

1 Introduced by Committee on Commerce and Economic Development

2 Date:

3 Subject: Commerce and trade; economic development

4 Statement of purpose of bill as introduced: This bill proposes to adopt
5 miscellaneous economic development provisions relating to: the Vermont
6 Economic Development Authority; cooperatives; the Vermont Training
7 Program; regional planning and development; corporate conversions; the
8 Vermont State Treasurer; Medicaid for working people with disabilities;
9 blockchain technology; the Vermont Employment Growth Incentive program;
10 the Department of Labor; the Vermont Creative Network; employee business
11 ownership; the Veterans Entrepreneurship Program; and the Vermont
12 Sustainable Jobs Fund.

13 An act relating to miscellaneous economic development provisions

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 * * * Vermont Economic Development Authority * * *

16 (H.574)

17 Sec. A.1. 10 V.S.A. § 213 is amended to read:

18 § 213. AUTHORITY; ORGANIZATION

19 (a) The Vermont Economic Development Authority is hereby created and
20 established as a body corporate and politic and a public instrumentality of the

1 State. The exercise by the Authority of the powers conferred upon it in this
2 chapter constitutes the performance of essential governmental functions.

3 (b)(1) The Authority shall have ~~15~~ up to 16 voting members consisting of:

4 (A) the Secretary of Commerce and Community Development, the
5 State Treasurer, the Secretary of Agriculture, Food and Markets, the
6 Commissioner of Forests, Parks and Recreation, and the Commissioner of
7 Public Service, each of whom shall serve as an ex officio member, or a
8 designee of any of the aforementioned; ~~and~~

9 (B) up to 10 members, who shall be residents of the State of
10 Vermont, appointed by the Governor with the advice and consent of the
11 Senate. ~~The appointed members shall be appointed for terms of six years and~~
12 ~~until their successors are appointed and qualified. Appointed members may be~~
13 ~~removed by the Governor for cause and the Governor may fill any vacancy~~
14 ~~occurring among the appointed members for the balance of the unexpired~~
15 ~~term; and~~

16 (C) one member, who is a current member of the Vermont General
17 Assembly, appointed jointly by the Speaker of the House of Representatives
18 and the President Pro Tempore of the Senate, who shall serve a term of six
19 years or until he or she is no longer a member of the General Assembly.

20 (2)(A) An appointing authority may remove a member for cause.

1 (B) The Governor may fill a vacancy for the balance of the unexpired
2 term.

3 (C) The Speaker and President Pro Tempore may jointly fill a
4 vacancy by appointing a member of the General Assembly to a new six-year
5 term.

6 * * *

7 Sec. A.2. 10 V.S.A. § 216 is amended to read:

8 § 216. AUTHORITY; GENERAL POWERS

9 The Authority is hereby authorized:

10 * * *

11 (15) To delegate to loan officers the power to review, approve, and
12 make loans under this chapter, subject to the approval of the manager, and to
13 disburse funds on such loans, subject to the approval of the manager, ~~provided~~
14 ~~that such loans do not exceed \$350,000.00 in aggregate amount for any~~
15 ~~industrial loan for any three-year period for any particular individual,~~
16 ~~partnership, corporation, or other entity or related entity, or do not exceed~~
17 ~~\$350,000.00 in aggregate amount if the loan is guaranteed by the Farm~~
18 ~~Services Agency, or its successor agency, or \$300,000.00 in aggregate amount~~
19 ~~if the loan is not guaranteed by the Farm Services Agency, or its successor~~
20 ~~agency, for any agricultural loan for any three-year period for any particular~~
21 ~~individual, partnership, corporation, or other entity or related entity. No funds~~

1 ~~may be disbursed for any loan approved under this provision, except for any~~
2 ~~agricultural loan referenced above in an amount not to exceed \$50,000.00, and~~
3 ~~no rejection of a loan by a loan officer pursuant to this subdivision shall~~
4 ~~become final, until three working days after the members of the Authority are~~
5 ~~notified by facsimile, electronic mail, or overnight delivery mailed or sent on~~
6 ~~the day of approval or rejection, of the intention to approve or reject such loan.~~
7 ~~If any member objects within that three day period, the approval or rejection~~
8 ~~will be held for reconsideration by the members of the Authority at its next~~
9 ~~duly scheduled meeting.~~

10 * * *

11 Sec. A.3. 10 V.S.A. § 219 is amended to read:

12 § 219. RESERVE FUNDS

13 * * *

14 (d) In order to ensure the maintenance of the debt service reserve
15 requirement in each debt service reserve fund established by the Authority,
16 there may be appropriated annually and paid to the Authority for deposit in
17 each such fund, such sum as shall be certified by the Chair of the Authority, to
18 the Governor, the President of the Senate, and the Speaker of the House, as is
19 necessary to restore each such debt service reserve fund to an amount equal to
20 the debt service reserve requirement for such fund. The Chair shall annually,
21 on or about February 1, make, execute, and deliver to the Governor, the

1 President of the Senate, and the Speaker of the House, a certificate stating the
2 sum required to restore each such debt service reserve fund to the amount
3 aforesaid, and the sum so certified may be appropriated, and if appropriated,
4 shall be paid to the Authority during the then current State fiscal year. The
5 principal amount of bonds or notes outstanding at any one time and secured in
6 whole or in part by a debt service reserve fund to which State funds may be
7 appropriated pursuant to this subsection shall not exceed ~~\$130,000,000.00~~
8 \$155,000,000.00, provided that the foregoing shall not impair the obligation of
9 any contract or contracts entered into by the Authority in contravention of the
10 Constitution of the United States.

11 Sec. A.4. 10 V.S.A. § 220 is added to read:

12 § 220. TRANSFER FROM INDEMNIFICATION FUND

13 The State Treasurer shall transfer from the Indemnification Fund created in
14 former section 222a of this title to the Authority all current and future amounts
15 deposited to that Fund.

16 Sec. A.5. 10 V.S.A. § 234 is amended to read:

17 § 234. THE VERMONT JOBS FUND

18 * * *

19 (c) Monies in the Fund may be loaned to the Vermont Agricultural Credit
20 Program to support its lending operations as established in chapter 16A of this
21 title at interest rates and on terms and conditions to be set by the Authority to

1 ~~establish a line of credit in an amount not to exceed \$60,000,000.00 to be~~
2 ~~advanced to the Vermont Agricultural Credit Program to support its lending~~
3 ~~operations as established in chapter 16A of this title.~~

4 * * *

5 Sec. A.6. 10 V.S.A. chapter 16A is amended to read:

6 CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

7 § 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT
8 PROGRAM

9 (a) There is created the Vermont Agricultural Credit Program, which will
10 provide an alternative source of sound and constructive credit to farmers and
11 forest products businesses who are not having their credit needs fully met by
12 conventional agricultural credit sources at reasonable rates and terms. The
13 Program is intended to meet, either in whole or in part, the credit needs of
14 eligible agricultural facilities and farm operations in fulfillment of one or more
15 of the purposes listed in this subsection by making direct loans and
16 participating in loans made by other agricultural credit providers:

17 * * *

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

1 § 374b. DEFINITIONS

2 As used in this chapter:

3 (1) “Agricultural facility” means land and rights in land, buildings,
4 structures, machinery, and equipment which is used for, or will be used for
5 producing, processing, preparing, packaging, storing, distributing, marketing,
6 or transporting agricultural or forest products which have been primarily
7 produced in this State, and working capital reasonably required to operate an
8 agricultural facility.

9 (2) “Agricultural land” means real estate capable of supporting
10 commercial farming or forestry, or both.

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

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

20 (5) “Authority” means the Vermont Economic Development Authority.

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

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

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

9 (B) the majority of the farmer’s assets; and

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

12 (8) “Farm operation” shall mean the cultivation of land or other uses of
13 land for the production of food, fiber, horticultural, silvicultural, orchard,
14 maple syrup, Christmas trees, forest products, or forest crops; the raising,
15 boarding, and training of equines, and the raising of livestock; or any
16 combination of the foregoing activities. Farm operation also includes the
17 storage, preparation, retail sale, and transportation of agricultural or forest
18 commodities accessory to the cultivation or use of such land.

19 (9) “Forest products business” means a Vermont enterprise that is
20 primarily engaged in managing, harvesting, trucking, processing,
21 manufacturing, crafting, or distributing products derived from Vermont forests.

1 (10) “Livestock” shall mean cattle, sheep, goats, equines, fallow deer,
2 red deer, reindeer, American bison, swine, poultry, pheasant, chukar partridge,
3 coturnix quail, ferrets, camelids and ratites, cultured trout propagated by
4 commercial trout farms, and bees.

5 (11) “Loan” means an operating loan or farm ownership loan,
6 including a financing lease, provided that such lease transfers the ownership of
7 the leased property to each lessee following the payment of all required lease
8 payments as specified in each lease agreement.

9 (12) “Operating loan” means a loan to purchase livestock, farm or
10 forestry equipment, or fixtures to pay annual operating expenses of a farm
11 operation or agricultural facility, to pay loan closing costs, and to refinance
12 indebtedness incurred for farm ownership or operating loan purposes, or both.

13 (13) “Program” means the Vermont Agricultural Credit Program
14 established by this chapter.

15 (14) “Project” or “agricultural project” means the creation,
16 establishment, acquisition, construction, expansion, improvement,
17 strengthening, reclamation, operation or renovation of an agricultural facility
18 or farm operation.

19 (15) “Resident” means a person who is or will be domiciled in this
20 State as evidenced by an intent to maintain a principal dwelling place in the
21 State indefinitely and to return there if temporarily absent, coupled with an act

1 or acts consistent with that intent, including the filing of a Vermont income tax
2 return within 18 months of the application for a loan under this chapter. In the
3 case of a limited liability company, partnership, corporation or other business
4 entity, resident means a business entity formed under the laws of Vermont, the
5 majority of which is owned and operated by Vermont residents who are natural
6 persons.

7 * * *

8 § 374h. LOAN ELIGIBILITY STANDARDS

9 A farmer, or a limited liability company, partnership, corporation or other
10 business entity the majority ownership of which is vested in one or more
11 farmers, shall be eligible to apply for a farm ownership or operating loan,
12 provided the applicant is:

13 * * *

14 (4) an operator or proposed operator of an agricultural facility, ~~or farm~~
15 operation, or forest products business for whom the loan reduces investment
16 costs to an extent that offers the applicant a reasonable chance to succeed in
17 the operation and management of an agricultural facility or farm operation;

18 * * *

19 (7) able to demonstrate that the applicant is responsible and able to
20 manage responsibilities as owner or operator of the farm operation, ~~or~~
21 agricultural facility, or forest products business;

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(13) able to demonstrate that the proposed loan will be adequately secured by a mortgage on real property ~~with a satisfactory maturity date in no event later than 20 years from the date of inception of the mortgage,~~ or by a security agreement on personal property ~~with a satisfactory maturity date in no event longer than the average remaining useful life of the assets in which the security interest is being taken;~~ and

* * *

Sec. A.7. REPEALS

(a) 2009 Acts and Resolves No. 54, Sec. 112(b), pledging up to \$1,000,000.00 of the full faith and credit of the State for loss reserves for the Vermont Economic Development Authority small business loan program and TECH loan program, is repealed.

(b) In 10 V.S.A. chapter 12 (Vermont Economic Development Authority) the following are repealed:

- (1) subchapter 2, §§ 221–229 (Mortgage Insurance); and
- (2) subchapter 8, §§ 279–279b (Vermont Financial Access Program).

1 * * * Cooperatives; Electronic Voting * * *

2 (H.670)

3 Sec. B.1. 11 V.S.A. § 995 is amended to read:

4 § 995. ARTICLES

5 Each association formed under this subchapter shall prepare and file articles
6 of incorporation setting forth:

7 (1) The name of the association;_

8 (2) The purpose for which it is formed;_

9 (3) The place where its principal business will be transacted;_

10 (4) The names and addresses of the directors thereof who are to serve
11 until the election and qualification of their successors;_

12 (5) The name and residence of the clerk;_

13 (6) When organized without capital stock, whether the property rights
14 and interest of the members are equal, and, if unequal, the general rules
15 applicable to all members by which the property rights and interest,
16 respectively, of each member shall be determined and fixed, and provision for
17 the admission of new members who shall be entitled to share in the property of
18 the association in accordance with such general rules. This provision or
19 paragraph of the certificate of organization shall not be altered, amended, or
20 replaced except by the written consent or vote representing three-fourths of the
21 members;_

1 (7) When organized with capital stock, the amount of such stock, the
2 number of shares into which it is divided, and the par value thereof;

3 (8) The capital stock may be divided into preferred and one or more
4 classes of common stock. When so divided, the certificate of organization
5 shall contain a statement of the number of shares of stock to which preference
6 is granted, the number of shares of stock to which no preference is granted, and
7 the nature and definite extent of the preference and privileges granted to each;

8 (9) The articles of incorporation of any association organized under this
9 subchapter ~~shall~~ may provide that the members or stockholders thereof shall
10 have the right to vote in person ~~or alternate only and not by proxy or otherwise~~
11 or through another method of communication, including through a
12 telecommunications or electronic medium, but a member or stockholder may
13 not vote by proxy. This provision or paragraph of the articles of association
14 shall not be altered and shall not be subject to amendment;

15 (10) In addition to the foregoing, the articles of incorporation of any
16 association incorporated hereunder may contain any provision consistent with
17 law with respect to management, regulation, government, financing,
18 indebtedness, membership, the establishment of voting districts and the
19 election of delegates for representative purposes, the issuance, retirement, and
20 transfer of its stock, if formed with capital stock, or any provisions relative to

1 the way or manner in which it shall operate or with respect to its members,
2 officers, or directors and any other provisions relating to its affairs;

3 (11) The certificate shall be subscribed by the incorporators and shall be
4 sworn to by one or more of them; and shall be filed with the ~~secretary of state~~
5 Secretary of State. A certified copy shall also be filed with the ~~secretary of~~
6 ~~agriculture, food and markets;~~ Secretary of Agriculture, Food and Markets.

7 (12) When so filed, the certificate of organization or a certified copy
8 thereof shall be received in the courts of this ~~state~~ State as prima facie evidence
9 of the facts contained therein and of the due incorporation of such association.

10 * * * Regional Planning and Economic Development * * *

11 (H.692)

12 Sec. C.1. 24 V.S.A. chapter 76 is amended to read:

13 CHAPTER 76. ECONOMIC DEVELOPMENT PERFORMANCE

14 ~~CONTRACTS~~ GRANTS

15 * * *

16 § 2782. PROPOSALS FOR PERFORMANCE ~~CONTRACTS~~ GRANTS FOR
17 ECONOMIC DEVELOPMENT

18 (a) The Secretary shall ~~annually award~~ negotiate and issue performance
19 ~~contracts grants~~ to qualified regional development corporations, regional
20 planning commissions, or both in the case of a joint proposal, to provide
21 economic development services under this chapter.

1 (b) A proposal shall be submitted in response to a request for proposals
2 issued by the Secretary.

3 (c) The Secretary may require that a service provider submit with a
4 proposal, or subsequent to the filing of a proposal, additional supportive data
5 or information that he or she considers necessary to make a decision to award
6 or to assess the effectiveness of a performance ~~contract~~ grant.

7 § 2783. ELIGIBILITY FOR PERFORMANCE ~~CONTRACTS~~ GRANTS

8 Upon receipt of a proposal for a performance ~~contract~~ grant, the Secretary
9 shall within 60 days determine whether or not the service provider may be
10 awarded a performance ~~contract~~ grant under this chapter. The Secretary shall
11 enter into a performance ~~contract~~ grant with a service provider if the Secretary
12 finds:

13 (1) the service provider serves an economic region generally consistent
14 with one or more of the State's regional planning commission regions;

15 (2) the service provider demonstrates the ability and willingness to
16 provide planning and resource development services to local communities and
17 to assist communities in evaluating economic conditions and prepare for
18 economic growth and stability;

19 (3) the service provider demonstrates an ability to gather economic and
20 demographic information concerning the area served;

1 (4) the service provider has, or demonstrates it will be able to secure,
2 letters of support from the legislative bodies of the affected municipalities;

3 (5) the service provider demonstrates a capability and willingness to
4 assist existing business and industry, to encourage the development and growth
5 of small business, and to attract industry and commerce;

6 (6) the service provider appears to be the best qualified service provider
7 from the region to accomplish and promote economic development;

8 (7) the service provider needs the performance ~~contract-award~~ grant and
9 that the performance ~~contract-award~~ grant will be used for the employment of
10 professional persons or expenses consistent with performance ~~contract~~ grant
11 provisions, or both;

12 (8) the service provider presents an operating budget and has adequate
13 funds available to match the performance ~~contract-award~~ grant;

14 (9) the service provider demonstrates a willingness to involve the public
15 of the region in its policy-making process by offering membership to
16 representatives of all municipalities in the economic region which shall elect
17 the directors of the governing board;

18 (10) the service provider demonstrates a willingness to coordinate its
19 activities with the planning functions of any regional planning commission
20 located in the same geographic area as the service provider.

1 § 2784. TERMS OF PERFORMANCE ~~CONTRACTS~~ GRANTS

2 (a)(1) Funds available ~~under~~ through a performance ~~contract~~ grant may
3 only be used by an applicant to perform the duties or provide the services ~~set~~
4 forth specified in the performance ~~contract~~ grant.

5 (2) The amount and terms of the performance ~~contract-award~~ grant shall
6 be determined by the ~~parties to the contract~~ Secretary.

7 (b) A performance ~~contract~~ grant shall be made for a period ~~agreed to by~~
8 the parties specified by the grant.

9 (c) Payments to a service provider shall be made pursuant to the terms of
10 the performance ~~contract~~ grant.

11 § 2784a. PLANS

12 A service provider awarded a performance ~~contract~~ grant under this chapter
13 shall conduct its activities under subdivision 2784(a)(1) of this title consistent
14 with local and regional plans.

15 * * *

16 § 2786. APPLICABILITY OF STATE LAWS

17 (a) A service provider awarded a performance ~~contract~~ grant by the
18 Secretary under this chapter shall be subject to 1 V.S.A. chapter 5, subchapter
19 2 (open meetings) and 1 V.S.A. chapter 5, subchapter 3 (public records),
20 except that in addition to any limitation provided in subchapter 2 or 3:

1 (1) no person shall disclose any information relating to a proposed
2 transaction or agreement between the service provider and another person, in
3 furtherance of the service provider’s public purposes under the law, prior to
4 final execution of such transaction or agreement; and

5 (2) meetings of the service provider’s board to consider such proposed
6 transactions or agreements may be held in executive session under 1 V.S.A.
7 § 313.

8 (b) Nothing in this section shall be construed to limit the exchange of
9 information between or among regional development corporations or regional
10 planning commissions concerning any activity of the corporations and the
11 commissions, provided that such information shall be subject to the provisions
12 of subsection (a) of this section.

13 (c) The provisions of 2 V.S.A. chapter 11 (registration of lobbyist) shall
14 apply to regional development corporations and regional planning
15 commissions.

16 * * *

17 Sec. C.2. 24 V.S.A. § 4341a is amended to read:

18 § 4341a. PERFORMANCE ~~CONTRACTS~~ GRANTS FOR REGIONAL
19 PLANNING SERVICES

20 (a) The Secretary of Commerce and Community Development shall
21 negotiate and ~~enter into performance contracts with~~ issue performance grants

1 ~~to~~ regional planning commissions, or ~~with~~ to regional planning commissions
2 and regional development corporations in the case of a joint ~~contract~~ grant, to
3 provide regional planning services.

4 (b) A performance ~~contract~~ grant shall address how the regional planning
5 commission, or regional planning commission and regional development
6 corporation jointly, will improve results and achieve savings compared with
7 the current regional service delivery system, which may include:

8 (1) a proposal without change in the makeup or change of the area
9 served;

10 (2) a joint proposal to provide different services ~~under one contract with~~
11 pursuant to a grant to one or more regional service providers;

12 (3) co-location with other local, regional, or State service providers;

13 (4) merger with one or more regional service providers;

14 (5) consolidation of administrative functions and additional operational
15 efficiencies within the region; or

16 (6) such other cost-saving mechanisms as may be available.

17 * * * Vermont Training Program * * *

18 (H.692)

19 Sec. D.1. 10 V.S.A. § 531 is amended to read:

20 § 531. THE VERMONT TRAINING PROGRAM

21 * * *

1 (e) Work-based learning activities.

2 (1) In addition to eligible training authorized in subsection (b) of this
3 section, the Secretary of Commerce and Community Development may
4 annually allocate up to 10 percent of the funding appropriated for the Program
5 to fund work-based learning programs and activities with eligible employers to
6 introduce Vermont **students in a middle school, secondary school, career**
7 **technical education program, or postsecondary school** to manufacturers and
8 other regionally significant employers.

9 (2) An employer with a defined work-based learning program or activity
10 developed in partnership with a **middle school, secondary school, career**
11 **technical education program, or postsecondary school** may apply to the
12 Program for a grant to offset the costs the employer incurs for the work-based
13 learning program or activity, including the costs of transportation, curriculum
14 development, and materials.

15 * * *

16 (k) Annually on or before January 15, the Secretary shall submit a report to
17 the House Committee on Commerce and Economic Development and the
18 Senate Committee on Economic Development, Housing and General Affairs.
19 In addition to the reporting requirements under section 540 of this title, the
20 report shall identify:

- 21 (1) all active and completed contracts and grants;

- 1 (2) from among the following, the category the training addressed:
- 2 (A) preemployment training or other training for a new employee to
- 3 begin a newly created position with the employer;
- 4 (B) preemployment training or other training for a new employee to
- 5 begin in an existing position with the employer;
- 6 (C) training for an incumbent employee who, upon completion of
- 7 training, assumes a newly created position with the employer;
- 8 (D) training for an incumbent employee who upon completion of
- 9 training assumes a different position with the employer;
- 10 (E) training for an incumbent employee to upgrade skills;
- 11 (3) for the training identified in subdivision (2) of this subsection
- 12 whether the training is onsite or classroom-based;
- 13 (4) the number of employees served;
- 14 (5) the average wage by employer;
- 15 (6) any waivers granted;
- 16 (7) the identity of the employer, or, if unknown at the time of the report,
- 17 the category of employer;
- 18 (8) the identity of each training provider; ~~and~~
- 19 (9) whether training results in a wage increase for a trainee, and the
- 20 amount of increase; and

1 (10) the number, type, and description of grants for work-based learning
2 programs and activities awarded pursuant to subsection (e) of this section.

3 * * * Corporations; Mergers, Conversions, Domestications, Share Exchanges

4 Limited Liability Company Technical Corrections * * *

5 (H.723)

6 Sec. E.1. 11A V.S.A. chapter 11 is amended to read:

7 ~~CHAPTER 11. MERGER AND SHARE EXCHANGE~~

8 ~~§ 11.01. MERGER~~

9 ~~(a) One or more corporations may merge into another corporation if the~~
10 ~~board of directors of each corporation adopts and its shareholders (if required~~
11 ~~by section 11.03 of this title) approve a plan of merger.~~

12 ~~(b) The plan of merger must set forth:~~

13 ~~(1) the name of each corporation planning to merge and the name of the~~
14 ~~surviving corporation into which each other corporation plans to merge;~~

15 ~~(2) the terms and conditions of the merger; and~~

16 ~~(3) the manner and basis of converting the shares of each corporation~~
17 ~~into shares, obligations, or other securities of the surviving or any other~~
18 ~~corporation or into cash or other property in whole or in part.~~

19 ~~(c) The plan of merger may set forth:~~

20 ~~(1) amendments to the articles of incorporation of the surviving~~
21 ~~corporation; and~~

1 ~~(2) other provisions relating to the merger.~~

2 ~~§ 11.02. SHARE EXCHANGE~~

3 ~~(a) A corporation may acquire all of the outstanding shares of one or more~~
4 ~~classes or series of another corporation if the board of directors of each~~
5 ~~corporation adopts and its shareholders (if required by section 11.03 of this~~
6 ~~title) approve the exchange.~~

7 ~~(b) The plan of exchange must set forth:~~

8 ~~(1) the name of the corporation whose shares will be acquired and the~~
9 ~~name of the acquiring corporation;~~

10 ~~(2) the terms and conditions of the exchange;~~

11 ~~(3) the manner and basis of exchanging the shares to be acquired for~~
12 ~~shares, obligations, or other securities of the acquiring or any other corporation~~
13 ~~or for cash or other property in whole or in part.~~

14 ~~(c) The plan of exchange may set forth other provisions relating to the~~
15 ~~exchange.~~

16 ~~(d) This section does not limit the power of a corporation to acquire all or~~
17 ~~part of the shares of one or more classes or series of another corporation~~
18 ~~through a voluntary exchange or otherwise.~~

19 ~~§ 11.03. ACTION ON PLAN~~

20 ~~(a) After adopting a plan of merger or share exchange, the board of~~
21 ~~directors of each corporation party to the merger, and the board of directors of~~

1 ~~the corporation whose shares will be acquired in the share exchange, shall~~
2 ~~submit the plan of merger (except as provided in subsection (g) of this section)~~
3 ~~or share exchange for approval by its shareholders.~~

4 ~~(b) For a plan of merger or share exchange to be approved:~~

5 ~~(1) the board of directors must recommend the plan of merger or share~~
6 ~~exchange to the shareholders, unless the board of directors determines that~~
7 ~~because of conflict of interest or other special circumstances it should make no~~
8 ~~recommendation and communicates the basis for its determination to the~~
9 ~~shareholders with the plan; and~~

10 ~~(2) the shareholders entitled to vote must approve the plan.~~

11 ~~(c) The board of directors may condition its submission of the proposed~~
12 ~~merger or share exchange on any basis.~~

13 ~~(d) The corporation shall notify each shareholder, whether or not entitled to~~
14 ~~vote, of the proposed shareholders' meeting in accordance with section 7.05 of~~
15 ~~this title. The notice must also state that the purpose, or one of the purposes, of~~
16 ~~the meeting is to consider the plan of merger or share exchange and contain or~~
17 ~~be accompanied by a copy or summary of the plan.~~

18 ~~(e) Unless this title, the articles of incorporation, or the board of directors~~
19 ~~(acting pursuant to subsection (c) of this section) require a greater vote or a~~
20 ~~vote by voting groups, the plan of merger or share exchange to be authorized~~
21 ~~must be approved by each voting group entitled to vote separately on the plan~~

1 ~~by a majority of all the votes entitled to be cast on the plan by that voting~~
2 ~~group.~~

3 ~~(f) Separate voting by voting groups is required:~~

4 ~~(1) on a plan of merger if the plan contains a provision that, if contained~~
5 ~~in a proposed amendment to articles of incorporation, would require action by~~
6 ~~one or more separate voting groups on the proposed amendment under section~~
7 ~~10.04 of this title;~~

8 ~~(2) on a plan of share exchange by each class or series of shares~~
9 ~~included in the exchange, with each class or series constituting a separate~~
10 ~~voting group.~~

11 ~~(g) Action by the shareholders of the surviving corporation on a plan of~~
12 ~~merger is not required if:~~

13 ~~(1) the articles of incorporation of the surviving corporation will not~~
14 ~~differ (except for amendments enumerated in section 10.02 of this title) from~~
15 ~~its articles before the merger;~~

16 ~~(2) each shareholder of the surviving corporation whose shares were~~
17 ~~outstanding immediately before the effective date of the merger will hold the~~
18 ~~same number of shares, with identical designations, preferences, limitations,~~
19 ~~and relative rights, immediately after;~~

20 ~~(3) the number of voting shares outstanding immediately after the~~
21 ~~merger, plus the number of voting shares issuable as a result of the merger~~

1 ~~(either by the conversion of securities issued pursuant to the merger or the~~
2 ~~exercise of rights and warrants issued pursuant to the merger), will not exceed~~
3 ~~by more than 20 percent the total number of voting shares of the surviving~~
4 ~~corporation outstanding immediately before the merger; and~~

5 ~~(4) the number of participating shares outstanding immediately after the~~
6 ~~merger, plus the number of participating shares issuable as a result of the~~
7 ~~merger (either by the conversion of securities issued pursuant to the merger or~~
8 ~~the exercise of rights and warrants issued pursuant to the merger), will not~~
9 ~~exceed by more than 20 percent the total number of participating shares~~
10 ~~outstanding immediately before the merger.~~

11 ~~(h) As used in subsection (g) of this section:~~

12 ~~(1) “Participating shares” mean shares that entitle their holders to~~
13 ~~participate without limitation in distributions.~~

14 ~~(2) “Voting shares” mean shares that entitle their holders to vote~~
15 ~~unconditionally in elections of directors.~~

16 ~~(i) After a merger or share exchange is authorized, and at any time before~~
17 ~~articles of merger or share exchange are filed, the planned merger or share~~
18 ~~exchange may be abandoned (subject to any contractual rights), without further~~
19 ~~shareholder action, in accordance with the procedure set forth in the plan of~~
20 ~~merger or share exchange or, if none is set forth, in the manner determined by~~
21 ~~the board of directors.~~

1 ~~§ 11.04. MERGER OF SUBSIDIARY~~

2 ~~(a) A parent corporation owning at least 90 percent of the outstanding~~
3 ~~shares of each class of a subsidiary corporation may merge the subsidiary into~~
4 ~~itself without approval of the shareholders of the parent or subsidiary.~~

5 ~~(b) The board of directors of the parent shall adopt a plan of merger that~~
6 ~~sets forth:~~

7 ~~(1) the names of the parent and subsidiary; and~~

8 ~~(2) the manner and basis of converting the shares of the subsidiary into~~
9 ~~shares, obligations, or other securities of the parent or any other corporation or~~
10 ~~into cash or other property in whole or in part.~~

11 ~~(c) The parent shall mail a copy or summary of the plan merger to each~~
12 ~~shareholder of the subsidiary who does not waive the mailing requirement in~~
13 ~~writing.~~

14 ~~(d) The parent may not deliver articles of merger to the secretary of state~~
15 ~~for filing until at least 30 days after the date it mailed a copy of the plan of~~
16 ~~merger to each shareholder of the subsidiary who did not waive the mailing~~
17 ~~requirement.~~

18 ~~(e) Articles of merger under this section may not contain amendments to~~
19 ~~the articles of incorporation of the parent corporation (except for amendments~~
20 ~~enumerated in section 10.02 of this title).~~

1 ~~§ 11.05. ARTICLES OF MERGER OR SHARE EXCHANGE~~

2 ~~(a) After a plan of merger or share exchange is approved by the~~
3 ~~shareholders, or adopted by the board of directors if shareholder approval is~~
4 ~~not required, the surviving or acquiring corporation shall deliver to the~~
5 ~~secretary of state for filing, articles of merger or share exchange setting forth:~~

6 ~~(1) the plan of merger or share exchange;~~

7 ~~(2) if shareholder approval was not required, a statement to that effect;~~

8 ~~(3) if approval of the shareholders of one or more corporations party to~~
9 ~~the merger or share exchange was required:~~

10 ~~(A) the designation, number of outstanding shares, and number of~~
11 ~~votes entitled to be cast by each voting group entitled to vote separately on the~~
12 ~~plan as to each corporation; and~~

13 ~~(B) either the total number of votes cast for and against the plan by~~
14 ~~each voting group entitled to vote separately on the plan or the total number of~~
15 ~~undisputed votes cast for the plan separately by each voting group and a~~
16 ~~statement that the number cast for the plan by each voting group was sufficient~~
17 ~~for approval by that voting group.~~

18 ~~(b) A merger or share exchange takes effect upon the effective date of the~~
19 ~~articles of merger or share exchange as provided in section 1.23 of this title.~~

20 ~~§ 11.06. EFFECT OF MERGER OR SHARE EXCHANGE~~

21 ~~(a) When a merger takes effect:~~

1 ~~(1) every other corporation party to the merger merges into the surviving~~
2 ~~corporation and the separate existence of every corporation except the~~
3 ~~surviving corporation ceases;~~

4 ~~(2) the title to all real estate and other property owned by each~~
5 ~~corporation party to the merger is vested in the surviving corporation without~~
6 ~~reversion or impairment;~~

7 ~~(3) the surviving corporation has all liabilities of each corporation party~~
8 ~~to the merger;~~

9 ~~(4) a proceeding pending against any corporation party to the merger~~
10 ~~may be continued as if the merger did not occur or the surviving corporation~~
11 ~~may be substituted in the proceeding for the corporation whose existence~~
12 ~~ceased;~~

13 ~~(5) the articles of incorporation of the surviving corporation are~~
14 ~~amended to the extent provided in the plan of merger; and~~

15 ~~(6) the shares of each corporation party to the merger that are to be~~
16 ~~converted into shares, obligations, or other securities of the surviving or any~~
17 ~~other corporation or into cash or other property are converted, and the former~~
18 ~~holders of the shares are entitled only to the rights provided in the articles of~~
19 ~~merger or to their rights under chapter 13 of this title.~~

20 ~~(b) When a share exchange takes effect, the shares of each acquired~~
21 ~~corporation are exchanged as provided in the plan, and the former holders of~~

1 the shares are entitled only to the exchange rights provided in the articles of
2 share exchange or to their rights under chapter 13 of this title.

3 ~~§ 11.07. MERGER OR SHARE EXCHANGE WITH FOREIGN~~
4 ~~CORPORATION~~

5 (a) ~~One or more foreign corporations may merge or enter into a share~~
6 ~~exchange with one or more domestic corporations if:~~

7 (1) ~~in a merger, the merger is permitted by the law of the state or~~
8 ~~country under whose law each foreign corporation is incorporated and each~~
9 ~~foreign corporation complies with that law in effecting the merger;~~

10 (2) ~~in a share exchange, the corporation whose shares will be acquired is~~
11 ~~a domestic corporation, whether or not a share exchange is permitted by the~~
12 ~~law of the state or country under whose law the acquiring corporation is~~
13 ~~incorporated;~~

14 (3) ~~the foreign corporation complies with section 11.05 of this title if it~~
15 ~~is the surviving corporation of the merger or acquiring corporation of the share~~
16 ~~exchange; and~~

17 (4) ~~each domestic corporation complies with the applicable provisions~~
18 ~~of sections 11.01 through 11.04 of this title and, if it is the surviving~~
19 ~~corporation of the merger or acquiring corporation of the share exchange, with~~
20 ~~section 11.05 of this title.~~

1 ~~(b) Upon the merger or share exchange taking effect, the surviving foreign~~
2 ~~corporation of a merger and the acquiring foreign corporation of a share~~
3 ~~exchange is deemed:~~

4 ~~(1) to appoint the secretary of state as its agent for service of process in~~
5 ~~a proceeding to enforce any obligation or the rights of dissenting shareholders~~
6 ~~of each domestic corporation party to the merger or share exchange; and~~

7 ~~(2) to agree that it will promptly pay to the dissenting shareholders of~~
8 ~~each domestic corporation party to the merger or share exchange the amount, if~~
9 ~~any, to which they are entitled under chapter 13 of this title.~~

10 ~~(e) This section does not limit the power of a foreign corporation to acquire~~
11 ~~all or part of the shares of one or more classes or series of a domestic~~
12 ~~corporation through a voluntary exchange or otherwise.~~

13 CHAPTER 11. CONVERSION, MERGER, DOMESTICATION, AND
14 SHARE EXCHANGE

15 § 11.01. DEFINITIONS

16 In this chapter:

17 (1) “Constituent corporation” means a constituent organization that is a
18 corporation.

19 (2) “Constituent organization” means an organization that is a party to a
20 conversion, merger, share exchange, or domestication pursuant to this chapter.

1 (3) “Conversion” means a transaction authorized by sections 11.02
2 through 11.07 of this title.

3 (4) “Converted organization” means the converting organization as it
4 continues in existence after a conversion.

5 (5) “Converting organization” means the domestic organization that
6 approves a plan of conversion pursuant to section 11.04 of this title or the
7 foreign organization that approves a conversion pursuant to the law of its
8 jurisdiction of formation.

9 (6) “Domestic” means an organization whose internal affairs are
10 governed by the law of this State.

11 (7) “Domesticated corporation” means the corporation that exists after a
12 domesticating corporation effects a domestication pursuant to sections 11.13
13 through 11.16 of this title.

14 (8) “Domesticating corporation” means the corporation that effects a
15 domestication pursuant to sections 11.13 through 11.16 of this title.

16 (9) “Domestication” means a transaction authorized by sections 11.13
17 through 11.16 of this title.

18 (10) “Governing statute” means the statute that governs an
19 organization’s internal affairs.

20 (11) “Interest holder” means:

21 (A) a shareholder of a business corporation;

1 (B) a member of a nonprofit corporation;

2 (C) a general partner of a general partnership, including a limited
3 liability partnership;

4 (D) a general partner of a limited partnership, including a limited
5 liability partnership;

6 (E) a limited partner of a limited partnership, including a limited
7 liability partnership;

8 (F) a member of a limited liability company;

9 (G) a shareholder of a general cooperative association;

10 (H) a member of a limited cooperative association or mutual benefit
11 enterprise;

12 (I) a member of an unincorporated nonprofit association;

13 (J) a beneficiary or beneficial owner of a statutory trust, business
14 trust, or common-law business trust; or

15 (K) any other direct holder of an interest.

16 (12) “Merger” means a merger authorized by sections 11.08 through
17 11.12 of this title.

18 (13) “Organization”:

19 (A) means any of the following, whether a domestic or foreign
20 organization, and regardless of whether organized for profit:

21 (i) a business corporation;

- 1 (ii) a nonprofit corporation;
- 2 (iii) a general partnership, including a limited liability partnership;
- 3 (iv) a limited partnership, including a limited liability limited
- 4 partnership;
- 5 (v) a limited liability company;
- 6 (vi) a general cooperative association;
- 7 (vii) a limited cooperative association or mutual benefit enterprise;
- 8 (viii) an unincorporated nonprofit association;
- 9 (ix) a statutory trust, business trust, or common-law business
- 10 trust; or
- 11 (x) any other person that has:
- 12 (I) a legal existence separate from any interest holder of that
- 13 person; or
- 14 (II) the power to acquire an interest in real property in its own
- 15 name; and
- 16 (B) does not include:
- 17 (i) an individual;
- 18 (ii) a trust with a predominantly donative purpose or a charitable
- 19 trust;
- 20 (iii) an association or relationship that is not an organization listed
- 21 in subdivision (A) of this subdivision (16) and is not a partnership under

1 11 V.S.A. chapter 22 or 23, or a similar provision of law of another
2 jurisdiction;

3 (iv) a decedent’s estate; or

4 (v) a government or a governmental subdivision, agency, or
5 instrumentality.

6 (14) “Organizational documents” means the organizational documents
7 for a domestic or foreign organization that create the organization, govern the
8 internal affairs of the organization, and govern relations between or among its
9 interest holders, including:

10 (A) for a domestic or foreign general partnership, its partnership
11 agreement;

12 (B) for a limited partnership or foreign limited partnership, its
13 certificate of limited partnership and partnership agreement;

14 (C) for a domestic or foreign limited liability company, its certificate
15 or articles of organization and operating agreement, or comparable records as
16 provided in its governing statute;

17 (D) for a business trust, its agreement of trust and declaration of trust;

18 (E) for a domestic or foreign corporation for profit, its certificate or
19 articles of incorporation, bylaws, and other agreements among its shareholders
20 which are authorized by its governing statute, or comparable records as
21 provided in its governing statute; and

1 (F) for any other organization, the basic records that create the
2 organization and determine its internal governance and the relations among the
3 persons that own it, have an interest in it, or are members of it.

4 (15) “Personal liability” means:

5 (A) liability for a debt, obligation, or other liability of an organization
6 which is imposed on a person:

7 (i) by the governing statute solely by reason of the person
8 co-owning, having an interest in, or being a member of the organization; or

9 (ii) by the organization’s organizational documents under a
10 provision of the governing statute authorizing those documents to make one or
11 more specified persons liable for all or specified debts, obligations, or other
12 liabilities of the organization solely by reason of the person or persons
13 co-owning, having an interest in, or being a member of the organization; or

14 (B) an obligation of an interest holder under the organizational
15 documents of an organization to contribute to the organization.

16 (16) “Private organizational documents” means organizational
17 documents or portions thereof for a domestic or foreign organization that are
18 not part of the organization’s public record, if any, and includes:

19 (A) the bylaws of a business corporation;

20 (B) the bylaws of a nonprofit corporation;

21 (C) the partnership agreement of a general partnership;

- 1 (D) the partnership agreement of a limited partnership;
2 (E) the operating agreement of a limited liability company;
3 (F) the bylaws of a general cooperative association;
4 (G) the bylaws of a limited cooperative association or mutual benefit
5 enterprise;
6 (H) the governing principles of an unincorporated nonprofit
7 association; and
8 (I) the trust instrument of a statutory trust or similar rules of a
9 business trust or common-law business trust.

10 (17) “Protected agreement” means:

- 11 (A) a record evidencing indebtedness and any related agreement in
12 effect on July 1, 2017;
13 (B) an agreement that is binding on an organization on July 1, 2017;
14 (C) the organizational documents of an organization in effect on
15 July 1, 2017; or
16 (D) an agreement that is binding on any of the partners, directors,
17 managers, or interest holders of an organization on July 1, 2017.

18 (18) “Public organizational documents” means the record of
19 organizational documents required to be filed with the Secretary of State to
20 form an organization, and any amendment to or restatement of that record, and
21 includes:

- 1 (A) the articles of incorporation of a business corporation;
2 (B) the articles of incorporation of a nonprofit corporation;
3 (C) the certificate of limited partnership of a limited partnership;
4 (D) the certificate of organization of a limited liability company;
5 (E) the articles of incorporation of a general cooperative association;
6 (F) the articles of organization of a limited cooperative association or
7 mutual benefit enterprise; and
8 (G) the certificate of trust of a statutory trust or similar record of a
9 business trust.

10 (19) “Record,” used as a noun, means information that is inscribed on a
11 tangible medium or that is stored in an electronic or other medium and is
12 retrievable in perceivable form.

13 (20) “Share exchange” means a share exchange authorized by sections
14 11.08 through 11.12 of this title.

15 (21) “Surviving organization” means an organization into which one or
16 more other organizations are merged whether the organization preexisted the
17 merger or was created by the merger.

18 § 11.02. CONVERSION AUTHORIZED

19 (a) By complying with sections 11.03 through 11.06 of this title, a domestic
20 corporation may become a domestic organization that is a different type of
21 organization.

1 (b) By complying with sections 11.03 through 11.06 of this title applicable
2 to foreign organizations, a foreign organization that is not a foreign corporation
3 may become a domestic corporation if the conversion is authorized by the law
4 of the foreign organization’s jurisdiction of formation.

5 (c) If a protected agreement contains a provision that applies to a merger of
6 a domestic corporation but does not refer to a conversion, the provision applies
7 to a conversion of the corporation as if the conversion were a merger until the
8 provision is amended after July 1, 2017.

9 § 11.03. PLAN OF CONVERSION

10 (a) A domestic corporation may convert to a different type of organization
11 under section 11.02 of this title by approving a plan of conversion. The plan
12 shall be in a record and shall contain:

13 (1) the name of the converting corporation;

14 (2) the name, jurisdiction of formation, and type of organization of the
15 converted organization;

16 (3) the manner and basis for converting an interest holder’s interest in
17 the converting organization into any combination of an interest in the
18 converted organization and other consideration;

19 (4) the proposed public organizational documents of the converted
20 organization if it will be an organization with public organizational documents
21 filed with the Secretary of State;

1 (5) the full text of the private organizational documents of the converted
2 organization that are proposed to be in a record;

3 (6) the other terms and conditions of the conversion; and

4 (7) any other provision required by the law of this State or the
5 organizational documents of the converting corporation.

6 (b) A domestic organization, other than a corporation, may convert into a
7 domestic corporation by approving a plan of conversion that includes the
8 manner and basis for converting an interest holder’s interest in the converting
9 organization into any combination of an interest in the converted organization
10 and other consideration.

11 (c) A plan of conversion may contain any other provision not prohibited
12 by law.

13 § 11.04. APPROVAL OF CONVERSION

14 Subject to section 11.17 of this title and any contractual rights, a converting
15 organization shall approve a plan of conversion:

16 (1) in accordance with its governing statute and its organizational
17 documents; or

18 (2) if its organizational documents do not address the manner for
19 approving a conversion, by the same vote required under the organizational
20 documents for a merger; provided, that if its organizational documents do not

1 provide for approval of a merger, then by the approval of all the interest
2 holders entitled to vote on or consent to a merger under the governing statute.

3 § 11.05. AMENDMENT OR ABANDONMENT OF PLAN OF
4 CONVERSION

5 (a) A domestic corporation may amend a plan of conversion:

6 (1) in the same manner the corporation approved the plan, if the plan
7 does not specify how to amend the plan; or

8 (2) by its directors and shareholders as provided in the plan, but a
9 shareholder who was entitled to vote on or consent to approval of the
10 conversion is entitled to vote on or consent to an amendment of the plan that
11 will change:

12 (A) the amount or kind of consideration the shareholder may receive
13 under the plan;

14 (B) the public organizational documents, if any, or private
15 organizational documents of the converted organization in effect after the
16 conversion, except for a change that the interest holders of the converted
17 organization are not required to approve under its governing statute or
18 organizational documents; or

19 (C) other terms or conditions of the plan if the change would
20 adversely affect the shareholder in any material respect.

1 (b) A domestic general or limited partnership may amend a plan of
2 conversion:

3 (1) in the same manner the partnership approved the plan, if the plan
4 does not specify how to amend the plan; or

5 (2) by the partners as provided in the plan, but a partner who was
6 entitled to vote on or consent to approval of the conversion is entitled to vote
7 on or consent to an amendment of the plan that will change:

8 (A) the amount or kind of consideration the partner may receive
9 under the plan;

10 (B) the public organizational documents, if any, or private
11 organizational documents of the converted organization in effect after the
12 conversion, except for a change that the interest holders of the converted
13 organization are not required to approve under its governing statute or
14 organizational documents; or

15 (C) other terms or conditions of the plan if the change would
16 adversely affect the partner in any material respect.

17 (c) A domestic limited liability company may amend a plan of conversion:

18 (1) in the same manner the company approved the plan, if the plan does
19 not specify how to amend the plan; or

1 (2) by the managers or members as provided in the plan, but a member
2 who was entitled to vote on or consent to approval of the conversion is entitled
3 to vote on or consent to an amendment of the plan that will change:

4 (A) the amount or kind of consideration the member may receive
5 under the plan;

6 (B) the public organizational documents, if any, or private
7 organizational documents of the converted organization in effect after the
8 conversion, except for a change that the interest holders of the converted
9 organization are not required to approve under its governing statute or
10 organizational documents; or

11 (C) other terms or conditions of the plan if the change would
12 adversely affect the member in any material respect.

13 (d)(1) After a domestic converting organization approves a plan of
14 conversion, and before a statement of conversion takes effect, the organization
15 may abandon the conversion as provided in the plan.

16 (2) Unless prohibited by the plan, the organization may abandon the
17 plan in the same manner it approved the plan.

18 (e)(1) A domestic converting organization that abandons a plan of
19 conversion pursuant to subsection (d) of this section shall deliver a signed
20 statement of abandonment to the Secretary of State for filing before the
21 statement of conversion takes effect.

1 (2) The statement of abandonment shall contain:

2 (A) the name of the converting organization;

3 (B) the date the Secretary of State filed the statement of
4 conversion; and

5 (C) a statement that the converting organization has abandoned the
6 conversion pursuant to this section.

7 (3) A statement of abandonment takes effect, on filing, and on filing the
8 conversion is abandoned and does not take effect.

9 § 11.06. STATEMENT OF CONVERSION; EFFECTIVE DATE OF

10 CONVERSION

11 (a) A converting organization shall sign a statement of conversion and
12 deliver it to the Secretary of State for filing.

13 (b) A statement of conversion shall contain:

14 (1) the name, jurisdiction of formation, and type of organization prior to
15 the conversion;

16 (2) the name, jurisdiction of formation, and type of organization
17 following the conversion;

18 (3) if the converting organization is a domestic organization, a statement
19 that the organization approved the plan of conversion in accordance with the
20 provisions of this chapter, or, if the converting organization is a foreign

1 organization, a statement that the organization approved the conversion in
2 accordance with its governing statute; and

3 (4) the public organizational documents of the converted organization.

4 (c) A statement of conversion may contain any other provision not
5 prohibited by law.

6 (d) If the converted organization is a domestic organization, its public
7 organizational documents, if any, shall comply with the law of this State.

8 (e)(1) In lieu of a statement of conversion, a domestic converting
9 corporation may deliver to the Secretary of State for filing a signed plan of
10 conversion that complies with subsection (b) of this section.

11 (2) If a corporation files a plan of conversion pursuant to subdivision (1)
12 of this subsection, a reference in this chapter to a statement of conversion
13 refers to the plan of conversion.

14 (f)(1) If a converted organization is a domestic corporation, its conversion
15 takes effect when the statement of conversion takes effect.

16 (2) If a converted organization is not a domestic corporation, its
17 conversion takes effect on the later of:

18 (A) the date and time provided by its governing statute; or

19 (B) when the statement of conversion takes effect.

20 § 11.07. EFFECT OF CONVERSION

21 (a) When a conversion takes effect:

1 (1) The converted organization is:

2 (A) organized under and subject to the governing statute of the
3 converted organization; and

4 (B) the same organization continuing without interruption as the
5 converting organization.

6 (2) The property of the converting organization continues to be vested in
7 the converted organization without transfer, reversion, or impairment.

8 (3) The debts, obligations, and other liabilities of the converting
9 organization continue as debts, obligations, and other liabilities of the
10 converted organization.

11 (4) Except as otherwise provided by law or the plan of conversion, the
12 rights, privileges, immunities, powers, and purposes of the converting
13 organization remain in the converted organization.

14 (5) A court or other authority may substitute the name of the converted
15 organization for the name of the converting organization in any pending action
16 or proceeding.

17 (6) The certificate of organization of the converted organization takes
18 effect.

19 (7) The provisions of the organizational documents of the converted
20 organization that are required to be in a record, if any, that were approved as
21 part of the plan of conversion take effect.

1 (8) The interests in the converting organization are converted, and the
2 interest holders of the converting organization are entitled only to the rights
3 provided to them under the plan of conversion.

4 (b) Except as otherwise provided in the organizational documents of a
5 domestic converting organization, a conversion does not give rise to any rights
6 that a shareholder, member, partner, limited partner, director, or third party
7 would have upon a dissolution, liquidation, or winding up of the converting
8 organization.

9 (c) When a conversion takes effect, a person who did not have personal
10 liability with respect to the converting organization and becomes subject to
11 personal liability with respect to the converted organization as a result of the
12 conversion has personal liability only to the extent provided by the governing
13 statute of the converted organization and only for those debts, obligations, and
14 other liabilities that the converted organization incurs after the conversion.

15 (d) When a conversion takes effect, a person who had personal liability for
16 a debt, obligation, or other liability of the converting organization but who
17 does not have personal liability with respect to the converted organization is
18 subject to the following rules:

19 (1) The conversion does not discharge any personal liability under this
20 title to the extent the personal liability was incurred before the conversion took
21 effect.

1 (2) The person does not have personal liability under this title for any
2 debt, obligation, or other liability that arises after the conversion takes effect.

3 (3) This title continues to apply to the release, collection, or discharge of
4 any personal liability preserved under subdivision (1) of this subsection as if
5 the conversion had not occurred.

6 (4) The person has the rights of contribution from another person that
7 are provided by this title, law other than this title, or the organizational
8 documents of the converting organization with respect to any personal liability
9 preserved under subdivision (1) of this subsection as if the conversion had not
10 occurred.

11 (e) When a conversion takes effect, a person may serve a foreign
12 organization that is the converted organization with process in this State for the
13 collection and enforcement of any of its debts, obligations, and other liabilities
14 as provided in section 5.04 of this title.

15 (f) If the converting organization is a registered foreign organization, its
16 registration to do business in this State is canceled when the conversion takes
17 effect.

18 (g) A conversion does not require an organization to wind up its affairs and
19 does not constitute or cause the dissolution of the organization.

1 § 11.08. MERGER AUTHORIZED; PLAN OF MERGER

2 (a) A corporation organized pursuant to this title may merge with one or
3 more other constituent organizations pursuant to this section and sections 11.09
4 through 11.12 of this title and a plan of merger if:

5 (1) the governing statute of each of the other constituent organizations
6 authorizes the merger;

7 (2) the merger is not prohibited by the law of a jurisdiction that enacted
8 any of the governing statutes; and

9 (3) each of the other constituent organizations complies with its
10 governing statute in effecting the merger.

11 (b) A plan of merger shall be in a record and shall include:

12 (1) the name and type of each constituent organization;

13 (2) the name and type of the surviving constituent organization and, if
14 the surviving constituent organization is created by the merger, a statement to
15 that effect;

16 (3) the terms and conditions of the merger, including the manner and
17 basis for converting an interest holder's interest in each constituent
18 organization into any combination of an interest in the surviving organization
19 and other consideration;

1 (4) if the merger creates the surviving constituent organization, the
2 surviving constituent organization’s organizational documents that are
3 proposed to be in a record; and

4 (5) if the merger does not create the surviving constituent organization,
5 any amendments to the surviving constituent organization’s organizational
6 documents that are, or are proposed to be, in a record.

7 § 11.09. SHARE EXCHANGE AUTHORIZED; PLAN OF SHARE

8 EXCHANGE

9 (a) A corporation may acquire all of the outstanding shares of one or more
10 classes or series of another corporation if the board of directors of each
11 corporation adopts, and its shareholders, if required under section 11.10 of this
12 title, approve a plan of share exchange.

13 (b) The plan of share exchange shall be in a record and shall include:

14 (1) the name of the corporation whose shares will be acquired and the
15 name of the acquiring corporation; and

16 (2) the terms and conditions of the share exchange; including the
17 manner and basis of exchanging the shares to be acquired in exchange for
18 shares of the acquiring corporation or other consideration.

19 (c) The plan of share exchange may contain any other provision not
20 prohibited by law.

1 § 11.10. APPROVAL OF PLAN OF MERGER OR SHARE EXCHANGE

2 (a) Subject to section 11.17 of this title, a constituent corporation shall
3 approve a plan of merger or share exchange:

4 (1) in accordance with its organizational documents and governing
5 statute; or

6 (2) if its organizational documents do not address the manner for
7 approving a merger or share exchange, by vote or consent of all the
8 shareholders of the corporation entitled to vote on or consent to any matter.

9 (b) Subject to section 11.17 of this title and any contractual rights, after a
10 constituent organization approves a merger or share exchange, and before the
11 organization delivers articles of merger or share exchange to the Secretary of
12 State for filing, a constituent organization may amend the plan or abandon the
13 merger or share exchange:

14 (1) as provided in the plan; or

15 (2) except as otherwise prohibited in the plan, in the same manner it
16 approved the plan.

17 § 11.11. FILING REQUIRED FOR MERGER OR SHARE EXCHANGE;

18 EFFECTIVE DATE

19 (a) After each constituent organization approves a merger or share
20 exchange, a person with appropriate authority shall sign articles of merger or
21 share exchange on behalf of:

1 (1) each constituent corporation; and

2 (2) each other constituent organization as required by its governing
3 statute.

4 (b) Articles of merger under this section shall be in a record and shall
5 include:

6 (1) the name and type of each constituent organization and the
7 jurisdiction of its governing statute;

8 (2) the name and type of the surviving constituent organization, the
9 jurisdiction of its governing statute, and, if the merger creates the surviving
10 constituent organization, a statement to that effect;

11 (3) the date the merger takes effect under the governing statute of the
12 surviving constituent organization;

13 (4) if the merger creates the surviving constituent organization, its
14 public organizational documents;

15 (5) if the surviving constituent organization preexists the merger, any
16 amendments to its public organizational documents;

17 (6) a statement on behalf of each constituent organization that it
18 approved the merger as required by its governing statute;

19 (7) if the surviving constituent organization is a foreign constituent
20 organization not authorized to transact business in this State, the street and

1 mailing addresses of an office that the Secretary of State may use for service of
2 process pursuant to subsection 11.12(b) of this title; and

3 (8) any additional information the governing statute of a constituent
4 organization requires.

5 (c) A merger takes effect under this chapter:

6 (1) if the surviving constituent organization is a corporation, upon the
7 later of:

8 (A) compliance with subsection (f) of this section; or

9 (B) subject to section 1.23 of this title, as specified in the articles of
10 merger; or

11 (2) if the surviving constituent organization is not a corporation, as
12 provided by the governing statute of the surviving constituent organization.

13 (d) Articles of share exchange under this section shall be in a record and
14 shall include:

15 (1) the name and type of each constituent organization and the
16 jurisdiction of its governing statute;

17 (2) the date the share exchange takes effect under the governing statute
18 of each of the constituent organizations;

19 (3) a statement on behalf of each constituent organization that it
20 approved the share exchange as required by its governing statute;

1 (4) if either constituent organization is a foreign organization not
2 authorized to transact business in this State, the street and mailing addresses of
3 an office that the Secretary of State may use for service of process pursuant to
4 subsection 11.12(b) of this title; and

5 (5) any additional information the governing statute of a constituent
6 organization requires.

7 (e) A share exchange takes effect under this chapter upon the later of:

8 (1) compliance with subsection (f) of this section; or

9 (2) subject to section 1.23 of this title, as specified in the articles of share
10 exchange.

11 (f) Each constituent organization shall deliver the articles of merger or
12 share exchange for filing in the Office of the Secretary of State.

13 § 11.12. EFFECT OF MERGER OR SHARE EXCHANGE

14 (a) When a merger takes effect:

15 (1) the surviving constituent organization continues or comes into
16 existence;

17 (2) each constituent organization that merges into the surviving
18 constituent organization ceases to exist as a separate entity;

19 (3) the property of each constituent organization that ceases to exist
20 vests in the surviving constituent organization;

1 (4) the debts, obligations, and other liabilities of each constituent
2 organization that ceases to exist continue as debts, obligations, and other
3 liabilities of the surviving constituent organization;

4 (5) an action or proceeding pending by or against a constituent
5 organization that ceases to exist continues as if the merger did not occur;

6 (6) except as prohibited by other law, the rights, privileges, immunities,
7 powers, and purposes of each constituent organization that ceases to exist vest
8 in the surviving constituent organization;

9 (7) except as otherwise provided in the plan of merger, the terms and
10 conditions of the plan of merger take effect;

11 (8) except as otherwise agreed, if a constituent corporation ceases to
12 exist, the merger does not dissolve the corporation for the purposes of chapter
13 14 of this title;

14 (9) if the merger creates the surviving constituent organization, its
15 public organizational documents take effect; and

16 (10) if the surviving constituent organization preexists the merger, any
17 amendments to its public organizational documents take effect.

18 (b)(1) A surviving constituent organization that is a foreign organization
19 consents to the jurisdiction of the courts of this State to enforce a debt,
20 obligation, or other liability the constituent organization owes, if before the

1 merger the constituent organization was subject to suit in this State on the debt,
2 obligation, or other liability.

3 (2) A surviving constituent organization that is a foreign organization
4 and not authorized to transact business in this State appoints the Secretary of
5 State as its agent for service of process for the purposes of enforcing a debt,
6 obligation, or other liability under this subsection.

7 (3) A person shall serve the Secretary of State under this subsection in
8 the same manner, and the service has the same consequences, as in section
9 5.04 of this title.

10 (c) When a share exchange takes effect:

11 (1) the shares of each acquired constituent organization are exchanged
12 as provided in the plan of share exchange; and

13 (2) the former holders of the shares are entitled only to the exchange
14 rights provided in the articles of share exchange or to their rights under chapter
15 13 of this title.

16 § 11.13. DOMESTICATION AUTHORIZED

17 (a) A foreign corporation may become a domestic corporation pursuant to
18 this section and sections 11.14 through 11.17 of this title and a plan of
19 domestication if:

20 (1) the foreign corporation's governing statute and its organizational
21 documents permit the domestication; and

1 (2) the foreign corporation complies with its governing statute and
2 organizational documents.

3 (b) A domestic corporation may become a foreign corporation pursuant to
4 this section and sections 11.14 through 11.17 of this title and a plan of
5 domestication if:

6 (1) its organizational documents permit the domestication; and

7 (2) the corporation complies with this section and sections 11.14
8 through 11.17 of this title and its organizational documents.

9 (c) A plan of domestication shall be in a record and shall include:

10 (1) the name of the domesticating corporation before domestication and
11 the jurisdiction of its governing statute;

12 (2) the name of the domesticated corporation after domestication and the
13 jurisdiction of its governing statute;

14 (3) the terms and conditions of the domestication, including the manner
15 and basis for converting an interest holder's interest in the domesticating
16 organization into any combination of an interest in the domesticated
17 organization and other consideration; and

18 (4) the organizational documents of the domesticated corporation that
19 are, or are proposed to be, in a record.

1 § 11.14. ACTION ON PLAN OF DOMESTICATION

2 (a) A domesticating corporation shall approve a plan of domestication as
3 follows:

4 (1) if the domesticating corporation is a domestic corporation that is
5 redomesticating in a foreign jurisdiction, in accordance with this chapter and
6 the corporation’s organizational documents; provided that:

7 (A) if its organizational documents do not specify the vote needed to
8 approve domestication, then by the same vote required for a merger under its
9 organizational documents; or

10 (B) if its organizational documents do not specify the vote required
11 for a merger, then by the number or percentage of shareholders required to
12 approve a merger under this chapter;

13 (2) if the domesticating corporation is a foreign corporation, as provided
14 in its organizational documents and governing statute.

15 (b) Subject to any contractual rights, after a domesticating corporation
16 approves a domestication and before it delivers articles of domestication to the
17 Secretary of State for filing, the domesticating corporation may amend the plan
18 or abandon the domestication:

19 (1) as provided in the plan; or

20 (2) except as otherwise prohibited by the plan, in the same manner it
21 approved the plan.

1 § 11.15. FILING REQUIRED FOR DOMESTICATION; EFFECTIVE DATE

2 (a) A domesticating corporation that approves a plan of domestication shall
3 deliver to the Secretary of State for filing articles of domestication that include:

4 (1) a statement, as the case may be, that the corporation was
5 domesticated from or into another jurisdiction;

6 (2) the name of the corporation and the jurisdiction of its governing
7 statute prior to the domestication;

8 (3) the name of the corporation and the jurisdiction of its governing
9 statute following domestication;

10 (4) the date the domestication takes effect under the governing statute of
11 the domesticated company;

12 (5) a statement that the corporation approved the domestication as
13 required by the governing statute of the jurisdiction to which it is
14 domesticating; and

15 (6) if the domesticated company was a foreign corporation not
16 authorized to transact business in this State, the street and mailing addresses of
17 an office that the Secretary of State may use for service of process pursuant to
18 subsection 11.16(b) of this title.

19 (b) A domestication takes effect:

20 (1) when the articles of incorporation of the domesticated corporation
21 take effect, if the corporation is domesticating to this State; and

1 (2) according to the governing statute of jurisdiction to which the
2 corporation is domesticating.

3 § 11.16. EFFECT OF DOMESTICATION

4 (a) When a domestication takes effect:

5 (1) The domesticated corporation is for all purposes the corporation that
6 existed before the domestication.

7 (2) The property owned by the domesticating corporation remains
8 vested in the domesticated corporation.

9 (3) The debts, obligations, and other liabilities of the domesticating
10 corporation continue as debts, obligations, and other liabilities of the
11 domesticated corporation.

12 (4) An action or proceeding pending by or against a domesticating
13 corporation continues as if the domestication has not occurred.

14 (5) Except as prohibited by other law, the rights, privileges, immunities,
15 powers, and purposes of the domesticating corporation remain vested in the
16 domesticated corporation.

17 (6) Except as otherwise provided in the plan of domestication, the terms
18 and conditions of the plan of domestication take effect.

19 (7) Except as otherwise agreed, the domestication does not dissolve a
20 domesticating corporation for the purposes of this chapter 11.

1 (b)(1) A domesticated corporation that was a foreign corporation consents
2 to the jurisdiction of the courts of this State to enforce a debt, obligation, or
3 other liability the domesticating corporation owes, if, before the domestication,
4 the domesticating corporation was subject to suit in this State on the debt,
5 obligation, or other liability.

6 (2) A domesticated corporation that was a foreign corporation and not
7 authorized to transact business in this State appoints the Secretary of State as
8 its agent for service of process for purposes of enforcing a debt, obligation, or
9 other liability under this subsection.

10 (3) A person shall serve the Secretary of State under this subsection in
11 the same manner, and the service has the same consequences, as in section
12 5.04 of this title.

13 (c) A corporation that domesticates in a foreign jurisdiction shall deliver to
14 the Secretary of State for filing a statement surrendering the corporation's
15 certificate of organization that includes:

16 (1) the name of the corporation;

17 (2) a statement that the articles of incorporation are surrendered in
18 connection with the domestication of the company in a foreign jurisdiction;

19 (3) a statement that the corporation approved the domestication as
20 required by this title; and

21 (4) the name of the relevant foreign jurisdiction.

1 § 11.17. RESTRICTION ON APPROVAL OF CONVERSION, MERGER,
2 AND DOMESTICATION

3 An approval or amendment of a plan of conversion, plan of merger, or plan
4 of domestication under this chapter is ineffective without the approval of each
5 interest holder of a surviving constituent who will have personal liability for a
6 debt, obligation, or other liability of the organization, unless:

7 (1) a provision of the organization’s organizational documents provides
8 in a record that some or all of its interest holders may be subject to personal
9 liability by a vote or consent of fewer than all of the interest holders; and

10 (2)(A) the interest holder voted for or consented in a record to the
11 provision referenced in subdivision (1)(A) of this subsection; or

12 (B) the interest holder became an interest holder after the
13 organization adopted the provision referenced in subdivision (1)(A) of this
14 subsection.

15 (b) An interest holder does not provide consent as required in subdivision
16 (a)(2)(A) of this section merely by consenting to a provision of the
17 organizational documents that permits the organization to amend the
18 organizational documents with the approval of fewer than all of the interest
19 holders.

1 § 11.18. CHAPTER NOT EXCLUSIVE

2 (a) This chapter does not preclude an organization from being converted,
3 merged, or domesticated under law other than this title.

4 (b) This chapter does not limit the power of a corporation to acquire all or
5 part of the shares of one or more classes or series of another corporation
6 through means other than those included in this chapter.

7 Sec. E.2. 11 V.S.A. chapter 25 is amended to read:

8 CHAPTER 25. LIMITED LIABILITY COMPANIES

9 * * *

10 § 4003. EFFECT OF OPERATING AGREEMENT; NONWAIVABLE
11 PROVISIONS

12 (a) Except as otherwise provided in subsection (b) of this section, an
13 operating agreement regulates the affairs of the company and the conduct of its
14 business and governs relations among the members, among the managers, and
15 among the members, managers, and the limited liability company. To the
16 extent the operating agreement does not otherwise provide, this chapter
17 regulates the affairs of the company, the conduct of its business, and governs
18 relations among the members, among the managers, and among members,
19 managers, and the limited liability company.

- 1 (b) An operating agreement may not:
- 2 (1) vary a limited liability company's capacity under subsection 4011(e)
- 3 of this title to sue and be sued in its own name;
- 4 (2) except as provided in subchapter 8 of this chapter, vary the law
- 5 applicable under subsection 4011(g) of this title;
- 6 (3) vary the power of the court under section 4030 of this title;
- 7 (4) subject to subsections (c) through (f) of this section, eliminate or
- 8 restrict the duty of loyalty, the duty of care, or any other fiduciary duty;
- 9 (5) subject to subsections (c) through (f) of this section, eliminate or
- 10 restrict the contractual obligation of good faith and fair dealing under
- 11 subsection 4059(d) of this title;
- 12 (6) unreasonably restrict the duties and rights with respect to books,
- 13 records, and other information stated in section 4058 of this title, but the
- 14 operating agreement may impose reasonable restrictions on the availability and
- 15 use of information obtained under that section and may define appropriate
- 16 remedies, including liquidated damages, for a breach of any reasonable
- 17 restriction on use;
- 18 (7) vary the power of a court to decree dissolution in the circumstances
- 19 specified in subdivision 4101(a)(4) of this title;
- 20 (8) vary the requirement to wind up a limited liability company's
- 21 business as specified in section ~~4102~~ 4101 of this title;

1 * * *

2 § 4141. DEFINITIONS

3 In this subchapter:

4 * * *

5 (3) “Conversion” means a transaction authorized by sections ~~by~~ 4142
6 through 4147 of this title.

7 * * *

8 (13) “Limited partnership” means a limited partnership created under
9 chapter ~~11~~ 23 of this title, a predecessor law, or comparable law of another
10 jurisdiction.

11 (17) “Partnership” means a general partnership under chapter ~~9~~ 22 of
12 this title, a predecessor law, or comparable law of another jurisdiction.

13 * * *

14 (21) “Protected agreement” means:

15 (A) ~~a record~~ an instrument or agreement evidencing indebtedness ~~and~~
16 ~~any related agreement~~ of an organization in effect ~~on the effective date set~~
17 ~~forth in section 4171 of this title~~ on July 1, 2016, or on the date the
18 organization elects to become subject to this chapter, whichever is earlier;

19 (B) an agreement that is binding on an organization ~~on the effective~~
20 ~~date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the
21 organization elects to become subject to this chapter, whichever is earlier;

1 (C) the organizational documents of an organization in effect ~~on the~~
2 ~~effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the
3 date the organization elects to become subject to this chapter, whichever is
4 earlier; or

5 (D) an agreement that is binding on any of the ~~governors~~ directors,
6 officers, general partners, managers or interest holders of an organization ~~on~~
7 ~~the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on
8 the date the organization elects to become subject to this chapter, whichever is
9 earlier.

10 * * *

11 § 4142. CONVERSION AUTHORIZED

12 (a) By complying with sections ~~4142~~ 4143 through 4146 of this title, a
13 domestic limited liability company may become a domestic organization that is
14 a different type of organization.

15 (b) By complying with sections ~~4142~~ 4143 through 4146 of this title, a
16 domestic partnership or limited partnership may become a domestic limited
17 liability company.

18 (c) By complying with sections ~~4142~~ 4143 through 4146 of this title
19 applicable to foreign organizations, a foreign organization that is not a foreign
20 limited liability company may become a domestic limited liability company if

1 the conversion is authorized by the law of the foreign organization's
2 jurisdiction of formation.

3 (d) If a protected agreement contains a provision that applies to a merger of
4 a domestic limited liability company but does not refer to a conversion, the
5 provision applies to a conversion of the company as if the conversion were a
6 merger until the provision is amended ~~after the effective date set forth in~~
7 section 4171 of this title after July 1, 2016, or after the date the organization
8 elects to become subject to this chapter, whichever is earlier.

9 * * *

10 § 4149. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED
11 LIABILITY COMPANY

12 (a) Subject to section 4156 of this title, a plan of merger shall be approved
13 in accordance with the organizational documents of the constituent limited
14 liability company, or, in the absence of a provision governing approval of
15 ~~conversions~~ a merger, by all the members of the limited liability company
16 entitled to vote on or consent to any matter.

17 (b) Subject to section 4156 of this title and any contractual rights, after a
18 merger is approved, and at any time before the articles of merger are delivered
19 to the Secretary of State for filing under section 4150 of this title, a constituent
20 limited liability company may amend the plan or abandon the merger:

21 (1) as provided in the plan; or

1 (2) except as otherwise prohibited in the plan, with the same consent as
2 was required to approve the plan.

3 * * *

4 Sec. E.3. 11 V.S.A. § 1623 is amended to read:

5 § 1623. REGISTRATION BY CORPORATIONS AND LIMITED
6 LIABILITY COMPANIES

7 (a) A corporation or limited liability company doing business in this State
8 under any name other than that of the corporation or limited liability company
9 shall be subject to all the provisions of this chapter; and shall file returns sworn
10 to by some officer or ~~member~~ director of such corporation or by some member
11 or manager of such limited liability company, setting forth the name other than
12 the corporate or limited liability company name under which such business is
13 carried on, the name of the town wherein such business is to be carried on, a
14 brief description of the kind of business transacted under such name, and the
15 corporate or the limited liability company name and location of the principal
16 office of such corporation or limited liability company.

17 * * *

18 * * * Vermont State Treasurer; Public Retirement Plan * * *

19 (H.724)

20 Sec. F.1. INTERIM STUDY ON THE FEASIBILITY OF ESTABLISHING
21 A PUBLIC RETIREMENT PLAN

1 (a) Creation of Committee.

2 (1) There is created a Public Retirement Plan Study Committee to
3 evaluate the feasibility of establishing a public retirement plan.

4 (2) It is the intent of the General Assembly that the Committee continue
5 the work of the Public Retirement Plan Study Committee created in 2014 Acts
6 and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No.
7 58, Sec. C.100, which ceased to exist on January 15, 2016.

8 (b) Membership.

9 (1) The Public Retirement Plan Study Committee shall be composed of
10 seven members as follows:

11 (A) the State Treasurer or designee;

12 (B) the Commissioner of Labor or designee;

13 (C) the Commissioner of Disabilities, Aging, and Independent Living
14 or designee;

15 (D) an individual with private sector experience in the area of
16 providing retirement products and financial services to small businesses, to be
17 appointed by the Speaker;

18 (E) an individual with experience or expertise in the area of the
19 financial needs of an aging population, to be appointed by the Committee
20 on Committees;

1 (F) a representative of employers, to be appointed by the
2 Speaker; and

3 (G) a representative of employees who currently lack access to
4 employer-sponsored retirement plans, to be appointed by the Committee
5 on Committees.

6 (2) Unless another appointee is specified pursuant to the authority
7 granted under subdivision (1) of this subsection, the members of the Public
8 Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179,
9 Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which
10 ceased to exist on January 15, 2016, shall serve as the members of the
11 Committee created pursuant to this section.

12 (c) Powers and duties.

13 (1)(A) The Committee shall study the feasibility of establishing a public
14 retirement plan, including the following:

15 (i) the access Vermont residents currently have to
16 employer-sponsored retirement plans and the types of employer-sponsored
17 retirement plans;

18 (ii) data and estimates on the amount of savings and resources
19 Vermont residents will need for a financially secure retirement;

1 (iii) data and estimates on the actual amount of savings and
2 resources Vermont residents will have for retirement, and whether those
3 savings and resources will be sufficient for a financially secure retirement;

4 (iv) current incentives to encourage retirement savings, and the
5 effectiveness of those incentives;

6 (v) whether other states have created a public retirement plan and
7 the experience of those states;

8 (vi) whether there is a need for a public retirement plan
9 in Vermont;

10 (vii) whether a public retirement plan would be feasible and
11 effective in providing for a financially secure retirement for Vermont residents;

12 (viii) other programs or incentives the State could pursue in
13 combination with a public retirement plan or, instead of such a plan, in order to
14 encourage residents to save and prepare for retirement; and

15 (B) If the Committee determines that a public retirement plan is
16 necessary, feasible, and effective, the Committee shall study:

17 (i) potential models for the structure, management, organization,
18 administration, and funding of such a plan;

19 (ii) how to ensure that the plan is available to private sector
20 employees who are not covered by an alternative retirement plan;

1 (iii) how to build enrollment to a level where enrollee costs can
2 be lowered;

3 (iv) whether such a plan should impose any obligation or liability
4 upon private sector employers; and

5 (v) any other issue the Committee deems relevant.

6 (2) The Committee shall:

7 (A) continue monitoring U.S. Department of Labor guidance
8 concerning State Savings Programs for Non-Governmental Employees
9 regarding ERISA rules and other pertinent areas of analysis;

10 (B) further analyze the relationship between the role of states and the
11 federal government; and

12 (C) continue its collaboration with educational institutions, other
13 states, and national stakeholders.

14 (3) The Committee shall have the assistance of the staff of the Office of
15 the Treasurer, the Department of Labor, and the Department of Disabilities,
16 Aging, and Independent Living.

17 (d) Report. On or before January 15, 2017, the Committee shall report to
18 the General Assembly its findings and any recommendations for legislative
19 action. In its report, the Committee shall state its findings as to every factor set
20 forth in subdivision (c)(1)(A) of this section, whether it recommends that a
21 public retirement plan be created, and the reasons for that recommendation. If

1 the Committee recommends that a public retirement plan be created, the
2 Committee's report shall include specific recommendations as to the factors
3 listed in subdivision (c)(1)(B) of this section.

4 (e) Meetings; term of Committee; chair. The Committee may meet
5 as frequently as necessary to perform its work and shall cease to exist on
6 January 15, 2018. The State Treasurer shall serve as Chair of the Committee
7 and shall call the first meeting.

8 (f) Reimbursement. For attendance at meetings, members of the
9 Committee who are not employees of the State of Vermont shall be reimbursed
10 at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for
11 mileage and travel expenses.

12 * * * Vermont State Treasurer; ABLE Savings Program * * *

13 (H.724)

14 Sec. F.2. 33 V.S.A. § 8001 is amended to read:

15 § 8001. PROGRAM ESTABLISHED

16 * * *

17 (c) The Treasurer or designee shall have the authority to implement the
18 Program in cooperation with one or more states or other partners in the manner
19 he or she determines is in the best interests of the State and designated
20 beneficiaries.

1 (d) The Treasurer or designee shall have the authority to adopt rules,
2 policies, and procedures necessary to implement the provisions of this chapter
3 and comply with applicable federal law.

4 Sec. F.3. 2015 Acts and Resolves No. 51, Sec. C.8 is amended to read:

5 Sec. C.8. VERMONT ABLE TASK FORCE; REPORTS

6 ~~The~~ Until the State Treasurer or designee implements the ABLE Savings
7 Program pursuant to 33 V.S.A. chapter 80, the Treasurer shall convene a
8 Vermont ABLE Task Force to include representatives of the Department of
9 Disabilities, Aging, and Independent Living, the Vermont Developmental
10 Disabilities Council, Vermont Center for Independent Living; Green Mountain
11 Self-Advocates, and other stakeholders with relevant expertise, to provide
12 recommendations annually beginning on or before January 15, 2016 to the
13 House Committee on Commerce and Economic Development and the Senate
14 Committee on Economic Development, Housing and General Affairs on
15 planning and delivery of the ABLE Savings Program, including:

- 16 (1) promotion and marketing of the Program;
- 17 (2) rules governing operation of ABLE accounts, including mechanisms
18 for consumer convenience;
- 19 (3) fees charged to account owners;
- 20 (4) future enhancements to protect from the loss of State benefits as may
21 be necessary to fulfill the intent of the ABLE Act;

- 1 (5) the composition and charge of an ABLE Advisory Board; and
2 (6) a progress update on implementation of the Program consistent with
3 U.S. Treasury Department Rules, the Internal Revenue Code, and the federal
4 ABLE Act (P.L. 113-295 of 2014).

5 * * * Vermont State Treasurer;

6 Private Activity Bond Advisory Committee * * *

7 (H.724)

8 Sec. F.4. REPEAL

9 32 V.S.A. § 994, creating the Private Activity Bond Advisory Committee, is
10 repealed.

11 * * * Vermont State Treasurer; Treasurer's Local Investment

12 Advisory Committee * * *

13 Sec. F.5. 2014 Acts and Resolves No. 199, Sec. 25, as amended by 2015 Acts
14 and Resolves No. 51, Sec. E.3, is amended to read:

15 Sec. 25. SUNSET

16 Secs. 23–24 of this act, authorizing the Treasurer to create a credit facility
17 for local investments and creating the Treasurer's Local Investment Advisory
18 Committee, shall be repealed on July 1, 2016 2018.

19 * * * Vermont State Treasurer;

20 Vermont Community Loan Fund * * *

21 Sec. F.6. 2014 Acts and Resolves No. 179, Sec. E.131(a) is amended to read:

1 **Sec. E.131 VERMONT COMMUNITY LOAN FUND**

2 (a) Notwithstanding 32 V.S.A. § 433, the State Treasurer is authorized to
3 invest up to ~~\$500,000~~ \$1,000,000.00 of short-term operating or restricted funds
4 in the Vermont Community Loan Fund on terms acceptable to the Treasurer
5 and consistent with 32 V.S.A. § 433(b). The provisions of Sec. A.102(c) of
6 this act shall not apply to this subsection.

7 * * * Medicaid for Working People with Disabilities * * *

8 Sec. G.1. 33 V.S.A. § 1902 is amended to read:

9 § 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

10 (a) In determining whether a person is medically indigent, the Secretary of
11 Human Services shall prescribe and use an income standard and requirements
12 for eligibility which will permit the receipt of federal matching funds under
13 Title XIX of the Social Security Act.

14 (b) Workers with disabilities whose income is less than 250 percent of the
15 federal poverty level shall be eligible for Medicaid. The income also must not
16 exceed the Medicaid protected income level for one or the Supplemental
17 Security Income (SSI) payment level for two, whichever is higher, after
18 disregarding all earnings of the working individual with disabilities, any Social
19 Security disability insurance benefits, and any veteran's disability benefits.
20 Earnings of the working individual with disabilities shall be documented
21 by evidence of Federal Insurance Contributions Act tax payments,

1 Self-Employment Contributions Act tax payments, or a written business plan
2 approved and supported by a third-party investor or funding source. The
3 resource limit for this program shall be ~~\$5,000.00~~ \$10,000.00 for an individual
4 and ~~\$6,000.00~~ \$15,000.00 for a couple at the time of enrollment in the
5 program. Assets attributable to earnings made after enrollment in the program
6 shall be disregarded.

7 * * * Vermont Employment Growth Incentive * * *

8 (H.754)

9 Sec. H.1. 10 V.S.A. chapter 4 is added to read:

10 CHAPTER 4. ECONOMIC DEVELOPMENT INCENTIVES

11 Subchapter 1. Vermont Economic Progress Council

12 § 25. VERMONT ECONOMIC PROGRESS COUNCIL

13 (a) Creation. The Vermont Economic Progress Council is created to
14 exercise the authority and perform the duties assigned to it, including its
15 authority and duties relating to:

16 (1) the Vermont Employment Growth Incentive Program pursuant to
17 subchapter 2 of this chapter; and

18 (2) property tax stabilization, tax exemption, and tax increment
19 financing districts pursuant to 24 V.S.A. chapter 53, subchapter 5 and
20 32 V.S.A. § 5404a.

21 (b) Membership.

1 (1) The Council shall have 11 voting members:

2 (A) nine residents of the State appointed by the Governor with the
3 advice and consent of the Senate who are knowledgeable and experienced in
4 the subjects of community development and planning, education funding
5 requirements, economic development, State fiscal affairs, property taxation, or
6 entrepreneurial ventures, and represent diverse geographical areas of the State
7 and municipalities of various sizes;

8 (B) one member of the Vermont House of Representatives appointed
9 by the Speaker of the House; and

10 (C) one member of the Vermont Senate appointed by the Senate
11 Committee on Committees.

12 (2)(A) The Council shall have two regional members from each region
13 of the State, one appointed by the regional development corporation of the
14 region and one appointed by the regional planning commission of the region.

15 (B) A regional member shall be a nonvoting member and shall serve
16 during consideration by the Council of an application from his or her region.

17 (c) Terms.

18 (1) Members of the Council appointed by the Governor shall serve
19 initial staggered terms with five members serving four-year terms, and four
20 members serving two-year terms.

1 (2) After the initial term expires, a member’s term is four years and a
2 member may be reappointed.

3 (3) A term commences on April 1 of each odd-numbered year.

4 (d) Compensation.

5 (1) For attendance at a meeting and for other official duties, a member
6 appointed by the Governor shall be entitled to compensation for services and
7 reimbursement of expenses as provided in 32 V.S.A. § 1010, except that a
8 member who is a member of the General Assembly shall be entitled to
9 compensation for services and reimbursement of expenses as provided in
10 2 V.S.A. § 406.

11 (2) A regional member who does not otherwise receive compensation
12 and reimbursement of expenses from his or her regional development or
13 planning organization shall be entitled to compensation and reimbursement of
14 expenses for attendance at meetings and for other official duties as provided in
15 32 V.S.A. § 1010.

16 (e) Operation.

17 (1) The Governor shall appoint a chair from the Council’s members.

18 (2) The Council shall receive administrative support from the Agency of
19 Commerce and Community Development and the Department of Taxes.

20 (3) The Council shall have:

1 (A) an executive director appointed by the Governor with the advice
2 and consent of the Senate, who is knowledgeable in subject areas of the
3 Council’s jurisdiction and who is an exempt State employee; and

4 (B) administrative staff.

5 (f) Rulemaking authority. The Council shall have the authority to adopt
6 policies and procedures as necessary, and to adopt rules under 3 V.S.A.
7 chapter 25, to implement the provisions of this chapter.

8 (g) Decisions not subject to review. A decision of the Council to approve
9 or deny an application under subchapter 2 of this chapter, or to approve or
10 deny a property tax stabilization agreement, tax exemption, or tax increment
11 financing district pursuant to 24 V.S.A. chapter 53, subchapter 5 and 32 V.S.A.
12 § 5404a, is an administrative decision that is not subject to the contested case
13 hearing requirements under 3 V.S.A. chapter 25 and is not subject to judicial
14 review.

15 § 26. COST-BENEFIT MODEL

16 (a) The Council shall adopt and maintain a cost-benefit model for assessing
17 and measuring the projected net fiscal cost and benefit to the State of proposed
18 economic development activities.

19 (b) The Council shall not modify the cost-benefit model without the prior
20 approval of the Joint Fiscal Committee.

1 Subchapter 2. Vermont Employment Growth Incentive Program

2 § 31. PURPOSE; FORM OF INCENTIVES; ELIGIBLE APPLICANT;

3 PROGRAM CAPS

4 (a) Purpose. The purpose of the Vermont Employment Growth Incentive
5 Program is to encourage a business to add new payroll, create new jobs, and
6 make new capital investments by sharing with the business a portion of the
7 revenue generated by the new payroll, new jobs, and new capital investment.

8 (b) Form of incentives; enhanced incentives.

9 (1) The Vermont Economic Progress Council may approve an incentive
10 under this subchapter in the form of:

11 (A) a direct cash payment in annual installments; or

12 (B) a combination of direct cash payment and property tax
13 stabilization pursuant to a property tax stabilization agreement approved by a
14 municipality under 32 V.S.A. § 5404a.

15 (2) The Council may approve the following enhanced incentives:

16 (A) an enhanced incentive for a business in a labor market area with
17 higher than average unemployment or lower than average wages pursuant to
18 section 34 of this title;

19 (B) an enhanced incentive for an environmental technology business
20 pursuant to section 35 of this title; and

1 (C) an enhanced incentive for a business that participates in a State
2 workforce training program pursuant to section 36 of this title.

3 (c) Eligible applicant.

4 (1) Only a business may apply for an incentive in the form of a direct
5 cash payment.

6 (2) A business and a municipality shall apply jointly for an incentive in
7 the combined form of a direct cash payment and property tax stabilization.

8 (d) Annual Program cap.

9 (1) Except as otherwise provided in subdivision (2) of this subsection, in
10 each calendar year the Council may approve one or more incentives under this
11 subchapter, the total value of which shall not exceed \$10,000,000.00 from the
12 General Fund and Education Fund combined.

13 (2) The Council may exceed the cap imposed in subdivision (1) of this
14 subsection upon application to and approval by the Emergency Board.

15 § 32. APPLICATION; APPROVAL CRITERIA; GUIDELINES

16 (a) Application.

17 (1) A business may apply for an incentive in one or more years of an
18 award period by submitting an application to the Council in the format the
19 Council specifies for that purpose.

20 (2) For each award year the business applies for an incentive, the
21 business shall:

1 (A) specify a payroll performance requirement;

2 (B) specify a jobs performance requirement or a capital investment
3 performance requirement, or both; and

4 (C) provide any other information the Council requires to evaluate
5 the application under this subchapter.

6 (b) Mandatory criteria. The Council may approve an application if it finds:

7 (1) Except as otherwise provided for an enhanced incentive for a
8 business in a qualifying labor market area under section 34 of this title, the new
9 revenue the proposed activity generates to the State exceeds the costs of the
10 activity to the State.

11 (2) The host municipality welcomes the new business.

12 (3) The proposed economic activity conforms to applicable town and
13 regional plans.

14 (4) If the business proposes to expand within a limited local market, an
15 incentive would not give the business an unfair competitive advantage over
16 other Vermont businesses in the same or similar line of business and in the
17 same limited local market.

18 (5) Without the incentive, the proposed economic activity:

19 (A) would not occur; or

20 (B) would occur in a significantly different manner that is less
21 desirable to the State.

1 § 33. CALCULATING THE VALUE OF AN INCENTIVE

2 Except as otherwise provided for an enhanced incentive for a business in a
3 qualifying labor market area under section 34 of this title, an enhanced
4 incentive for an environmental technology business under section 35 of this
5 title, or an enhanced incentive for workforce training under section 36 of this
6 title, the Council shall calculate the value of an incentive for an award year as
7 follows:

8 (1) Calculate new revenue growth. To calculate new revenue growth,
9 the Council shall use the cost-benefit model created pursuant to section 26 of
10 this title to determine the amount by which the new revenue generated by the
11 proposed economic activity to the State exceeds the costs of the activity to the
12 State.

13 (2) Calculate the business’s potential share of new revenue growth.
14 Except as otherwise provided for an environmental technology business in
15 section 35 of this title, to calculate the business’s potential share of new
16 revenue growth, the Council shall multiply the new revenue growth determined
17 under subdivision (1) of this subsection by 80 percent.

18 (3) Calculate the incentive percentage. To calculate the “incentive
19 percentage,” the Council shall divide the business’s potential share of new
20 revenue growth by the sum of the business’s annual payroll performance
21 requirements.

1 (4) Calculate qualifying payroll. To calculate qualifying payroll, the
2 Council shall subtract from the payroll performance requirement the projected
3 value of background growth in payroll for the proposed economic activity.

4 (5) Calculate the value of the incentive. To calculate the value of the
5 incentive, the Council shall multiply qualifying payroll by the incentive
6 percentage.

7 (6) Calculate the amount of the annual installment payments. To
8 calculate the amount of the annual installment payments, the Council shall:

9 (A) subtract from the value of the incentive the amount of any
10 applicable property tax stabilization agreement;

11 (B) divide the difference by five; and

12 (C) adjust the value of the first installment payment so that it is
13 proportional to the actual number of days that new qualifying employees are
14 employed in the first year of hire.

15 § 34. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING

16 LABOR MARKET AREA

17 (a) The Council may increase the value of an incentive for a business that is
18 located in a labor market area in which:

19 (1) the average annual unemployment rate is greater than the average
20 annual unemployment rate for the State; or

1 (2) the average annual wage is less than the average annual wage for the
2 State.

3 (b) In each calendar year the amount by which the Council may increase
4 the value of all incentives pursuant to this section is \$1,000,000.00 from the
5 General Fund and Education Fund combined.

6 (c) The Council may exceed the limit imposed in subsection (b) of this
7 section upon application to and approval by the Emergency Board.

8 § 35. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY
9 BUSINESS

10 (a) In this section, an “environmental technology business” means a
11 business that:

12 (1) is subject to income taxation in Vermont; and

13 (2) seeks an incentive for economic activity in Vermont that the
14 Secretary of Commerce and Community Development certifies is primarily
15 research, design, engineering, development, or manufacturing related to one or
16 more of the following:

17 (A) waste management, including waste collection, treatment,
18 disposal, reduction, recycling, and remediation;

19 (B) natural resource protection and management, including water and
20 wastewater purification and treatment, air pollution control and prevention or

1 remediation, soil and groundwater protection or remediation, and hazardous
2 waste control or remediation;

3 (C) energy efficiency or conservation;

4 (D) clean energy, including solar, wind, wave, hydro, geothermal,
5 hydrogen, fuel cells, waste-to-energy, or biomass.

6 (b) The Council shall consider and administer an application from an
7 environmental technology business pursuant to the provisions of this
8 subchapter, except that:

9 (1) the business's potential share of new revenue growth shall be
10 90 percent; and

11 (2) to calculate qualifying payroll, the Council shall:

12 (A) determine the background growth rate in payroll for the
13 applicable business sector in the award year;

14 (B) multiply the business's full-time payroll for the award year by
15 20 percent of the background growth rate; and

16 (C) subtract the product from the payroll performance requirement
17 for the award year.

18 § 36. ENHANCED INCENTIVE FOR WORKFORCE TRAINING

19 (a) A business whose application is approved may elect to claim the
20 incentive specified for an award year as an enhanced training incentive by:

1 (1) notifying the Council of its intent to pursue an enhanced training
2 incentive and dedicate its incentive funds to training through the Vermont
3 Training Program; and

4 (2) applying for a grant from the Vermont Training Program to perform
5 training for one or more new employees who hold qualifying jobs.

6 (b) If a business is awarded a grant for training under this section, the
7 Agency of Commerce and Community Development shall disburse grant funds
8 for on-the-job training of 75 percent of wages for each employee in training, or
9 75 percent of trainer expense, and the business shall be responsible for the
10 remaining 25 percent of the applicable training costs.

11 (c) If the business successfully completes its training and earns the
12 incentive for the award year for which the business elects an enhanced training
13 incentive, the Council shall approve the enhanced training incentive and notify
14 the Department of Taxes.

15 (d) Upon notification by the Council, the Department of Taxes shall:

16 (1) disburse to the business a payment in an amount equal to 25 percent
17 of the cost for training expenses pursuant to subsection (b) of this section;

18 (2) disburse to the Agency of Commerce and Community Development
19 a payment in an amount equal to 25 percent of the cost for training expenses
20 pursuant to subsection (b) of this section; and

1 (3) disburse the remaining value of the incentive in annual installments
2 pursuant to section 37 of this title.

3 § 37. EARNING AN INCENTIVE

4 (a) Earning an incentive; installment payments.

5 (1) A business with an approved application earns the incentive
6 specified for an award year if, within the applicable time period provided in
7 this section, the business:

8 (A) maintains or exceeds its base payroll and base employment;

9 (B) meets or exceeds the payroll performance requirement specified
10 for the award year; and

11 (C) meets or exceeds the jobs performance requirement specified for
12 the award year, or the capital investment performance requirement specified
13 for the award year, or both.

14 (2) A business that earns an incentive specified for an award year is
15 eligible to receive an installment payment and any applicable property tax
16 stabilization for the year in which it earns the incentive and for each of the next
17 four years in which the business:

18 (A) maintains or exceeds its base payroll and base employment;

19 (B) maintains or exceeds the payroll performance requirement
20 specified for the award year; and

1 (C) if the business earns an incentive by meeting or exceeding the
2 jobs performance target specified for the award year, maintains or exceeds the
3 jobs performance requirement specified for the award year.

4 (b) Award year one.

5 (1) For award year one, a business has from the date it commences its
6 proposed economic activity through December 31 of that year, plus two
7 additional years, to meet the performance requirements specified for award
8 year one.

9 (2) A business that does not meet the performance requirements
10 specified for award year one within this period becomes ineligible to earn
11 incentives for the award year and for all remaining award years in the award
12 period.

13 (c) Award years two and three.

14 (1) For award year two and award year three, beginning on January 1 of
15 the award year, a business has three years to meet the performance
16 requirements specified for the award year.

17 (2) A business that does not meet the performance requirements
18 specified for award year two or for award year three within three years
19 becomes ineligible to earn incentives for the award year and for all remaining
20 award years in the award period.

1 (d) Extending the earning period in award years one and two.

2 Notwithstanding subsection (b) of this section:

3 (1) Upon request, the Council may extend the period to earn an
4 incentive for award year one or award year two if it determines:

5 (A) a business did not earn the incentive for the award year due to
6 facts or circumstances beyond its control; and

7 (B) there is a reasonable likelihood the business will earn the
8 incentive within the extended period.

9 (2) The Council may extend the period to earn an incentive:

10 (A) for award year one, by two years, reviewed annually; or

11 (B) for award year two, by one year.

12 (3) If the Council extends the period to earn an incentive, it shall
13 recalculate the value of the incentive using the cost-benefit model and shall
14 adjust the amount of the incentive as is necessary to account for the extension.

15 (e) Award year four.

16 (1) Beginning on January 1 of award year four, a business that remains
17 eligible to earn incentives has two years to meet the performance requirements
18 specified for award year four.

19 (2) A business that does not meet the performance requirements
20 specified for award year four within two years becomes ineligible to earn
21 incentives for award year four and award year five.

1 (f) Award year five.

2 (1) Beginning on January 1 of award year five, a business that remains
3 eligible to earn incentives has one year to meet the performance requirements
4 specified for award year five.

5 (2) A business that does not meet the performance requirements
6 specified for award year five by the end of that award year becomes ineligible
7 to earn the incentive specified for that award year.

8 (g) Carrying forward growth that exceeds targets. If a business exceeds
9 one or more of the payroll performance requirement, the jobs performance
10 requirement, or the capital investment performance requirement specified for
11 an award year, the business may apply the excess payroll, excess jobs, and
12 excess capital investment toward the performance requirement specified for a
13 future award year, provided that the business maintains the excess payroll,
14 excess jobs, or excess capital investment into the future award year.

15 § 38. CLAIMING AN INCENTIVE; ANNUAL FILING WITH

16 DEPARTMENT OF TAXES

17 (a) On or before April 30 following each year of the utilization period, a
18 business with an approved application shall submit an incentive to the
19 Department of Taxes.

20 (b) A business shall include the information the Department requires,
21 including the information required in 32 V.S.A. § 5842 and other

1 documentation concerning payroll, jobs, and capital investment necessary to
2 determine whether the business earned the incentive specified for an award
3 year and any installment payment or property tax stabilization, or both, for
4 which the business is eligible.

5 (c) The Department may consider an incomplete claim to be timely filed if
6 the business files a complete claim within the additional time allowed by the
7 Department in its discretion.

8 (d) Upon finalizing its review of a complete claim, the Department shall:

9 (1) notify the business, the Council, the Treasurer, and any municipality
10 with which the business has a property tax stabilization agreement whether the
11 business is entitled to an installment payment or property tax stabilization for
12 the applicable year; and

13 (2) make an installment payment and confirm the business receives tax
14 stabilization to which the business is entitled.

15 § 39. RECAPTURE; REDUCTION; REPAYMENT

16 (a) Recapture.

17 (1) The Department of Taxes may recapture the value of one or more
18 installment payments and property tax stabilization a business has claimed,
19 with interest, if:

20 (A) the business fails to file a claim as required in section 38 of this
21 title; or

1 (B) during the utilization period, the business experiences:

2 (i) a 90 percent or greater reduction from base employment; or

3 (ii) if it had no jobs at the time of application, a 90 percent or
4 greater reduction from the sum of its job performance requirements.

5 (2) If the Department determines that a business is subject to recapture
6 under subdivision (1) of this subsection, the business becomes ineligible to
7 earn or claim an additional incentive or installment payment, and the
8 business's property becomes ineligible for property tax stabilization, for the
9 remainder of the utilization period.

10 (3) Notwithstanding any other statute of limitations, the Department
11 may commence a proceeding to recapture amounts under subdivision (1) of
12 this subsection as follows:

13 (A) under subdivision (1)(A) of this subsection, no later than three
14 years from the last day of the utilization period; and

15 (B) under subdivision (1)(B) of this subsection, no later than three
16 years from date the business experiences the reduction from base employment,
17 or three years from the last day of the utilization period, whichever occurs first.

18 (b) Reduction; recapture. If a business fails to make capital investments
19 that equal or exceed the sum of its capital investment performance
20 requirements by the end of the award period:

1 (1) The Department shall:

2 (A) calculate a reduced incentive by multiplying the combined value
3 of the business's award period incentives by the same proportion that the
4 business's total actual capital investments bear to the sum of its capital
5 investment performance requirements; and

6 (B) reduce the value of any remaining installment payments and tax
7 stabilization for which the business is eligible by the same proportion.

8 (2) If the value of the installment payments and tax stabilization the
9 business has already received exceeds the value of the reduced incentive, then:

10 (A) the business becomes ineligible to claim any additional
11 installment payments for the award period and the business's property
12 becomes ineligible for property tax stabilization under 32 V.S.A. § 5404a for
13 the award period; and

14 (B) the Department shall recapture the amount by which the value of
15 the installment payments and tax stabilization the business has already
16 received exceeds the value of the reduced incentive.

17 § 40. REPORTING

18 (a) On or before September 1 of each year, the Vermont Economic
19 Progress Council and the Department of Taxes shall submit a joint report on
20 the incentives authorized in this subchapter to the House Committees on Ways
21 and Means, on Commerce and Economic Development, and on

1 Appropriations, to the Senate Committees on Finance, on Economic
2 Development, Housing and General Affairs, and on Appropriations, and to the
3 Joint Fiscal Committee.

4 (b) The Council and the Department shall include in the joint report:

5 (1) the total amount of incentives authorized during the preceding year;

6 (2) with respect to each business with an approved application:

7 (A) the date and amount of authorization;

8 (B) the calendar year or years in which the authorization is expected

9 to be exercised;

10 (C) whether the authorization is active;

11 (D) the date the authorization will expire; and

12 (3) the following aggregate information:

13 (A) the number of claims and incentive payments made in the current
14 and prior claim years;

15 (B) the number of qualifying jobs; and

16 (C) the amount of new payroll and capital investment.

17 (c) The Council and the Department shall present data and information in
18 the joint report in a searchable format.

1 § 41. CONFIDENTIALITY OF PROPRIETARY BUSINESS

2 INFORMATION

3 (a) The Council and the Department shall use measures to protect
4 proprietary financial information, including reporting information in an
5 aggregate form.

6 (b) Information and materials submitted by a business concerning its
7 income taxes and other confidential financial information shall not be subject
8 to public disclosure under the State’s public records law in 1 V.S.A. chapter 5,
9 but shall be available to the Joint Fiscal Office or its agent upon authorization
10 of the Joint Fiscal Committee or a standing committee of the General
11 Assembly, and shall also be available to the Auditor of Accounts in connection
12 with the performance of duties under 32 V.S.A. § 163; provided, however, that
13 the Joint Fiscal Office or its agent and the Auditor of Accounts shall not
14 disclose, directly or indirectly, to any person any proprietary business
15 information or any information that would identify a business except in
16 accordance with a judicial order or as otherwise specifically provided by law.

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

1 § 42. DEFINITIONS

2 In this subchapter:

3 (1) “Award period” means the consecutive five years during which a
4 business may apply for an incentive under this subchapter.

5 (2) “Base employment” means the number of full-time Vermont jobs
6 held by non-owner employees as of the date a business with an approved
7 application commences its proposed economic activity.

8 (3) “Base payroll” means the Vermont gross salaries and wages paid as
9 compensation to full-time Vermont jobs held by non-owner employees as of
10 the date a business with an approved application commences its proposed
11 economic activity.

12 (4) “Capital investment performance requirement” means the minimum
13 value of additional investment in one or more capital improvements.

14 (5) “Jobs performance requirement” means the minimum number of
15 qualifying jobs a business must add.

16 (6) “Labor market area” means a labor market area as designated by the
17 Vermont Department of Labor.

18 (7) “Non-owner” means a person with no more than 10 percent
19 ownership interest, including attribution of ownership interests of the person’s
20 spouse, parents, spouse’s parents, siblings, and children.

1 (8) “Payroll performance requirement” means the minimum value of
2 Vermont gross salaries and wages a business must pay as compensation for
3 one or more qualifying jobs.

4 (9) “Qualifying job” means a new, permanent position in Vermont that
5 meets each of the following criteria:

6 (A) The position is filled by a non-owner employee who regularly
7 works at least 35 hours each week.

8 (B) The business provides compensation for the position that equals
9 or exceeds the wage threshold.

10 (C) The business provides for the position at least three of the
11 following:

12 (i) health care benefits with 50 percent or more of the premium
13 paid by the business;

14 (ii) dental assistance;

15 (iii) paid vacation;

16 (iv) paid holidays;

17 (v) child care;

18 (vi) other extraordinary employee benefits;

19 (vii) retirement benefits;

20 (viii) other paid time off, including paid sick days.

1 (D) The position is not an existing position that the business transfers
2 from another facility within the State.

3 (E) When the position is added to base employment, the business’s
4 total employment exceeds its average annual employment during the two
5 preceding years, unless the Council determines that the business is establishing
6 a significantly different, new line of business and creating new jobs in the new
7 line of business that were not part of the business prior to filing its application.

8 (10) “Utilization period” means each year of the award period and the
9 four years immediately following each year of the award period.

10 (11) “Vermont gross wages and salaries” means Medicare wages as
11 reported on Federal Tax Form W-2 to the extent those wages are Vermont
12 wages, excluding income from nonstatutory stock options.

13 (12) “Wage threshold” means the minimum amount of annualized
14 Vermont gross wages and salaries a business must pay for a qualifying job, as
15 required by the Council in its discretion, but not less than:

16 (A) 60 percent above the State minimum wage at the time of
17 application; or

18 (B) for a business located in a labor market area in which the average
19 annual unemployment rate is higher than the average annual unemployment
20 rate for the State, 40 percent above the State minimum wage at the time of
21 application.

1 Sec. H.2. 10 V.S.A. § 531(d)(2) is amended to read:

2 (2) disburse grant funds only for training hours that have been
3 successfully completed by employees; provided that, except for an award
4 under an enhanced ~~training~~ incentive for workforce training as provided in
5 ~~32 V.S.A. § 5930b(h)~~ section 36 of this title, a grant for on-the-job training
6 shall either provide not more than 50 percent of wages for each employee in
7 training; or not more than 50 percent of trainer expense, but not both, and
8 further provided that training shall be performed in accordance with a training
9 plan that defines the subject of the training, the number of training hours, and
10 how the effectiveness of the training will be evaluated; and

11 Sec. H.3. 21 V.S.A. § 1314(e)(1) is amended to read:

12 (e)(1) Subject to such restrictions as the Board may by regulation prescribe,
13 information from unemployment insurance records may be made available to
14 any public officer or public agency of this or any other state or the federal
15 government dealing with the administration or regulation of relief, public
16 assistance, unemployment compensation, a system of public employment
17 offices, wages and hours of employment, workers' compensation,
18 misclassification or miscoding of workers, occupational safety and health, or a
19 public works program for purposes appropriate to the necessary operation of
20 those offices or agencies. The Commissioner may also make information
21 available to colleges, universities, and public agencies of the State for use in

1 connection with research projects of a public service nature, and to the
2 Vermont Economic Progress Council with regard to the administration of
3 ~~32 V.S.A. chapter 151, subchapter 11E~~ 10 V.S.A. chapter 4, subchapter 2; but
4 no person associated with those institutions or agencies may disclose that
5 information in any manner that would reveal the identity of any individual or
6 employing unit from or concerning whom the information was obtained by
7 Commissioner.

8 * * *

9 Sec. H.4. 32 V.S.A. § 3102(e)(11) is amended to read:

10 (11) To the Joint Fiscal Office or its agent, provided that the disclosure
11 relates to a successful business applicant under ~~section 5930a of this title~~
12 10 V.S.A. chapter 4, subchapter 2 and the ~~tax~~ incentive it has claimed and is
13 reasonably necessary for the Joint Fiscal Office or its agent to perform the
14 duties authorized by the Joint Fiscal Committee or a standing committee of the
15 General Assembly under ~~subsection 5930a(h) that subchapter~~; to the Auditor
16 of Accounts for the performance of duties under section 163 of this title; to the
17 Department of Economic Development for the purposes of subsection 5922(f)
18 of this title; and to the Vermont Economic Progress Council, provided that the
19 disclosure relates to a successful business applicant under ~~sections 5930a and~~
20 ~~5930b of this title~~ 10 V.S.A. chapter 4, subchapter 2 and the ~~tax~~ incentive it has

1 claimed and is reasonably necessary for the ~~council~~ Council to perform its
2 duties under ~~sections 5930a and 5930b~~ that subchapter.

3 Sec. H.5. 32 V.S.A. § 5401(10) is amended to read:

4 (10) “Nonresidential property” means all property except:

5 * * *

6 ~~(H) Real property, excluding land, consisting of unoccupied new~~
7 ~~facilities, or unoccupied facilities under renovation or expansion, owned by a~~
8 ~~business that has obtained the approval of the Vermont Economic Progress~~
9 ~~Council under section 5930a of this title that is less than 75 percent complete,~~
10 ~~not in use as of April 1 of the applicable tax year, and for a period not to~~
11 ~~exceed two years. [Repealed.]~~

12 ~~(I) Real property consisting of the value of remediation expenditures~~
13 ~~incurred by a business that has obtained the approval of the Vermont~~
14 ~~Economic Progress Council under section 5930a of this title for the~~
15 ~~construction of new, expanded, or renovated facilities on contaminated~~
16 ~~property eligible under the redevelopment of contaminated properties program~~
17 ~~pursuant to 10 V.S.A. § 6615a(f), including supporting infrastructure, on sites~~
18 ~~eligible for the United States Environmental Protection Agency “Brownfield~~
19 ~~Program,” for a period of 10 years. [Repealed.]~~

20 * * *

21 Sec. H.6. 32 V.S.A. § 5404a is amended to read:

1 § 5404a. PROPERTY TAX STABILIZATION AGREEMENTS; TAX
2 INCREMENT FINANCING DISTRICTS

3 (a) Tax agreements and exemptions affecting the education property tax
4 grand list. A tax agreement or exemption shall affect the education property
5 tax grand list of the municipality in which the property subject to the
6 agreement is located if the agreement or exemption is:

7 (1) A prior agreement, meaning that it was:

8 (A) a property tax stabilization agreement for any purpose authorized
9 under 24 V.S.A. § 2741 or comparable municipal charter provisions entered
10 into or proposed and voted by the municipality before July 1, 1997, or a
11 property tax exemption adopted by vote pursuant to chapter 125 of this title or
12 comparable municipal charter provisions before July 1, 1997; or

13 (B) an agreement relating to property sold or transferred by the New
14 England Power Company of its Connecticut River system and its facilities
15 along the Deerfield River which was warned before September 1, 1997.

16 (2) A property tax stabilization agreement relating to industrial or
17 commercial property entered into under 24 V.S.A. § 2741, or comparable
18 municipal charter provisions or an exemption for the purposes of economic
19 development adopted by vote under sections 3834 (factories; quarries; mines),
20 3836 (private homes and dwellings), 3837 (airports), or 3838 (hotels) of this
21 title or comparable municipal charter provisions after June 30, 1997 if

1 subsequently approved by the Vermont Economic Progress Council pursuant
2 to this subsection and ~~section 5930a of this title~~ 10 V.S.A. chapter 4,
3 subchapter 2. An agreement or exemption may be approved by the Vermont
4 Economic Progress Council only if it has first been approved by the
5 municipality in which the property is located with respect to the municipal tax
6 liability of the property in that municipality. Any agreement or exemption
7 approved by the Vermont Economic Progress Council may not affect the
8 education tax liability of the property in a greater proportion than the
9 agreement or exemption affects the municipal tax liability of the property. A
10 municipality's approval of an agreement or exemption under this subsection
11 may be made conditional upon approval of the agreement or exemption by the
12 Vermont Economic Progress Council. The legislative body of the municipality
13 in which the property subject to the agreement or exemption is located or the
14 business that is subject to the agreement or exemption may request the
15 Vermont Economic Progress Council to approve an agreement or exemption
16 pursuant to ~~section 5930a of this title~~ 10 V.S.A. chapter 4, subchapter 2. The
17 Council shall also report to the General Assembly on the terms of the
18 agreement or exemption, and the effect of the agreement or exemption on the
19 education property tax grand list of the municipality and of the State. If so
20 approved by the Council, an agreement or exemption shall be effective to

1 reduce the property tax liability of the municipality under this chapter
2 beginning on April 1 of the year following approval.

3 * * *

4 (b) An agreement affecting the education property tax grand list defined
5 under subsection (a) of this section shall reduce the municipality's education
6 property tax liability under this chapter for the duration of the agreement or
7 exemption without extension or renewal, and for a maximum of 10 years,
8 subject to the provisions of ~~subsection 5930b(f) of this title~~ 10 V.S.A.
9 chapter 4, subchapter 2. A municipality's property tax liability under this
10 chapter shall be reduced by any difference between the amount of the
11 education property taxes collected on the subject property and the amount of
12 education property taxes that would have been collected on such property if its
13 fair market value were taxed at the equalized nonresidential rate for the tax
14 year.

15 (c) Tax agreements not affecting the education property tax grand list.

16 A tax agreement shall not affect the education property tax grand list if it is:

17 * * *

18 (3) A property tax stabilization agreement relating to commercial or
19 industrial property entered into after July 1, 1997 by a municipality under
20 24 V.S.A. § 2741, or a property tax exemption for purposes of economic
21 development adopted by vote after July 1, 1997, which has not been approved

1 by the Vermont Economic Progress Council to affect the education grand list
2 under subsection (a)(2) of this section and ~~section 5930a of this title~~ 10 V.S.A.
3 chapter 4, subchapter 2. In granting property tax stabilization agreements for
4 commercial or industrial property under 24 V.S.A. § 2741, a municipality shall
5 consider any applicable guidelines established for the approval of such
6 stabilization agreements by the Vermont Economic Progress Council
7 established ~~in subsection 5930a(c) of this title~~ under 10 V.S.A. chapter 4,
8 subchapter 2.

9 * * *

10 Sec. H.7. 32 V.S.A. § 5813 is amended to read:

11 § 5813. STATUTORY PURPOSES

12 * * *

13 (u) ~~The statutory purpose of the Vermont employment growth incentive in~~
14 ~~section 5930b of this title is to provide a cash incentive to encourage quality~~
15 ~~job growth in Vermont.~~ [Repealed.]

16 * * *

17 Sec. H.8. 32 V.S.A. § 5930ll(a)(1) is amended to read:

18 (1) “Full-time job” ~~has the same meaning as defined in subdivision~~
19 ~~5930b(a)(9) of this title~~ means a permanent position filled by an employee who
20 works at least 35 hours per week.

21 Sec. H.9. 32 V.S.A. § 9741(39) is amended to read:

1 (39) Sales of building materials within any three consecutive years in
2 excess of one million dollars in purchase value, ~~which may be reduced to~~
3 ~~\$250,000.00 in purchase value upon approval of the Vermont Economic~~
4 ~~Progress Council pursuant to section 5930a of this title,~~ used in the
5 construction, renovation, or expansion of facilities which are used exclusively,
6 except for isolated or occasional uses, for the manufacture of tangible personal
7 property for sale.

8 Sec. H.10. REPEAL

9 10 V.S.A §§ 25–26 and §§ 31-42 (Vermont Employment Growth Incentive
10 program) shall be repealed on July 1, 2019.

11 Sec. H.11. VEGI TECHNICAL WORKING GROUP

12 (a) On or before September 1, 2016, the Joint Fiscal Committee shall
13 convene a Vermont Employment Growth Incentive Technical Working Group
14 comprised of the State legislative and executive economists, an economist
15 from the Agency of Commerce and Community Development, an economist
16 from the Department of Labor, and a representative from the Department of
17 Taxes familiar with the VEGI program.

18 (b) The technical working group shall review the Vermont Employment
19 Growth Incentive Program and any specific issues the Committee requests,
20 including:

1 (1) whether and how to include a mechanism in the program for equity
2 investments in incentive recipients or to recoup incentive payments in the
3 event an incentive recipient is sold;

4 (2) whether the program can integrate the use of business-specific
5 background growth rates in addition to, or in place of, industry-specific
6 background growth rates; and

7 (3) the size, industry, and profile of the businesses that historically have
8 experienced, and are forecasted to experience, the most growth in Vermont,
9 and whether the program can be more targeted to these businesses.

10 (c) On or before January 15, 2017 the technical working group shall report
11 its findings, conclusions, and recommendations for legislative action to the
12 House Committees on Commerce and Economic Development, on Ways and
13 Means, and on Appropriations, and to the Senate Committees on Economic
14 Development, Housing and General Affairs, on Finance, and on
15 Appropriations.

16 Sec. H.12. AUDITOR OF ACCOUNTS; VEGI

17 On or before February 1, 2017, the Auditor of Accounts shall exercise his or
18 her authority to review the policies and procedures of the Vermont
19 Employment Growth Incentive program and report the results of the review to
20 the House Committees on Commerce and Economic Development, on Ways
21 and Means, and on Appropriations, and to the Senate Committees on

1 Economic Development, Housing and General Affairs, on Finance, and on
2 Appropriations.

3 * * * Blockchain Technology * * *

4 (H.737)

5 Sec. I.1. 12 V.S.A. § 1913 is added to read:

6 § 1913. BLOCKCHAIN ENABLING

7 (a) In this section “blockchain technology” means a mathematically
8 secured, chronological, and decentralized consensus ledger or database,
9 whether maintained via Internet interaction, peer-to-peer network, or
10 otherwise.

11 (b) Presumptions and admissibility.

12 (1) Extrinsic evidence of authenticity as a condition precedent to
13 admissibility in a Vermont court is not required for a record maintained by a
14 valid application of blockchain technology.

15 (2) The following presumptions apply:

16 (A) A fact or record verified through a valid application of
17 blockchain technology is authentic.

18 (B) The date and time of the recordation of the fact or record
19 established through such a blockchain is the date and time that the fact or
20 record was added to the blockchain.

1 (C) The person established through such a blockchain as the person
2 who made such recordation is the person who made the recordation.

3 (3) A presumption does not extend to the truthfulness, validity, or legal
4 status of the contents of the fact or record.

5 (4) A person against whom the fact operates has the burden of
6 producing evidence sufficient to support a finding that the presumed fact,
7 record, time, or identity is not authentic as set forth on the date added to the
8 blockchain, but the presumption does not shift to a person the burden of
9 persuading the trier of fact that the underlying fact or record is itself accurate in
10 what it purports to represent.

11 (c) Without limitation, the presumption established in this section shall
12 apply to a fact or record maintained by blockchain technology to determine:

13 (1) contractual parties, provisions, execution, effective dates, and status;

14 (2) the ownership, assignment, negotiation, and transfer of money,
15 property, contracts, instruments, and other legal rights and duties;

16 (3) identify, participation, and status in the formation, management,
17 record keeping, and governance of any person;

18 (4) identity, participation, and status for interactions in private
19 transactions and with a government or governmental subdivision, agency, or
20 instrumentality;

1 (5) the authenticity or integrity of a record, whether publicly or privately
2 relevant; and

3 (6) the authenticity or integrity of records of communication.

4 (d) The provisions of this section shall not create or negate:

5 (1) an obligation or duty for any person to adopt or otherwise implement
6 blockchain technology for any purpose authorized in this section; or

7 (2) the legality or authorization for any particular underlying activity
8 whose practices or data are verified through the application of blockchain
9 technology.

10 * * * Regulation of Lodging Accommodations * * *

11 (H.816)

12 Sec. J.1. STUDY; INTERNET-BASED LODGING

13 On or before January 15, 2017, the Department of Taxes, the Department of
14 Health, and the Division of Fire Safety within the Department of Public Safety,
15 shall:

16 (1) review the provisions of law within their subject matter jurisdiction,
17 and enforcement of those provisions if any, applicable to Internet-based
18 lodging accommodations businesses; and

19 (2) report its findings, conclusions, and any recommendations for
20 legislative action to the House Committees on Commerce and Economic

1 Development and on Ways and Means, and to the Senate Committees on
2 Finance and on Economic Development, Housing and General Affairs.

3 * * * State Workforce Development Board * * *

4 (H.819)

5 Sec. K.1. 10 V.S.A. chapter 22A is amended to read:

6 CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

7 § 540. WORKFORCE EDUCATION AND TRAINING LEADER

8 The Commissioner of Labor shall be the leader of workforce education and
9 training in the State, and shall have the authority and responsibility for the
10 coordination of workforce education and training within State government,
11 including the following duties:

12 (1) Perform the following duties in consultation with the State

13 Workforce ~~Investment~~ Development Board:

14 * * *

15 § 541a. STATE WORKFORCE ~~INVESTMENT~~ DEVELOPMENT BOARD

16 (a) Board established; duties. Pursuant to the requirements of 29 U.S.C. §
17 ~~2821~~ 3111, the Governor shall establish a State Workforce ~~Investment~~
18 Development Board to assist the Governor in the execution of his or her duties
19 under the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014
20 and to assist the Commissioner of Labor as specified in section 540 of this
21 title.

1 (b) Additional duties; planning; process. In order to inform its decision-
2 making and to provide effective assistance under subsection (a) of this section,
3 the Board shall:

4 * * *

5 (2) maintain familiarity with the federal Comprehensive Economic
6 Development Strategy (CEDS) and other economic development planning
7 processes, and coordinate workforce and education activities in the State,
8 including the development and implementation of the State plan required under
9 the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014, with
10 economic development planning processes occurring in the State, as
11 appropriate.

12 (c) Membership. The Board shall consist of the Governor and the
13 following members who are appointed by the Governor and serve at his or her
14 pleasure, unless otherwise indicated:

15 (1) two members of the Vermont House of Representatives appointed by
16 the Speaker of the House;

17 (2) two members of the Vermont Senate appointed by the Senate
18 Committee on Committees;

19 (3) the President of the University of Vermont ~~or designee~~;

20 (4) the Chancellor of the Vermont State Colleges ~~or designee~~;

- 1 (5) the President of the Vermont Student Assistance Corporation ~~or~~
2 ~~designee~~;
- 3 (6) a representative of an independent Vermont college or university;
- 4 (7) the Secretary of Education ~~or designee~~;
- 5 (8) a director of a regional technical center;
- 6 (9) a principal of a Vermont high school;
- 7 (10) two representatives of labor organizations who have been
8 nominated by State labor federations;
- 9 (11) two representatives of individuals and organizations who have
10 experience with respect to youth activities, as defined in 29 U.S.C. § ~~2801(52)~~
11 3102(71);
- 12 (12) two representatives of individuals and organizations who have
13 experience in the delivery of workforce investment activities, as defined in 29
14 U.S.C. § ~~2801(51)~~ 3102(68);
- 15 (13) the lead State agency officials with responsibility for the programs
16 and activities carried out by one-stop partners, as described in 29 U.S.C. §
17 ~~2841(b)~~ 3151(b), or if no official has that responsibility, a representative in the
18 State with expertise relating to these programs and activities;
- 19 (14) the Commissioner of Economic Development;
- 20 (15) the Commissioner of Labor;
- 21 (16) the Secretary of Human Services ~~or designee~~;

1 (17) two individuals who have experience in, and can speak for, the
2 training needs of underemployed and unemployed Vermonters;

3 (18) the Secretary of Commerce and Community Development; and

4 ~~(18)~~(19) a number of appointees sufficient to constitute a majority of the
5 Board who:

6 (A) are owners, chief executives, or operating officers of businesses,
7 and other business executives or employers with optimum policymaking or
8 hiring authority;

9 (B) represent businesses with employment opportunities that reflect
10 the employment opportunities of the State; and

11 (C) are appointed from among individuals nominated by State
12 business organizations and business trade associations.

13 (d) Operation of Board.

14 (1) Member representation.

15 (A) A member of the State Board may send a designee that meets the
16 requirements of subdivision (B) of this subsection to any State Board meeting
17 who shall count towards a quorum and shall be allowed to vote as a member of
18 the Board.

19 (B) Members of the State Board or their designees who represent
20 organizations, agencies, or other entities shall be individuals with optimum
21 policymaking authority within the organizations, agencies, or entities.

1 the U.S. Secretary of Labor, information regarding membership, and, on
2 request, minutes of formal meetings of the Board.

3 § 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF
4 OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE
5 PARTNERS

6 (a) To ensure the Workforce ~~Investment~~ Development Board and the
7 Commissioner of Labor are able to fully perform their duties under this
8 chapter, each agency and department within State government, and each
9 person who receives funding from the State, shall comply within a reasonable
10 period of time with a request for data and information made by the Board or
11 the Commissioner in furtherance of their duties under this chapter.

12 (b) The Agency of Commerce and Community Development shall
13 coordinate its work in adopting a statewide economic development plan with
14 the activities of the Board and the Commissioner of Labor, including the
15 development and implementation of the State Plan for workforce education
16 and training required under the Workforce ~~Investment~~ Innovation and
17 Opportunity Act of ~~1998~~ 2014.

18 § 542. REGIONAL WORKFORCE EDUCATION AND TRAINING

19 (a) The Commissioner of Labor, in coordination with the Secretary of
20 Commerce and Community Development, and in consultation with the
21 Workforce ~~Investment~~ Development Board, is authorized to issue performance

1 grants to one or more persons to perform workforce education and training
2 activities in a region.

3 * * *

4 § 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT
5 PROGRAMS

6 * * *

7 (f) Awards. The Commissioner of Labor, in consultation with the Chair of
8 the State Workforce ~~Investment~~ Development Board, shall develop award
9 criteria and may grant awards to the following:

10 * * *

11 § 544. VERMONT STRONG INTERNSHIP PROGRAM

12 * * *

13 (b) The Department of Labor, in collaboration with the Agencies of
14 Agriculture, Food and Markets and of Education, State-funded postsecondary
15 educational institutions, the State Workforce ~~Investment~~ Development Board,
16 and other State agencies and departments that have workforce education and
17 training and training monies, shall:

18 * * *

19 Sec. K.2. 10 V.S.A. § 531(a)(1) is amended to read:

20 (a)(1) The Secretary of Commerce and Community Development, in
21 consultation with the Workforce ~~Investment~~ Development Board, shall have

1 the authority to design and implement a Vermont Training Program, the
2 purpose of which shall be to issue performance-based grants to employers and
3 to education and training providers to increase employment opportunities in
4 Vermont consistent with this chapter.

5 Sec. K.3. 16 V.S.A. § 1542(b) is amended to read:

6 (b) A regional advisory board, with the consent of the Workforce
7 ~~Investment~~ Development Board, may delegate its responsibilities to the grantee
8 that performs workforce development activities in the region pursuant to 10
9 V.S.A. § 542. In this case, the grantee shall become the regional advisory
10 board unless and until the school board that operates the career technical center
11 requests that the regional advisory board be reconstituted pursuant to
12 subsection (a) of this section.

13 * * * Vermont Creative Network * * *

14 (H.820)

15 Sec. L.1. 10 V.S.A. § 10 is added to read:

16 § 10. THE VERMONT CREATIVE NETWORK

17 (a) Creation. The Vermont Arts Council, an independent nonprofit
18 corporation, in collaboration with State and statewide agencies, including thos
19 representing planning, development, higher education, preservation, and
20 history, shall establish the Vermont Creative Network to design and implement

1 a Vermont Creative Network Program and to perform the duties and achieve
2 the outcomes specified in this section.

3 (b) Outcomes. The outcomes of the Vermont Creative Network Program
4 are:

5 (1) Vermont’s creative sector thrives as a significant element of the
6 State’s general and economic well-being.

7 (2) The stories of Vermont’s creative riches are told.

8 (3) Collective energies for community-based planning and development
9 advance the State’s overall well-being.

10 (4) In the creative sector, common points of interest are identified,
11 advocated, and promoted.

12 (c) Definitions.

13 (1) Creative Sector.

14 (A) The Vermont Creative Sector is broad and inclusive.

15 (B) The Creative Sector includes nonprofit and for-profit enterprises,
16 many of whom are themselves creative industries.

17 (C) The Creative Sector embraces all forms of the arts and
18 humanities, including museums and galleries, and it includes the disciplines of
19 design, architecture, the makers’ movement, and other creative technologies.

20 (D) The Creative Sector also includes film, new media, and heritage
21 resources such as historical societies and community libraries.

1 (E) The list of what comprises the Creative Sector is constantly
2 growing.

3 (2) Creative Industries.

4 (A) Creative Industries are organizations, including sole proprietors,
5 that manufacture or provide creative products and services.

6 (B) Creative Industries include theaters, themselves a creative
7 industry, and engage multiple creative industry professionals in the course of
8 putting on plays, from actors, directors, and designers, to painters, dancers,
9 musicians, and choreographers.

10 (C) Creative Industries use everything from simple hand tools, and
11 even cardboard, to sophisticated computer technologies to build and service
12 “state-of-the-art” products and services that engage, instruct, and entertain.

13 (3) Creative Products.

14 (A) Creative Products are tangible and intangible goods and services
15 that are invented, designed, manufactured, marketed, and sold, and at whose
16 core lies creative, usually artistic, inspiration.

17 (B) Tangible Creative Products include everything from craft
18 products such as bowls, glassware, works of fine art, plays, and films, to
19 computer games, robots, and other, frequently high-tech, inventions.

1 (C) Intangible Creative Products include the intellectual output of
2 composers and choreographers whose work may exist on paper, but which are
3 meant to be experienced in performance.

4 (D) The list of Creative Products is only limited by the creativity of
5 the human mind.

6 (4) Vermont Creative Network.

7 (A) The Vermont Creative Network is a communications, advocacy,
8 and advancement entity at work for Vermont’s creative sector.

9 (B) The Vermont Creative Network is based on a collective impact
10 model and uses Results Based Accountability as a planning and assessment
11 tool.

12 (d) Duties. The Vermont Creative Network shall perform the following
13 duties:

14 (1) On or before June 30, 2017, the Vermont Creative Network shall
15 create, and thereafter may periodically update and revise, a strategic plan for
16 creative economic development that:

17 (A) includes an inventory of Vermont’s Creative Sector, Creative
18 Industries, and Creative Products, based on existing data, studies, and analysis,
19 including:

20 (i) the types of Creative Products produced in Vermont, and the
21 financial viability of each producing sector;

1 (ii) the types of Creative Industries in Vermont, how many
2 Vermont Creative Products are purchased by Vermont consumers, and the
3 financial viability of the Vermont Creative Sector;

4 (iii) the current and potential markets in which Vermont creatives
5 and creators can promote, distribute, and sell their products and services;

6 (iv) the extent of existing infrastructure that could be expanded
7 and the resources available to expand Vermont’s creative activity;

8 (v) the potential for new creatives and entrepreneurs to enter the
9 local economy, the methods for new creatives to secure appropriate space and
10 other infrastructure, and the availability and barriers to creative labor; and

11 (vi) the potential for entirely new local Creative Products and the
12 barriers to creatives and creators entering new markets; and

13 (B) identifies and addresses gaps in the infrastructure and distribution
14 systems.

15 (2) The Vermont Creative Network shall seek grant funding to support
16 arts, culture, and creative direct marketing, including local and regional
17 markets, and to support regional community creativity zones.

18 (3) The Vermont Creative Network shall use the information gathered
19 for the strategic plan to identify methods and the funding necessary to
20 strengthen the links among creatives, including:

1 (A) support of the work of existing arts, culture, and history
2 organizations and programs to increase the use of local resources by Vermont
3 schools;

4 (B) collaboration with the Agency of Commerce and Community
5 Development and the Agency of Education to increase procurement of locally
6 created services and products by businesses and institutions;

7 (C) support of initiatives that improve direct marketing of arts,
8 culture, and creativity to the consumer; and

9 (D) inform lenders of the information collected in order to facilitate
10 availability of creative financing.

11 (e) Authority. To accomplish the goals and carry out the ongoing tasks
12 stated in this section, the Vermont Creative Network may:

13 (1) create an advisory panel with representatives from the creative and
14 business communities;

15 (2) hire or assign staff;

16 (3) seek and accept funds from private and public entities; and

17 (4) utilize technical assistance, loans, grants, or other means approved
18 by the network steering committee.

19 (f) Annual Report.

1 (1) On or before January 15 of each year, the Vermont Creative
2 Network shall submit a report concerning its activities to the Governor and to
3 the General Assembly.

4 (2) The report shall include a summary of work, including progress
5 toward meeting the program outcomes, information regarding any advisory
6 panel meetings, an accounting of all revenues and expenses related to the
7 program, and recommendations regarding future program activity.

8 Sec. L.2. APPROPRIATION

9 In Fiscal Year 2017, the amount of \$50,000.00 is appropriated from the
10 General Fund to the Vermont Arts Council to perform the duties specified in
11 this act.

12 Sec. L.3. IMPLEMENTATION

13 Notwithstanding any provision of this act to the contrary, if the General
14 Assembly does not appropriate \$50,000.00 or more in funding to the Vermont
15 Arts Council to implement this act, the Council is encouraged, but is not
16 required, to perform the duties specified in 10 V.S.A. § 10.

17 * * * Employee Ownership * * *

18 (H.551)

19 Sec. M.1. 32 V.S.A. § 5828a is added to read:

20 § 5828a. CREDIT FOR SALE TO EMPLOYEE STOCK OWNERSHIP

21 PLAN OR WORKER COOPERATIVE

1 (a) As used in this section:

2 (1) “Employee stock ownership plan” means an employee stock
3 ownership plan as defined in 26 U.S.C. § 4975(e)(7).

4 (2) “Worker cooperative” means:

5 (A) an eligible worker-owned cooperative as defined in 26 U.S.C.
6 § 1042(c);

7 (B) a worker cooperative organized under 11 V.S.A. chapter 8; or

8 (C) an organization that meets the following criteria:

9 (i) employees of the organization constitute a majority of
10 its membership;

11 (ii) members of the organization hold a majority of the
12 voting power;

13 (iii) members of the organization have the authority to elect a
14 majority of the board of directors on the basis of one person, one vote; and

15 (iv) the organization allocates a majority of its allocated earnings
16 and losses to members on the basis of:

17 (I) patronage;

18 (II) capital contributions; or

19 (III) a combination of (I) and (II).

20 (b)(1) A taxpayer of this State may claim a credit against the tax imposed
21 under section 5822 or 5832 of this title for 50 percent of the net capital gain

1 from the sale or exchange to an employee stock ownership plan or worker
2 cooperative of 30 percent or more of the capital assets of the taxpayer's
3 business.

4 (2) The taxpayer may claim a credit pursuant to this section for the year
5 in which the sale occurred and may carry forward unused credit for the next
6 three years.

7 Sec. M.2. EXPANDING EMPLOYEE OWNERSHIP; FEASIBILITY

8 STUDIES FOR EMPLOYEE STOCK OWNERSHIP PLANS AND
9 WORKER COOPERATIVE CONVERSIONS; APPROPRIATION

10 (a) The amount of \$50,000.00 is appropriated from the General Fund to the
11 Agency of Commerce and Community Development in fiscal year 2017 to
12 support feasibility studies for the creation of an employee stock ownership plan
13 or worker cooperative, for up to one-half of the cost of the study, with a
14 maximum of \$25,000.00 per company.

15 (b) On or before January 1, 2018, the Agency shall submit a report to the
16 General Assembly and the Governor detailing the expenditure of sums
17 appropriated pursuant to this section and evaluating the success of the
18 assistance and promotion program.

19 * * * Veterans Entrepreneurship Program * * *

20 Sec. N.1. FINDINGS AND PURPOSE

21 (a) The General Assembly finds:

1 (1) According to 2015 report on economy by Forbes, Vermont ranks
2 46th in operating costs for small business within the United States.

3 (2) Vermont ranked number 42nd Best State for Business.

4 (3) Vermont ranked 45th in Growth Prospects.

5 (4) Vermont experienced a small job growth increase of 1.6 percent
6 between 2014 and 2015.

7 (5) The states with the best economic outlook are Utah, North Dakota,
8 Indiana, North Carolina, and Arizona, two of which have successful veterans
9 economic development programs:

10 (A) Utah has a program called “Boots to Business.”

11 (B) North Dakota has the Veterans with Disabilities Entrepreneurship
12 Program.

13 (6) Veterans employ 5.7 million people within the United States.

14 (7) Veterans own or lead 30 percent of all businesses in the United
15 States, including:

16 (A) 24 Hour Fitness: Carl Liebert III, who served two years aboard a
17 Navy vessel as a supply officer.

18 (B) 7-Eleven: Joe DePinto, who served five years as an Army field
19 artillery officer.

20 (C) FedEx: Fredrick Smith, who served four years in the Marine
21 Corps.

1 (D) General Motors: Daniel Akerson, who served five years as an
2 officer on a Navy destroyer.

3 (E) Johnson & Johnson: Alex Gorsky, who served six years in the
4 Army, earning a Ranger tab and Airborne wings.

5 (F) Lockheed Martin: Robert Stevens, who served in the Marines

6 (G) Procter & Gamble: Robert McDonald, who served for five years
7 as a captain in the Army.

8 (H) Verizon Communications: Lowell McAdam, who served six
9 years in the Navy as a Seabee.

10 (b) The purposes of this act are to:

11 (1) incentivize U.S. and Vermont veterans to establish and maintain
12 viable businesses within the State of Vermont;

13 (2) create jobs and businesses with a higher rate of success within the
14 State, fostering economic development;

15 (3) continue to utilize the resources that military personnel provide to
16 local communities and business ethics after their extensive leadership training
17 and experiences;

18 (4) provide additional revenue and attract out-of-state talent and ideas;

19 (5) increase population size in the State; and

20 (6) foster an environment that encourages small business growth within
21 the State.

1 Sec. N.2. 10 V.S.A. § 9 is added to read:

2 § 9. VETERANS ENTREPRENEURSHIP PROGRAM

3 (a) In each economic development program that operates with State funds
4 or makes loans, grants, services, or other economic development incentives of
5 or using State funds, the program shall give preference from among its
6 applicants to a business in which one or more qualifying veterans holds a
7 majority of the ownership interest.

8 (b) As used in this section, “qualifying veteran” means a resident of
9 Vermont who served on active duty in the U.S. Armed Forces or the Vermont
10 National Guard or Vermont Air National Guard and who received an
11 honorable discharge.

12 Sec. N.3. IMPLEMENTATION

13 On or before January 15, 2017, each economic development program
14 operator subject to 10 V.S.A. § 9 shall report to the House Committees on
15 General, Housing and Military Affairs and on Commerce and Economic
16 Development and to the Senate Committee on Economic Development,
17 Housing and General Affairs on the policies or procedures it has adopted to
18 comply with 10 V.S.A. § 9.

19 * * * Vermont Sustainable Jobs Fund * * *

20 Sec. O.1. 10 V.S.A. § 328 is amended to read:

21 § 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

1 (a) There is created a Sustainable Jobs Fund Program to create quality jobs
2 that are compatible with Vermont's natural and social environment.

3 (b) The Vermont Economic Development Authority shall incorporate a
4 nonprofit corporation pursuant to the provisions of subdivision 216(14) of this
5 title to administer the Sustainable Jobs Fund Program, and to fulfill the
6 purposes of this chapter by means of loans or grants to eligible applicants for
7 eligible activities, provided that any funds contributed to the Program by the
8 Authority under subsection (c) of this section shall be used for lending
9 purposes only.

10 (c)(1) Notwithstanding the provisions of subdivision 216(14) of this title,
11 the Authority may contribute not more than \$1,000,000.00 to the capital of the
12 corporation formed under this section, and the Board of Directors of the
13 corporation formed under this section shall consist of:

14 (A) the Secretary of Commerce and Community Development or his
15 or her designee;

16 (B) the Secretary of Agriculture, Food and Markets or his or her
17 designee;

18 (C) a director appointed by the Governor; and

19 (D) eight independent directors, no more than two of whom shall be
20 State government employees or officials, and who shall be selected as

1 vacancies occur by vote of the existing directors from a list of names offered
2 by a nominating committee of the Board created for that purpose.

3 (2)(A) Each independent director shall serve a term of three years or
4 until his or her earlier resignation.

5 (B) A director may be reappointed, but no independent director and
6 no director appointed by the Governor shall serve for more than three terms.

7 (C) The director appointed by the Governor shall serve at the pleasure
8 of the Governor and may be removed at any time with or without cause.

9 (3) A director of the Board who is or is appointed by a State government
10 official or employee shall not be eligible to hold the position of Chair, Vice
11 Chair, Secretary, or Treasurer of the Board.

12 ~~(d) The Vermont Economic Development Authority may hire or assign a~~
13 ~~program director to administer, manage, and direct the affairs and business of~~
14 ~~the Board, subject to the policies, control, and direction of the corporation~~
15 ~~formed under this section. [Repealed.]~~

16 (e) The Agency of Commerce and Community Development shall have the
17 authority and responsibility for the administration and implementation of the
18 Program.

19 (f) The Vermont Sustainable Jobs Fund Program shall work collaboratively
20 with the Agency of Agriculture, Food and Markets to assist the Vermont

1 slaughterhouse industry in supporting its efforts at productivity and
2 sustainability.

3 Sec. O.2. 2002 Acts and Resolves No. 142, Sec. 254(a) is amended to read:

4 ~~(a) All authority and responsibility for the administration and
5 implementation of the sustainable jobs fund and the sustainable jobs program
6 established by chapter 15A of Title 10 is transferred from the Vermont
7 economic development authority to the agency of commerce and community
8 development, secretary's office. The agency shall be the successor to all rights
9 and obligations of the authority in any matter pertaining to the fund and the
10 program on and after July 1, 2002. [Repealed.]~~

11
12 * * * Effective Dates * * *

13 Sec. **X**. EFFECTIVE DATES

14 (a) This section and the following sections shall take effect on passage:

15 (1) Secs. A.1–A.7 (Vermont Economic Development Authority).

16 (2) Sec. B.1 (cooperatives; electronic voting).

17 (3) Sec. E.3 (technical correction to business registration statute).

18 (4) Sec. G.1 (Medicaid for working people with disabilities).

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

20 (1) Secs. C.1–C.2 (regional planning and development).

21 (2) Sec. D.1 (Vermont Training Program).

1 (3) Secs. F.1–F.5 (Vermont State Treasurer).

2 (4) Secs. H.11–H.12 (VEGI technical working group and audit).

3 (5) Sec. I.1 (blockchain technology).

4 (6) Sec. J.1 (Internet-based lodging accommodations study).

5 (7) Secs. K.1–K.3 (State Workforce Development Board).

6 (8) Secs. L.1–L.3 (Vermont Creative Network).

7 (9) Secs. M.1–M.2 (employee ownership).

8 (10) Secs. N.1–N.3 (Veterans Entrepreneurship Program).

9 (11) Secs. O.1–O.2 (Vermont Sustainable Jobs Fund).

10 (c) The following sections shall take effect on July 1, 2017:

11 (1) Sec. E.1 (conversion, merger, share exchange, and domestication of
12 a corporation).

13 (2) Secs. H.1–H.10 (Vermont Employment Incentive Growth program)
14 shall take effect on July 1, 2017.

15 (d)(1) Notwithstanding 1 V.S.A. § 214, Sec. E.2 (technical corrections to
16 LLC Act) shall take effect retroactively as of July 1, 2015, and apply only to:

17 (A) a limited liability company formed on or after July 1, 2015; and

18 (B) except as otherwise provided in subdivision (4) of this

19 subsection, a limited liability company formed before July 1, 2015 that elects,

20 in the manner provided in its operating agreement or by law for amending the

21 operating agreement, to be subject to this act.

1 (2) Sec. E.2 does not affect an action commenced, a proceeding brought,
2 or a right accrued before July 1, 2015.

3 (3) Except as otherwise provided in subdivision (4) of this subsection,
4 Sec. E.2 shall apply to all limited liability companies on and after July 1, 2016.

5 (4) For the purposes of applying Sec. E.2 to a limited liability company
6 formed before July 1, 2015, for the purposes of applying 11 V.S.A. § 4023 and
7 subject to 11 V.S.A. § 4003, language in the company's articles of
8 organization designating the company's management structure operates as if
9 that language were in the operating agreement.