

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 872
3 entitled “An act relating to Executive Branch fees” respectfully reports that it
4 has considered the same and recommends that the Senate propose to the House
5 that the bill be amended as follows:

6 First: In Sec. 1, 6 V.S.A. § 1, in subdivision (a)(13), in the final sentence,
7 by striking out the final sentence in its entirety and inserting in lieu thereof The
8 Secretary may assess a late fee of \$27.00, provided that the late fee is no
9 greater than the fee due, in which case the late fee shall equal the fee due, for
10 any license, registration, permit, or certification renewal that is received more
11 than 30 days past expiration unless a higher late renewal fee is otherwise
12 prescribed by statute;

13 Second: In Sec. 5, 6 V.S.A. § 366, in subdivision (a)(1), after “a \$150.00”
14 by striking out “base fee” and inserting in lieu thereof minimum tonnage fee

15 Third: In Sec. 13, 6 V.S.A. § 1112, in subdivision (a)(4), after “a maximum
16 of”, by striking out “\$100.00” and inserting \$120.00

17 Fourth: In Sec. 13, 6 V.S.A. § 1112, after subdivision (a)(6), before the
18 existing period, by inserting a semicolon ; and by inserting a subdivision (7) to
19 read as follows:

20 (7) Government, Municipal, and Public Education Institution
21 Applicators—\$30.00

1 Fifth: In Sec. 16, 6 V.S.A. § 2724(b), after “under the supervision of a
2 person that is registered.” in the sentence before the final sentence, by striking
3 out the final sentence in its entirety.

4 Sixth: After Sec. 33, by inserting a Sec. 33a to read as follows:
5 Sec. 33a. 9 V.S.A. § 5410 is amended to read:

6 § 5410. FILING FEES

7 (a) A person shall pay a fee of ~~\$250.00~~ \$300.00 when initially filing an
8 application for registration as a broker-dealer and a fee of ~~\$250.00~~ \$300.00
9 when filing a renewal of registration as a broker-dealer. A separate application
10 in writing for branch office registration or renewal, accompanied by a filing fee
11 of ~~\$100.00~~ \$120.00 per branch office, shall be filed in the Office of the
12 Commissioner in such form as the Commissioner may prescribe by any
13 broker-dealer who transacts business in this State from any place of business
14 located within this State. If the filing results in a denial or withdrawal, the
15 Commissioner shall retain the fee.

16 (b) The fee for an individual is ~~\$60.00~~ \$85.00 when filing an application
17 for registration as an agent, ~~\$60.00~~ \$85.00 when filing a renewal of registration
18 as an agent, and ~~\$60.00~~ \$85.00 when filing for a change of registration as an
19 agent. If the filing results in a denial or withdrawal, the Commissioner shall
20 retain the fee.

1 (c) A person shall pay a fee of ~~\$250.00~~ \$300.00 when filing an application
2 for registration as an investment adviser and a fee of ~~\$250.00~~ \$300.00 when
3 filing a renewal of registration as an investment adviser. A separate
4 application in writing for branch office registration or renewal, accompanied
5 by a filing fee of ~~\$100.00~~ \$120.00 per branch office, shall be filed in the Office
6 of the Commissioner in such form as the Commissioner may prescribe by any
7 investment adviser who transacts business in this State from any place of
8 business located within the State. If the filing results in a denial or withdrawal,
9 the Commissioner shall retain the fee.

10 (d) The fee for an individual is ~~\$55.00~~ \$80.00 when filing an application
11 for registration as an investment adviser representative, ~~\$55.00~~ \$80.00 when
12 filing a renewal of registration as an investment adviser representative, and
13 ~~\$55.00~~ \$80.00 when filing a change of registration as an investment adviser
14 representative. If the filing results in a denial or withdrawal, the
15 Commissioner shall retain the fee.

16 (e) A federal covered investment adviser required to file a notice under
17 section 5405 of this title shall pay an initial fee of ~~\$250.00~~ \$300.00 and an
18 annual notice fee of ~~\$250.00~~ \$300.00. To the extent required to be included in
19 documents filed with the Securities and Exchange Commission, such notice
20 filing shall include information on the branch offices of a federal covered
21 investment adviser who transacts business in this State from any place of

1 business located within this State, accompanied by a notice filing fee of
2 ~~\$100.00~~ \$120.00 per branch office in Vermont. A notice filing may be
3 terminated by filing notice of such termination with the Commissioner. If a
4 notice filing results in a denial or withdrawal, the Commissioner shall retain
5 the fee.

6 * * *

7 Seventh: After Sec. 40, 7 V.S.A. § 1002, by striking out the reader
8 assistance in its entirety.

9 Eighth: In Sec. 41, 7 V.S.A. § 1013, by striking out Sec. 41 in its entirety
10 and inserting in lieu thereof [Deleted.]

11 Ninth: After Sec. 43, 7 V.S.A. § 66(f), by inserting a reader assistance and
12 a Sec. 43a to read as follows:

13 * * * **Attorney General; Manufacturer Registration Fee;**

14 **Tobacco Substitutes * * ***

15 Sec. 43a. 33 V.S.A., chapter 19, subchapter 1c is added to read:

16 Subchapter 1c. Tobacco Substitute Manufacturers

17 § 1926. DEFINITIONS

18 (a) As used in this subchapter:

19 (1)(A) “Brand” means a corporate or product name, a business image, or
20 a mark, regardless of whether it may legally qualify as a trademark used by a

1 manufacturer to identify goods and to distinguish them from competitors’
2 goods.

3 (B) “Brand” does not mean individual product flavors.

4 (2) “Manufacturer” means any person or a successor that manufactures
5 or produces tobacco substitutes or causes tobacco substitutes to be
6 manufactured or produced, whether in or outside this State, and intends to sell
7 the tobacco substitutes in Vermont directly or through an importer, including
8 any first purchaser that intends to resell tobacco substitutes.

9 (3) “Tobacco substitute” shall have the same meaning as in 7 V.S.A.

10 § 1001.

11 § 1927. TOBACCO SUBSTITUTE MANUFACTURERS; REGISTRATION;

12 FEES

13 (a) No person shall manufacture tobacco substitutes for sale in this State
14 unless that person has first paid an annual registration fee of \$1,000.00 per
15 brand to the Attorney General, and filed on a form and in a manner
16 prescribed by the Attorney General:

17 (1) the name of the manufacturer;

18 (2) the manufacturer’s place of business;

19 (3) the location of each manufacturing facility; and

20 (4) any other information that the Attorney General considers to be
21 necessary.

1 **(b) The Attorney General may adopt rules to administer the provisions**
2 **of this subchapter.**

3 **(c) Fees imposed under this section shall be due and payable on January 1**
4 **of each year.**

5 **(d) Fees collected under this section shall be deposited in a special fund**
6 **managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be**
7 **available to the Attorney General for the costs of administering this**
8 **subchapter.**

9 Tenth: After Sec. 34, 32 V.S.A. § 602, by inserting a reader assistance and
10 Secs. 34a through 34c to read as follows:

11 * * * EB-5; Regulation; Oversight; Fees * * *

12 Sec. 34a. 10 V.S.A. § 20 is added to read:

13 § 20. EB-5 PROGRAM; REGULATION; OVERSIGHT

14 (a) The U.S. Department of Homeland Security’s U.S. Citizenship and
15 Immigrations Services (USCIS) administers the EB-5 Program, a federal
16 program designed to stimulate the U.S. economy through job creation and
17 capital investment by foreign investors. The Vermont EB-5 Regional Center is
18 a USCIS-designated regional center. The Center is managed by the Agency of
19 Commerce and Community Development in partnership with the Department
20 of Financial Regulation.

1 (b) The Agency of Commerce and Community Development has the
2 personnel and resources to market and promote economic opportunities in
3 Vermont, whereas the Department of Financial Regulation has the personnel
4 and resources to supervise financial services and products offered in Vermont
5 in a manner that advances fair business practices and protects the investing
6 public. It is imperative that management of the EB-5 Program reflect the
7 existing expertise of both these State entities.

8 (c) The Secretary of Commerce and Community Development and the
9 Commissioner of Financial Regulation shall **separately** adopt rules pertaining
10 to the administration and oversight of the EB-5 Program. The rules shall be
11 consistent with federal regulations and requirements as well as with the
12 statutory expertise of the Department and Agency.

13 (d) The rules adopted under this section shall be modeled after the
14 Memorandum of Understanding between the Agency of Commerce and
15 Community Development and the Department of Financial Regulation, dated
16 December 22, 2014, which pertains to the duties and responsibilities of the
17 Agency and the Department with respect to the EB-5 Program. As such, the
18 rules shall include provisions related to:

19 (1) communication with and reporting to the USCIS;

20 (2) marketing activities;

21 (3) required provisions pertaining to private placement memoranda;

1 (4) securities analysis and standards for project approval;

2 (5) ongoing oversight and compliance of approved projects, including
3 annual audits;

4 (6) the establishment of escrow accounts for capital investments and
5 third-party oversight of requisitions, if deemed appropriate by the
6 Commissioner and Secretary;

7 (7) investor relations and a formal complaint protocol;

8 (8) standards for revoking approval of a project;

9 **(9) penalties for failure to comply with rules adopted under this**
10 **section;**

11 (10) communication between the Agency and the Department, as well as
12 with media outlets and with other regulatory or law enforcement entities;

13 (11) fees and costs of the Regional Center, consistent with subsection
14 21(c) of this title; and

15 (12) any other matter the Commissioner and the Secretary determine
16 will strengthen the oversight and management of the EB-5 Program and
17 prevent fraudulent activities.

18 (e) The rules adopted under this section shall explicitly state that any
19 interest obtained through a capital investment in the EB-5 Program is a
20 “security” as defined in 9 V.S.A. § 5102(28) and as such is subject to

1 regulation by the Commissioner of Financial Regulation under the Vermont
2 Uniform Securities Act, 9 V.S.A. chapter 150.

3 Sec. 34b. 10 V.S.A. § 21 is amended to read:

4 § 21. EB-5 SPECIAL FUND

5 (a) An EB-5 Special Fund is created ~~for the operation of the State of~~ to
6 support the operating costs of the Vermont Regional Center for Immigrant
7 Investment under the federal EB-5 Program. The Fund shall consist of
8 revenues derived from administrative charges by the Agency of Commerce and
9 Community Development pursuant to subsection (c) of this section, any
10 interest earned by the Fund, and all sums which are from time to time
11 appropriated for the support of the Regional Center and its operations. It is the
12 intent of the General Assembly, however, that the collection of charges
13 authorized by this section will obviate the need for legislative appropriations to
14 support Regional Center expenses.

15 (b)(1) The receipt and expenditure of monies from the Special Fund shall
16 be under the supervision of the Secretary of Commerce and Community
17 Development.

18 (2) The Secretary of Commerce and Community Development shall
19 maintain accurate and complete records of all receipts and expenditures by and
20 from the Fund, and shall make an annual report on the condition of the Fund to
21 the Secretary of Administration, the House Committees on Commerce and

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

3 (3) Expenditures from the Fund shall be used only to ~~administer the EB-~~
4 ~~5 Program~~ support the operating expenses of the Regional Center, including
5 the costs of providing specialized services to support participating economic
6 development projects, marketing and related travel expenses, application
7 review and examination expenses, and personnel expenses incurred by the
8 Agency of Commerce and Community Development and the Department of
9 Financial Regulation. At the end of each fiscal year, the Secretary of
10 Administration shall transfer from the EB-5 Special Fund to the General Fund
11 any amount that the Secretary of Administration determines, in his or her
12 discretion, exceeds the funds necessary to administer the Program.

13 (c) Notwithstanding 32 V.S.A. § 603, the Secretary of Commerce and
14 Community Development, with input from the Commissioner of Financial
15 Regulation, is authorized to impose ~~an administrative charge~~ charges on
16 project developers for the costs of administering the Regional Center and
17 ~~providing specialized services in support of participating economic~~
18 ~~development projects~~ to achieve the Fund's purpose. The charges shall include
19 a one-time application fee as well as an annual assessment apportioned among
20 approved projects in a fair and equitable manner as specified in rules adopted
21 under section 20 of this title. In addition, the rules shall require that an

1 applicant or approved project developer, as applicable, is liable for any
2 additional expenses incurred with respect to the retention of outside legal,
3 financial, examination or other services or studies deemed necessary by the
4 Secretary or the Commissioner to assist with application or project review.
5 The invoicing and collection of some or all charges authorized under this
6 section may be suspended for a period of time as deemed appropriate by the
7 Secretary for good cause shown. Any charges imposed under this section shall
8 be included in the consolidated Executive Branch fee report required under 32
9 V.S.A. § 605.

10 Sec. 34c. EB-5 PROJECT DEVELOPER; COLLECTION OF PAST-DUE
11 FEES

12 On or before July 1, 2016, the Secretary of Commerce and Community
13 Development shall make every reasonable effort to proceed with the invoicing
14 and collection of charges authorized under 10 V.S.A. § 21, including any
15 invoicing and collection of charges previously suspended by the Secretary.
16 The charges shall be collected in a manner that does not diminish the value of a
17 foreign investor's interest acquired through a capital investment in an EB-5
18 project.

19 Eleventh: After Sec. 44, by striking out the reader assistance in its entirety
20 and inserting a new reader assistance to read as follows:

1 or replacement of system.

2 (III) Underground injection; ~~original~~ individual permit;

3 amendment for increased flows; amendment for modification

4 or replacement of system.

5 (aa) For applications \$500.00 and \$0.10 for

6 where the discharge meets each gallon per day

7 groundwater enforcement over 2,000 gallons

8 standards at the point of per day.

9 discharge:

10 (bb) For applications where \$1,500.00 and \$0.20 for

11 the discharge meets groundwater each gallon per day

12 enforcement standards at the over 2,000 gallons

13 point of compliance: per day.

14 Thirteenth: After Sec. 47, 16 V.S.A. § 1694, by inserting a reader

15 assistance and a Sec. 47a to read as follows:

16 * * * State Lottery Commission; Fantasy Sports Contests; Operators * * *

17 Sec. 47a. 9 V.S.A. § 4189 is added to read:

18 § 4189. ANNUAL ASSESSMENT

19 (a) A fantasy sports operator shall pay two percent of its annual net revenue

20 to the State Lottery Commission for deposit in the State Lottery Fund

1 established in 31 V.S.A. § 658. These funds shall be reserved for programs
2 addressing gambling addiction in Vermont.

3 (b) As used in this section, “annual net revenue” means the total amount of
4 consideration received in the prior year by a fantasy sports operator from
5 fantasy sports players in Vermont, less the amount of cash prizes, awards, or
6 cash equivalents that the fantasy sports operator paid in the prior year to
7 fantasy sports players in Vermont. The amount of the annual net revenue shall
8 be determined by the annual independent audit carried out pursuant to 9 V.S.A.
9 § 4186(c).

10 Fourteenth: In Sec. 48, Effective Dates, by striking out subsections (b) and
11 (c) in their entirety and inserting in lieu thereof the following:

12 (b) Notwithstanding 1 V.S.A. § 214, in Sec. 45 (stormwater discharge
13 permits), in 3 V.S.A. § 2822(j), subdivision (2)(A) shall take effect
14 retroactively on July 1, 2015.

15 (c) This section shall take effect on passage.

16 (d) The remaining sections shall take effect on July 1, 2016.

1

2

3

4 (Committee vote: _____)

5

6

Senator _____

7

FOR THE COMMITTEE