target and one of its two jobs and capital investment targets within this time frame shall forfeit all authority under this section to earn and claim incentives for award period year one, two, or three, as applicable, and any future award period years. The Department of Taxes shall notify the Vermont Economic Progress Council that the first, second, or third year award period targets have not been met within the prescribed period, and the Council shall rescind authority for the business to earn incentives for the activity in year one, two, or three, as applicable, and any future award period years.

(B)(i) Notwithstanding subdivision (6)(A) of this subsection, if a business determines that it may not reach its first or second year award period targets within the succeeding two calendar year reporting periods due to facts or circumstances beyond its control, the business may request that the Council extend the period to meet the targets for another two reporting periods, reviewed annually, for award year one, and one reporting period for award year two.

(ii) The Council may grant an extension pursuant to this subdivision (B) if it determines that the business failed to meet its targets due to facts or circumstances beyond the control of the business and that there is a reasonable likelihood the business will meet the award period targets within the extension period.

(iii) If the Council grants an extension pursuant to this subdivision (B), the Council shall recalculate the value of the incentive using the cost-benefit model and the wage threshold applicable at the time the extension is granted and shall adjust the amount of the award as is necessary to account for the extension of the award period and the updated wage threshold.

* * *

(h) Enhanced training incentive. Notwithstanding any provision of law to the contrary, the Council may award an enhanced training incentive as follows:

(1) A business whose incentive application is approved may elect to claim an enhanced training incentive at any time during the award period by:

(A) notifying the Council of its intent to pursue an enhanced training incentive and dedicate its incentive funds to training through the Vermont Training Program or a Workforce Education and Training Fund program; and

(B) applying for a grant from the Vermont Training Program or the Workforce Education and Training Fund to perform training for new employees who hold qualifying jobs.

(2) If a business is awarded a grant for training pursuant to subdivision (1) of this subsection, the Agency of Commerce and Community Development, or the Department of Labor, as applicable, shall disburse grant funds for on-the-job training of not more than 75 percent of wages for each employee in training, or not more than 75 percent of trainer expense, and the business shall be responsible for the remaining 25 percent of the applicable training costs.

(3) If the business successfully completes its training and meets or exceeds its payroll target and either its jobs target or capital investment target, the Council shall approve the enhanced training incentive and notify the Department of Taxes.

(4) Upon notification by the Council, the Department of Taxes:

(A) shall disburse to the business a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subdivision (3) of this subsection (h);

(B) shall disburse to the Agency of Commerce and Community Development, or the Department of Labor, as applicable, a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subdivision (3) of this subsection (h); and

(C) shall disburse the remaining value of the incentive award in annual installments pursuant to subdivision (c)(2) of this section.

(5)(A) If, during the utilization period for the incentive paid pursuant to this subsection (h), the business fails to maintain the qualifying jobs or qualifying payroll established in the award year, or does not reestablish qualifying jobs or qualifying payroll to 100 percent of the award year level, the Department of Taxes shall recapture the enhanced incentive pursuant to subsection (d) of this section.

(B) The amount of recapture shall equal the sum of the installments that the Department would have disbursed if it had paid the incentive in five-year installments pursuant to subdivision (c)(2) of this section for the years during the utilization period that the qualifying jobs or qualifying payroll were not maintained.

(i) Employment growth incentive for value-added business.

(1) In this subsection:

(A) “Advanced manufacturing” means:

(i) an activity that depends on the use and coordination of information, automation, computation, software, sensing, and networking, or

(ii) an activity that uses cutting edge materials and emerging capabilities enabled by the physical and biological sciences, including nanotechnology, chemistry, and biology, that includes both new ways to manufacture existing products and the manufacture of new products emerging from new advanced technologies.

(B) “Value-added business” means a person that is subject to income taxation in Vermont and whose current or prospective economic activity in Vermont for which incentives are sought under this section is certified by the Secretary of Commerce and Community Development to be primarily in one or more of the following sectors:

(i) advanced manufacturing; or

(ii) information processing or information management services, including:

(I) computer hardware or software, and information and communication technologies, such as high-level software languages, graphics hardware and software, speech and optical character recognition, high-volume information storage and retrieval, and data compression;

(II) technological applications that use biological systems, living organisms or derivatives thereof, to make or modify products or processes for specific use;

(III) custom computer programming services, such as writing, modifying, testing, and supporting software to meet the needs of a particular customer;

(IV) computer systems design services such as planning and designing computer systems that integrate computer hardware, software, and communication technologies; and

(V) computer facilities management services, such as providing on-site management and operation of clients' computer systems or data processing facilities, or both.

(2) A value-added business located in a labor market area in which the unemployment rate is at least 0.5 percentage points higher than the average unemployment rate for the State may submit an application for an enhanced incentive pursuant to this subsection.

(3) The Council shall consider and administer an application and award for an enhanced incentive under this subsection pursuant to the provisions of this section, except that:

(A) the "incentive ratio" pursuant to subdivision (a)(11) of this section shall be set at 90 percent; and

(B) the "payroll threshold" pursuant to subdivision (a)(17) of this section shall be deemed to be 20 percent of the expected average industry payroll growth as determined by the cost-benefit model.

(j) Overall gross cap on total employment growth incentive and education tax incentive authorizations.

(1) For any calendar year, the total amount of employment growth incentives the Vermont Economic Progress Council is authorized to approve under this section and property tax stabilizations under 32 V.S.A. § 5404a(a) shall not exceed \$10,000,000.00 from the General Fund and Education Fund combined each year.

(2) The Council shall have the authority to exceed the cap imposed in subdivision (1) of this subsection upon application to and approval by the Emergency Board.

Sec. G.3. 2006 Acts and Resolves No. 184, Sec. 11 is amended to read:

Sec. 11. ~~VEGI; ANNUAL CALENDAR YEAR CAPS~~

~~(a) Net negative awards cap. Notwithstanding any other provision of law, in any calendar year, the annual authorization for the total net fiscal cost of Vermont employment growth incentives that the Vermont economic progress~~

~~council or the economic incentive review board may approve under 32 V.S.A. § 5930b(b)(5) shall not exceed \$1,000,000.00 from the general fund.~~

~~(b) Restrictions to labor market area. Employment growth incentives within the annual authorization amount in subsection (a) of this section shall be granted solely for awards to businesses located in a labor market area of this state in which the rate of unemployment is greater than the average for the state or in which the average annual wage is below the average annual wage for the state. For the purposes of this section, a "labor market area" shall be as determined by the department of labor.~~

~~(c) Overall gross cap on total employment growth incentive and education tax incentive authorizations. For any calendar year, the total amount of employment growth incentives the Vermont economic progress council or the economic incentive review board is authorized to approve under 32 V.S.A. § 5930b and property tax stabilizations and allocations under 32 V.S.A. § 5404a(a) and (e) shall not exceed \$10,000,000.00 from the general fund and education fund combined each year. This maximum annual amount may be exceeded by the Vermont economic progress council upon application to and approval by the Emergency Board. [Repealed.]~~

Sec. G.4. 10 V.S.A. § 531(d) is amended to read:

(d) In order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the Secretary of Commerce and Community Development shall:

(1) consult with the Commissioner of Labor regarding whether the grantee has accessed, or is eligible to access, other workforce education and training resources;

(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 as provided in 32 V.S.A. § 5930b(h), a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

* * * Employee Relocation Tax Credit Study * * *

Sec. G.5. EMPLOYEE RELOCATION TAX CREDIT; STUDY COMMITTEE; REPORT

(a) Creation. There is created an Employee Relocation Study Committee to research and develop one or more incentive programs to encourage employees who are qualified for high-demand, unfilled positions within Vermont businesses, to relocate to Vermont.

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

(1) one current member of the House of Representatives appointed by the Speaker of the House;

(2) one current member of the Senate appointed by the Committee on Committees;

(3) one member who represents the interests of the regional development corporations, appointed by the Governor;

(4) one member who represents the interests of private business appointed by the Speaker of the House; and

(5) one member who represents the interests of private business appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall study potential incentive programs, tax credits, or other mechanisms, to encourage employee relocation including the following issues:

(1) eligibility criteria for employees, employers, and employment positions;

(2) amount and conditions for incentives or credits;

(3) distribution of incentives or credits by region, employer, and by State-level or regional-level grantors; and

(4) data, and a mechanism for collecting data, to measure the effectiveness of any proposed program.

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

(e) Report. On or before January 15, 2016, the Committee shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Agency of Commerce and Community Development shall call the first meeting of the Committee, to occur on or before September 1, 2015.

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

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

(4) The Committee shall cease to exist on January 16, 2016.

(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.

* * * VHFA; Down Payment Assistance Program * * *

Sec. G.6. DOWN PAYMENT ASSISTANCE PROGRAM; FINDINGS

The General Assembly finds:

(1) The Federal Bipartisan Policy Center's Housing Commission notes that homeownership can produce powerful economic, social, and civic benefits that serve the individual homeowner, the larger community, and the nation.

(2) Supporting more Vermonters to become homeowners allows them an opportunity to improve and invest in their neighborhoods and become a stable member of their community's life and workforce.

(3) Homeownership, even with the recent decline in housing values, has continued to be the most reliable source of individual wealth accumulation and equity for the future.

(4) First-time homebuyers often delay purchasing a home due to the fees and down payment costs required at closing and need support to achieve their homeownership opportunity.

Sec. G.7. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

(1) “Affordable housing project” or “project” means:

(A) a rental housing project identified in 26 U.S.C. § 42(g); or

(B) owner-occupied housing identified in 26 U.S.C. § 143(e) ~~and (f)~~ ~~and eligible (c)(1) or that qualifies under the Vermont Housing Finance Agency allocation plan~~ criteria governing owner-occupied housing.

(2) “Affordable housing tax credits” means the tax credit provided by this subchapter.

(3) “Allocating agency” means the Vermont Housing Finance Agency.

(4) “Committee” means the Joint Committee on Tax Credits consisting of five members; a representative from the Department of Housing and Community Affairs, the Vermont Housing and Conservation Board, the Vermont Housing Finance Agency, the Vermont State Housing Authority, and the Office of the Governor.

(5) “Credit certificate” means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer’s individual or corporate income tax or franchise or insurance premium tax liability as provided in this subchapter.

(6) “Eligible applicant” means any municipality, private sector developer, ~~department of state government as defined in 10 V.S.A. § 6302(a), State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing Finance Agency, or a nonprofit organization qualifying under 26 U.S.C. § 501(c)(3); or cooperative housing organization, the purpose of which is the creation and retention of~~ to create and retain affordable housing for ~~lower income~~ Vermonters; ~~with lower income and the which has in its bylaws that require a requirement that housing to the housing the organization creates be maintained as affordable housing for lower income Vermonters with lower income on a perpetual basis.~~

(7) “Eligible cash contribution” means an amount of cash contributed to the owner, developer, or sponsor of an affordable housing project and determined by the allocating agency as eligible for affordable housing tax credits.

(8) “Section 42 credits” means tax credit provided by 26 U.S.C. §§ 38 and 42.

(9) “Allocation plan” means the plan recommended by the Committee and approved by the Vermont Housing Finance Agency, which sets forth the eligibility requirements and process for selection of eligible housing projects to receive affordable housing tax credits under this section. The allocation plan shall include:

(A) requirements for creation and retention of affordable housing for ~~low income persons; with low income;~~ and

(B) requirements to ensure that eligible housing is maintained as affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a perpetual basis, and meets all other requirements of the Vermont Housing Finance Agency related to affordable housing.

(b) Eligible tax credit allocations.

(1) Affordable housing credit allocation.

(A) An eligible applicant may apply to the allocating agency for an allocation of affordable housing tax credits under this section related to an affordable housing project authorized by the allocating agency under the allocation plan. In the case of a specific affordable rental housing project, the eligible applicant ~~must~~ shall also be the owner or a person having the right to acquire ownership of the building and ~~must~~ shall apply prior to placement of the affordable housing project in service. In the case of owner-occupied housing units, the applicant ~~must apply prior to purchase of the unit and must~~ shall ensure that the allocated funds will be used to ensure that the housing qualifies or program funds remain as an affordable housing resource for all future owners of the housing. The allocating agency shall issue a letter of approval if it finds that the applicant meets the priorities, criteria, and other provisions of subdivision ~~(2)(B)~~ of this ~~subsection~~ subdivision (1). The burden of proof shall be on the applicant.

~~(2)(B)~~ Upon receipt of a completed application, the allocating agency shall award an allocation of affordable housing tax credits with respect to a project ~~under this section shall be granted~~ to an applicant, provided the applicant demonstrates to the satisfaction of the ~~committee~~ allocating agency all of the following:

~~(A)(i)~~ The owner of the project has received from the allocating agency a binding commitment for, a reservation or allocation of, or an out-of-cap determination letter for, Section 42 credits, or meets the requirements of the allocation plan for development or financing of units to be owner-occupied;

~~(B)(ii)~~ The project has received community support.

(2) Down payment assistance program.

(A) The Vermont Housing Finance Agency shall have the authority to allocate affordable housing tax credits to finance down payment assistance loans that meet the following requirements:

(i) the loan is made in connection with a mortgage through an Agency program;

(ii) the borrower is a first-time homebuyer of an owner-occupied primary residence; and

(iii) the borrower uses the loan for the borrower's down payment, or closing costs, or both.

(B) The Agency shall require the borrower to repay the loan upon the transfer or refinance of the residence.

(C) The Agency shall use the proceeds of loans made under the program for future down payment assistance.

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer's individual income, corporate, franchise, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

(d) Availability of credit. The amount of affordable housing tax credit allocated with respect to a project shall be available to the taxpayer every year for five consecutive tax years, beginning with the tax year in which the eligible cash contribution is made. Total tax credits available to the taxpayer shall be the amount of the first-year allocation plus the succeeding four years' deemed allocations.

(e) Claim for credit. A taxpayer claiming affordable housing tax credits shall submit with each return on which such credit is claimed a copy of the allocating agency's credit allocation to the affordable housing project and the taxpayer's credit certificate. Any unused affordable housing tax credit may be carried forward to reduce the taxpayer's tax liability for no more than 14 succeeding tax years, following the first year the affordable housing tax credit is allowed.

(f) ~~{Deleted.}~~ [Repealed.]

(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 aggregate limit of \$2,000,000.00 over any given five-year period that credits are available under this subdivision; and
~~may award up to~~

(B) \$300,000.00 per year in total first-year credit allocations for owner-occupied unit applicants financing or down payment loans consistent

with the allocation plan, including for new construction and manufactured housing, for a total aggregate limit of \$1,500,000.00 over any given five-year period that credits are available under this subdivision.

(2) In fiscal years 2016 through 2020, 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 \$625,000.00 over the five-year period that credits are available under this subdivision.

(h) ~~In any fiscal year, total first year allocations plus succeeding year deemed allocations shall not exceed \$3,500,000.00~~ The aggregate limit for all credit allocations available under this section in any fiscal year is \$4,125,000.00.

* * * "Cloud Tax" * * *

Sec. G.8. [Reserved]

* * * Wood Products Manufacturer Incentive * * *

Sec. G.9. 2014 Acts and Resolves No. 179, Sec. G.100(b) is amended to read:

(b) Sec. E.100.6 (wood products manufacture incentive) shall take effect retroactively on January 1, 2014 and apply to tax ~~year~~ years 2014 and 2015.

Sec. G.10. [Reserved]

Sec. G.11. [Reserved.]

Sec. G.12. [Reserved.]

Sec. G.13. FUNDS TRANSFER

The amount of \$725,000.00 is transferred from the Vermont Enterprise Fund created in 2014 Acts and Resolves No. 179, Sec. E.100.5 to the General Fund for the purpose of providing funding for costs incurred in fiscal year 2016 pursuant to this act.

H. Effective Dates

Sec. H.1. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. A.3 (blockchain technology study);

(2) Sec. B.1 (Uniform Commercial Code, Article 4A);

(3) Secs. C.1–C.2 (Vermont Strong Scholars and Internship Initiative);

(4) Sec. C.4 (youth employment working group);

(5) Sec. C.5 (Vermont Governor's Committee on Employment of People with Disabilities);

(6) Secs. C.6–C.8 (Vermont ABLE Savings Program);

(7) Sec. C.9 (Medicaid for working people with disabilities);

(8) Sec. C.10 (Vermont career technical education report);

(9) Secs. D.5–D.6 (Domestic Export Program);

(10) Secs. E.1–E.2 (Vermont Economic Development Authority; green manufacture of microbeads);

(11) Sec. E.3 (extending sunset of Treasurer's credit facility for local investments and Treasurer's local investment advisory committee);

(12) Sec. F.1 (deference to regional planning);

(13) Secs. F.2–F.4 (Southern Vermont Economic Development Zone);

(14) Sec. F.5 (Act 250; implementation of settlement patterns criteria; criterion 9(L));

(15) Sec. F.9 (certificate of public good; methane digesters); and

(16) Secs. G.11–G.12 (tax amnesty).

(b) The following sections shall take effect on July 1, 2015:

(1) Sec. A.1 (business rapid response to declared State disasters);

(2) [Reserved.];

(3) Sec. C.3 (Workforce Education and Training Fund revisions);

(4) Secs. D.1–D.4 (Tourism and marketing initiative; appropriation);

(5) Sec. E.4 (increase in license exemption for commercial lending);

(6) Sec. F.6 (municipal land use; neighborhood development area);

(7) Sec. F.7 (Act 250; primary agricultural soils);

(8) Sec. F.8 (conservation easements);

(9) Sec. G.5 (employee relocation tax credit study);

(10) Secs. G.6–G.7 (downpayment assistance program); and

(11) Sec. G.9 (wood products manufacturer incentive).

(c)(1) In Sec. A.4, in 7 V.S.A. § 2, subdivisions (27) (definition; “special events permit”), (28) (definition; “fourth-class license”), and (39) (definition; “public library or museum permit”) shall take effect on July 1, 2015. The remaining provisions of Sec. A.4 (alcoholic beverages; definitions) shall take effect on January 1, 2016.

(d) Secs. A.5–A.15 (fortified wines) shall take effect on January 1, 2016.

(e) Secs. B.2–B.9 (Uniform Commercial Code; Article 7) shall take effect on passage and shall apply as follows:

(1) This act shall apply to a document of title that is issued or a bailment that arises on or after the effective date of this act.

(2) This act does not apply to a document of title that is issued or a bailment that arises before the effective date of this act even if the document of title or bailment would be subject to this act if the document of title had been issued or bailment had arisen on or after the effective date of this act.

(3) This act does not apply to a right of action that has accrued before the effective date of this act.

(4) A document of title issued or a bailment that arises before the effective date of this act and the rights, obligations, and interests flowing from that document or bailment are governed by any statute or other rule amended or repealed by this act as if amendment or repeal had not occurred and may be terminated, completed, consummated, or enforced under that statute or other rule.

(f)(1) Notwithstanding 1 V.S.A. § 214, other than 32 V.S.A. § 5930b(c) (extension of time to meet first or second year award targets), Secs. G.1–G.4 (Vermont Employment Growth Incentive) shall take effect retroactively as of January 1, 2015;

(2) In Sec. G.2, 32 V.S.A. § 5930b(c)(extension of time to meet first or second year award targets) shall take effect on July 1, 2015.

(g) Sec. G.13 (appropriation from Enterprise Fund to General Fund) shall take effect on July 1, 2015.

(h) Secs. A.2.A, A.2.B, and A.2.C (gun suppressors) shall take effect on July 2, 2015.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Mullin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were ordered messaged to the House forthwith:

H. 11, H. 35.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered;
Rules Suspended; Joint Resolution Adopted in Concurrence with Proposal
of Amendment; Rule Suspended; Joint Resolution Messaged**

J.R.H. 16.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and joint House resolution entitled:

Joint resolution relating to the approval of State land transactions.

Was taken up for immediate consideration.

Senator Rodgers, for the Committee on Institutions, to which the joint resolution was referred, reported recommending that the Senate propose to the House to amend the joint resolution by striking out the resolution in its entirety and inserting in lieu thereof the following:

Whereas, 10 V.S.A. § 2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands with the approval of the General Assembly, and

Whereas, the General Assembly considers the following actions to be in the best interest of the State, now therefore be it

Resolved by the Senate and House of Representatives:

That the Commissioner of Forests, Parks and Recreation is authorized to convey a nonexclusive easement along a road known locally as the "Swift Road" in the Proctor-Piper State Forest in Cavendish to the owners of lots designated as lots 16, 17, 18, 19, and 20 on the 2009 town of Cavendish tax map. The easement granted to these five lots shall be limited to forestry uses and to access not more than one seasonal recreational camp on each lot. All costs related to repairing, maintaining, and reconstructing the segment of Swift Road within the easement, and any associated structures within the easement, shall be the sole responsibility of the five lot owners; provided, however, that the five lot owners shall not construct any utilities within the easement. In consideration of the public benefits associated with this action, the easement conveyed to the five lot owners shall be at no cost. The Commissioner's conveying of this easement is conditioned on the owners of lots 16, 17, 18, 19, and 20 each respectively conveying an easement allowing permanent vehicular access across the conveying lot to other lot owners, as may be necessary to

effectuate the purpose of the easement that the Commissioner of Forests, Parks and Recreation is authorized to convey, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forests, Parks and Recreation.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, the recommendation of amendment of the Committee on Institutions was agreed to, and third reading of the joint resolution was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the joint resolution was placed on all remaining stages of its adoption in concurrence with proposal of amendment.

Thereupon, the joint resolution was read the third time and adopted in concurrence with proposal of amendment.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the joint resolution was ordered messaged to the House forthwith.

Adjournment

On motion of Senator Campbell, the Senate adjourned until nine o'clock in the morning.