

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing & General Affairs to
3 which was referred House Bill No. 868 entitled “An act relating to
4 miscellaneous economic development provisions” respectfully reports that it
5 has considered the same and recommends that the Senate propose to the House
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 * * * Vermont Economic Development Authority * * *

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

10 § 213. AUTHORITY; ORGANIZATION

11 (a) The Vermont Economic Development Authority is hereby created and
12 established as a body corporate and politic and a public instrumentality of the
13 State. The exercise by the Authority of the powers conferred upon it in this
14 chapter constitutes the performance of essential governmental functions.

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

16 (A) the Secretary of Commerce and Community Development, the
17 State Treasurer, the Secretary of Agriculture, Food and Markets, the
18 Commissioner of Forests, Parks and Recreation, and the Commissioner of
19 Public Service, each of whom shall serve as an ex officio member, or a
20 designee of any of the aforementioned; ~~and~~

1 (B) up to 10 members, who shall be residents of the State of
2 Vermont, appointed by the Governor with the advice and consent of the
3 Senate. ~~The appointed members shall be appointed for terms of six years and~~
4 until their successors are appointed and qualified. ~~Appointed members may be~~
5 removed by the Governor for cause and the Governor may fill any vacancy
6 occurring among the appointed members for the balance of the unexpired
7 term; and

8 (C) one member, who is a current member of the Vermont General
9 Assembly, appointed jointly by the Speaker of the House of Representatives
10 and the President Pro Tempore of the Senate, who shall serve a term of six
11 years or until he or she is no longer a member of the General Assembly,
12 whichever occurs sooner.

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

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

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

19 * * *

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

21 § 216. AUTHORITY; GENERAL POWERS

1 The Authority is hereby authorized:

2 * * *

3 (15) To delegate to loan officers the power to review, approve, and
4 make loans under this chapter, subject to the approval of the manager, and to
5 disburse funds on such loans, subject to the approval of the manager, provided
6 that such loans do not exceed \$350,000.00 in aggregate amount for any
7 industrial loan for any three year period for any particular individual,
8 partnership, corporation, or other entity or related entity, or do not exceed
9 \$350,000.00 in aggregate amount if the loan is guaranteed by the Farm
10 Services Agency, or its successor agency, or \$300,000.00 in aggregate amount
11 if the loan is not guaranteed by the Farm Services Agency, or its successor
12 agency, for any agricultural loan for any three year period for any particular
13 individual, partnership, corporation, or other entity or related entity. No funds
14 may be disbursed for any loan approved under this provision, except for any
15 agricultural loan referenced above in an amount not to exceed \$50,000.00, and
16 no rejection of a loan by a loan officer pursuant to this subdivision shall
17 become final, until three working days after the members of the Authority are
18 notified by facsimile, electronic mail, or overnight delivery mailed or sent on
19 the day of approval or rejection, of the intention to approve or reject such loan.
20 If any member objects within that three day period, the approval or rejection

1 ~~will be held for reconsideration by the members of the Authority at its next~~
2 ~~duly scheduled meeting.~~

3 * * *

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

5 § 219. RESERVE FUNDS

6 * * *

7 (d) In order to ensure the maintenance of the debt service reserve
8 requirement in each debt service reserve fund established by the Authority,
9 there may be appropriated annually and paid to the Authority for deposit in
10 each such fund, such sum as shall be certified by the Chair of the Authority, to
11 the Governor, the President of the Senate, and the Speaker of the House, as is
12 necessary to restore each such debt service reserve fund to an amount equal to
13 the debt service reserve requirement for such fund. The Chair shall annually,
14 on or about February 1, make, execute, and deliver to the Governor, the
15 President of the Senate, and the Speaker of the House, a certificate stating the
16 sum required to restore each such debt service reserve fund to the amount
17 aforesaid, and the sum so certified may be appropriated, and if appropriated,
18 shall be paid to the Authority during the then current State fiscal year. The
19 principal amount of bonds or notes outstanding at any one time and secured in
20 whole or in part by a debt service reserve fund to which State funds may be
21 appropriated pursuant to this subsection shall not exceed \$130,000,000.00

1 \$155,000,000.00, provided that the foregoing shall not impair the obligation of
2 any contract or contracts entered into by the Authority in contravention of the
3 Constitution of the United States.

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

5 § 220. TRANSFER FROM INDEMNIFICATION FUND

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

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

10 § 234. THE VERMONT JOBS FUND

11 * * *

12 (c) Monies in the Fund may be loaned to the Vermont Agricultural Credit
13 Program to support its lending operations as established in chapter 16A of this
14 title at interest rates and on terms and conditions to be set by the Authority to
15 ~~establish a line of credit in an amount not to exceed \$60,000,000.00 to be~~
16 ~~advanced to the Vermont Agricultural Credit Program to support its lending~~
17 ~~operations as established in chapter 16A of this title.~~

18 * * *

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

20 CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

1 § 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT
2 PROGRAM

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

11 * * *

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

16 § 374b. DEFINITIONS

17 As used in this chapter:

18 (1) “Agricultural facility” means land and rights in land, buildings,
19 structures, machinery, and equipment which is used for, or will be used for
20 producing, processing, preparing, packaging, storing, distributing, marketing,
21 or transporting agricultural or forest products which have been primarily

1 produced in this State, and working capital reasonably required to operate an
2 agricultural facility.

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

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

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

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

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

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

1 (A) is or is expected to become a significant source of the farmer's
2 income;

3 (B) the majority of the farmer's assets; and

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

6 (8) "Farm operation" shall mean the cultivation of land or other uses of
7 land for the production of food, fiber, horticultural, silvicultural, orchard,
8 maple syrup, Christmas trees, forest products, or forest crops; the raising,
9 boarding, and training of equines, and the raising of livestock; or any
10 combination of the foregoing activities. Farm operation also includes the
11 storage, preparation, retail sale, and transportation of agricultural or forest
12 commodities accessory to the cultivation or use of such land.

13 (9) "Forest products business" means a Vermont enterprise that is
14 primarily engaged in managing, harvesting, trucking, processing,
15 manufacturing, crafting, or distributing products derived from Vermont forests.

16 (10) "Livestock" shall mean cattle, sheep, goats, equines, fallow deer,
17 red deer, reindeer, American bison, swine, poultry, chukar partridge,
18 coturnix quail, ferrets, camelids and ratites, cultured trout propagated by
19 commercial trout farms, and bees.

20 ~~(10)~~(11) "Loan" means an operating loan or farm ownership loan,
21 including a financing lease, provided that such lease transfers the ownership of

1 the leased property to each lessee following the payment of all required lease
2 payments as specified in each lease agreement.

3 ~~(11)~~(12) “Operating loan” means a loan to purchase livestock, farm or
4 forestry equipment, or fixtures to pay annual operating expenses of a farm
5 operation or agricultural facility, to pay loan closing costs, and to refinance
6 indebtedness incurred for farm ownership or operating loan purposes, or both.

7 ~~(12)~~(13) “Program” means the Vermont Agricultural Credit Program
8 established by this chapter.

9 ~~(13)~~(14) “Project” or “agricultural project” means the creation,
10 establishment, acquisition, construction, expansion, improvement,
11 strengthening, reclamation, operation, or renovation of an agricultural facility
12 or farm operation.

13 ~~(14)~~(15) “Resident” means a person who is or will be domiciled in this
14 State as evidenced by an intent to maintain a principal dwelling place in the
15 State indefinitely and to return there if temporarily absent, coupled with an act
16 or acts consistent with that intent, including the filing of a Vermont income tax
17 return within 18 months of the application for a loan under this chapter. In the
18 case of a limited liability company, partnership, corporation, or other business
19 entity, resident means a business entity formed under the laws of Vermont, the
20 majority of which is owned and operated by Vermont residents who are natural
21 persons.

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§ 374h. LOAN ELIGIBILITY STANDARDS

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

* * *

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

* * *

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

* * *

(13) able to demonstrate that the proposed loan will be adequately secured by a mortgage on real property ~~with a satisfactory maturity date in no event later than 20 years from the date of inception of the mortgage,~~ or by a security agreement on personal property ~~with a satisfactory maturity date in no~~

1 ~~event longer than the average remaining useful life of the assets in which the~~
2 ~~security interest is being taken; and~~

3 * * *

4 Sec. A.7. REPEALS

5 (a) 2009 Acts and Resolves No. 54, Sec. 112(b), pledging up to
6 \$1,000,000.00 of the full faith and credit of the State for loss reserves for the
7 Vermont Economic Development Authority small business loan program and
8 TECH loan program, is repealed.

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

11 (1) subchapter 2, §§ 221–229 (Mortgage Insurance); and

12 (2) subchapter 8, §§ 279–279b (Vermont Financial Access Program).

13 * * * Cooperatives; Electronic Voting * * *

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

15 § 995. ARTICLES

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

18 (1) The name of the association;₂

19 (2) The purpose for which it is formed;₂

20 (3) The place where its principal business will be transacted;₂

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

3 (5) The name and residence of the clerk;

4 (6) When organized without capital stock, whether the property rights
5 and interest of the members are equal, and, if unequal, the general rules
6 applicable to all members by which the property rights and interest,
7 respectively, of each member shall be determined and fixed, and provision for
8 the admission of new members who shall be entitled to share in the property of
9 the association in accordance with such general rules. This provision or
10 paragraph of the certificate of organization shall not be altered, amended, or
11 replaced except by the written consent or vote representing three-fourths of the
12 members;

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

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

20 (9) The articles of incorporation of any association organized under this
21 subchapter ~~shall~~ may provide that the members or stockholders thereof shall

1 have the right to vote in person ~~or alternate only and not by proxy or otherwise~~
2 or through another method of communication, including through a
3 telecommunications or electronic medium, but a member or stockholder may
4 not vote by proxy. This provision or paragraph of the articles of association
5 shall not be altered and shall not be subject to amendment;.

6 (10) In addition to the foregoing, the articles of incorporation of any
7 association incorporated hereunder may contain any provision consistent with
8 law with respect to management, regulation, government, financing,
9 indebtedness, membership, the establishment of voting districts and the
10 election of delegates for representative purposes, the issuance, retirement, and
11 transfer of its stock, if formed with capital stock, or any provisions relative to
12 the way or manner in which it shall operate or with respect to its members,
13 officers, or directors and any other provisions relating to its affairs;.

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

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

1 enter into a performance ~~contract~~ grant with a service provider if the Secretary
2 finds:

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

5 (2) the service provider demonstrates the ability and willingness to
6 provide planning and resource development services to local communities and
7 to assist communities in evaluating economic conditions and prepare for
8 economic growth and stability;

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

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

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

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

18 (7) the service provider needs the performance ~~contract-award~~ grant and
19 that the performance ~~contract-award~~ grant will be used for the employment of
20 professional persons or expenses consistent with performance ~~contract~~ grant
21 provisions, or both;

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

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

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

10 § 2784. TERMS OF PERFORMANCE ~~CONTRACTS~~ GRANTS

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

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

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

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

1 § 2784a. PLANS

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

5 * * *

6 § 2786. APPLICABILITY OF STATE LAWS

7 (a) A service provider awarded a performance ~~contract~~ grant by the
8 Secretary under this chapter shall be subject to 1 V.S.A. chapter 5, subchapter
9 2 (open meetings) and 1 V.S.A. chapter 5, subchapter 3 (public records),
10 except that in addition to any limitation provided in subchapter 2 or 3:

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

15 (2) meetings of the service provider's board to consider such proposed
16 transactions or agreements may be held in executive session under 1 V.S.A.

17 § 313.

18 (b) Nothing in this section shall be construed to limit the exchange of
19 information between or among regional development corporations or regional
20 planning commissions concerning any activity of the corporations and the

1 commissions, provided that such information shall be subject to the provisions
2 of subsection (a) of this section.

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

6 * * *

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

8 § 4341a. PERFORMANCE ~~CONTRACTS~~ GRANTS FOR REGIONAL
9 PLANNING SERVICES

10 (a) The Secretary of Commerce and Community Development shall
11 negotiate and ~~enter into performance contracts with~~ issue performance grants
12 to regional planning commissions, or ~~with~~ to regional planning commissions
13 and regional development corporations in the case of a joint ~~contract~~ grant, to
14 provide regional planning services.

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

19 (1) a proposal without change in the makeup or change of the area
20 served;

- 1 (2) a joint proposal to provide different services ~~under one contract with~~
2 pursuant to a grant to one or more regional service providers;
- 3 (3) co-location with other local, regional, or State service providers;
- 4 (4) merger with one or more regional service providers;
- 5 (5) consolidation of administrative functions and additional operational
6 efficiencies within the region; or
- 7 (6) such other cost-saving mechanisms as may be available.

8 * * * Vermont Training Program * * *

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

10 § 531. THE VERMONT TRAINING PROGRAM

11 * * *

12 (e) Work-based learning activities.

13 (1) In addition to eligible training authorized in subsection (b) of this
14 section, the Secretary of Commerce and Community Development may
15 annually allocate up to 10 percent of the funding appropriated for the Program
16 to fund work-based learning programs and activities with eligible employers to
17 introduce Vermont students in a middle school, secondary school, career
18 technical education program, or postsecondary school to manufacturers and
19 other regionally significant employers.

20 (2) An employer with a defined work-based learning program or activity
21 developed in partnership with a middle school, secondary school, career

1 technical education program, or postsecondary school may apply to the
2 Program for a grant to offset the costs the employer incurs for the work-based
3 learning program or activity, including the costs of transportation, curriculum
4 development, and materials.

5 * * *

6 (k) Annually on or before January 15, the Secretary shall submit a report to
7 the House Committee on Commerce and Economic Development and the
8 Senate Committee on Economic Development, Housing and General Affairs.

9 In addition to the reporting requirements under section 540 of this title, the
10 report shall identify:

11 (1) all active and completed contracts and grants;

12 (2) from among the following, the category the training addressed:

13 (A) preemployment training or other training for a new employee to
14 begin a newly created position with the employer;

15 (B) preemployment training or other training for a new employee to
16 begin in an existing position with the employer;

17 (C) training for an incumbent employee who, upon completion of
18 training, assumes a newly created position with the employer;

19 (D) training for an incumbent employee who upon completion of
20 training assumes a different position with the employer;

21 (E) training for an incumbent employee to upgrade skills;

- 1 (3) for the training identified in subdivision (2) of this subsection
2 whether the training is onsite or classroom-based;
- 3 (4) the number of employees served;
- 4 (5) the average wage by employer;
- 5 (6) any waivers granted;
- 6 (7) the identity of the employer, or, if unknown at the time of the report,
7 the category of employer;
- 8 (8) the identity of each training provider; ~~and~~
- 9 (9) whether training results in a wage increase for a trainee, and the
10 amount of increase; and
- 11 (10) the number, type, and description of grants for work-based learning
12 programs and activities awarded pursuant to subsection (e) of this section.

13 * * * Corporations; Mergers, Conversions, Domestications, Share Exchanges,
14 Limited Liability Company Technical Corrections * * *

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

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

17 ~~§ 11.01. MERGER~~

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

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

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

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

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

7 ~~(e) The plan of merger may set forth:~~

8 ~~(1) amendments to the articles of incorporation of the surviving~~
9 ~~corporation; and~~

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

11 ~~§ 11.02. SHARE EXCHANGE~~

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

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

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

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

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

4 ~~(e) The plan of exchange may set forth other provisions relating to the~~
5 ~~exchange.~~

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

9 ~~§ 11.03. ACTION ON PLAN~~

10 ~~(a) After adopting a plan of merger or share exchange, the board of~~
11 ~~directors of each corporation party to the merger, and the board of directors of~~
12 ~~the corporation whose shares will be acquired in the share exchange, shall~~
13 ~~submit the plan of merger (except as provided in subsection (g) of this section)~~
14 ~~or share exchange for approval by its shareholders.~~

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

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

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

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

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

8 ~~(e) Unless this title, the articles of incorporation, or the board of directors~~
9 ~~(acting pursuant to subsection (c) of this section) require a greater vote or a~~
10 ~~vote by voting groups, the plan of merger or share exchange to be authorized~~
11 ~~must be approved by each voting group entitled to vote separately on the plan~~
12 ~~by a majority of all the votes entitled to be cast on the plan by that voting~~
13 ~~group.~~

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

15 ~~(1) on a plan of merger if the plan contains a provision that, if contained~~
16 ~~in a proposed amendment to articles of incorporation, would require action by~~
17 ~~one or more separate voting groups on the proposed amendment under section~~
18 ~~10.04 of this title;~~

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

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

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

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

10 ~~(3) the number of voting shares outstanding immediately after the~~
11 ~~merger, plus the number of voting shares issuable as a result of the merger~~
12 ~~(either by the conversion of securities issued pursuant to the merger or the~~
13 ~~exercise of rights and warrants issued pursuant to the merger), will not exceed~~
14 ~~by more than 20 percent the total number of voting shares of the surviving~~
15 ~~corporation outstanding immediately before the merger; and~~

16 ~~(4) the number of participating shares outstanding immediately after the~~
17 ~~merger, plus the number of participating shares issuable as a result of the~~
18 ~~merger (either by the conversion of securities issued pursuant to the merger or~~
19 ~~the exercise of rights and warrants issued pursuant to the merger), will not~~
20 ~~exceed by more than 20 percent the total number of participating shares~~
21 ~~outstanding immediately before the merger.~~

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

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

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

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

12 ~~§ 11.04. MERGER OF SUBSIDIARY~~

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

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

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

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

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

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

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

11 ~~§ 11.05. ARTICLES OF MERGER OR SHARE EXCHANGE~~

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

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

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

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

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

4 ~~(B) either the total number of votes cast for and against the plan by~~
5 ~~each voting group entitled to vote separately on the plan or the total number of~~
6 ~~undisputed votes cast for the plan separately by each voting group and a~~
7 ~~statement that the number cast for the plan by each voting group was sufficient~~
8 ~~for approval by that voting group.~~

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

11 ~~§ 11.06. EFFECT OF MERGER OR SHARE EXCHANGE~~

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

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

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

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

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

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

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

12 ~~(b) When a share exchange takes effect, the shares of each acquired~~
13 ~~corporation are exchanged as provided in the plan, and the former holders of~~
14 ~~the shares are entitled only to the exchange rights provided in the articles of~~
15 ~~share exchange or to their rights under chapter 13 of this title.~~

16 ~~§ 11.07. MERGER OR SHARE EXCHANGE WITH FOREIGN~~
17 ~~CORPORATION~~

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

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

4 ~~(2) in a share exchange, the corporation whose shares will be acquired is~~
5 ~~a domestic corporation, whether or not a share exchange is permitted by the~~
6 ~~law of the state or country under whose law the acquiring corporation is~~
7 ~~incorporated;~~

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

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

15 ~~(b) Upon the merger or share exchange taking effect, the surviving foreign~~
16 ~~corporation of a merger and the acquiring foreign corporation of a share~~
17 ~~exchange is deemed:~~

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

1 foreign organization that approves a conversion pursuant to the law of its
2 jurisdiction of formation.

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

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

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

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

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

14 (11) “Interest holder” means:

15 (A) a shareholder of a business corporation;

16 (B) a member of a nonprofit corporation;

17 (C) a general partner of a general partnership, including a limited
18 liability partnership;

19 (D) a general partner of a limited partnership, including a limited
20 liability partnership;

1 (E) a limited partner of a limited partnership, including a limited
2 liability partnership;

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

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

5 (H) a member of a limited cooperative association or mutual benefit
6 enterprise;

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

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

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

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

13 (13) “Organization”:

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

16 (i) a business corporation;

17 (ii) a nonprofit corporation;

18 (iii) a general partnership, including a limited liability partnership;

19 (iv) a limited partnership, including a limited liability limited
20 partnership;

21 (v) a limited liability company;

- 1 (vi) a general cooperative association;
- 2 (vii) a limited cooperative association or mutual benefit enterprise;
- 3 (viii) an unincorporated nonprofit association;
- 4 (ix) a statutory trust, business trust, or common-law business
- 5 trust; or
- 6 (x) any other person that has:
- 7 (I) a legal existence separate from any interest holder of that
- 8 person; or
- 9 (II) the power to acquire an interest in real property in its own
- 10 name; and
- 11 (B) does not include:
- 12 (i) an individual;
- 13 (ii) a trust with a predominantly donative purpose or a charitable
- 14 trust;
- 15 (iii) an association or relationship that is not an organization listed
- 16 in subdivision (A) of this subdivision (13) and is not a partnership under
- 17 11 V.S.A. chapter 22 or 23, or a similar provision of law of another
- 18 jurisdiction;
- 19 (iv) a decedent's estate; or
- 20 (v) a government or a governmental subdivision, agency, or
- 21 instrumentality.

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

5 (A) for a general partnership, its statement of partnership authority
6 and partnership agreement;

7 (B) for a limited liability partnership, its statement of qualification
8 and partnership agreement;

9 (C) for a limited partnership, its certificate of limited partnership and
10 partnership agreement;

11 (D) for a limited liability company, its certificate or articles of
12 organization and operating agreement, or comparable records as provided in its
13 governing statute;

14 (E) for a business trust, its agreement of trust and declaration of trust;

15 (F) for a business corporation, its certificate or articles of
16 incorporation, bylaws, and other agreements among its shareholders which are
17 authorized by its governing statute, or comparable records as provided in its
18 governing statute; and

19 (G) for any other organization, the basic records that create the
20 organization and determine its internal governance and the relations among the
21 persons that own it, have an interest in it, or are members of it.

1 (15) “Personal liability” means:

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

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

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

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

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

16 (A) the bylaws of a business corporation;

17 (B) the bylaws of a nonprofit corporation;

18 (C) the partnership agreement of a general partnership or limited
19 liability partnership;

20 (D) the partnership agreement of a limited partnership or limited
21 liability limited partnership;

1 (E) the operating agreement of a limited liability company;

2 (F) the bylaws of a general cooperative association;

3 (G) the bylaws of a limited cooperative association or mutual benefit
4 enterprise;

5 (H) the governing principles of an unincorporated nonprofit
6 association; and

7 (I) the trust instrument of a statutory trust or similar rules of a
8 business trust or common-law business trust.

9 (17) “Protected agreement” means:

10 (A) a record evidencing indebtedness and any related agreement in
11 effect on July 1, 2017;

12 (B) an agreement that is binding on an organization on July 1, 2017;

13 (C) the organizational documents of an organization in effect on
14 July 1, 2017; or

15 (D) an agreement that is binding on any of the partners, directors,
16 managers, or interest holders of an organization on July 1, 2017.

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

21 (A) the articles of incorporation of a business corporation;

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

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

14 (20) “Share exchange” means a share exchange authorized by sections
15 11.08 through 11.12 of this title.

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

1 § 11.02. CONVERSION AUTHORIZED

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

5 (b) By complying with sections 11.03 through 11.06 of this title, a
6 domestic organization may become a domestic corporation.

7 (c) By complying with sections 11.03 through 11.06 of this title applicable
8 to foreign organizations, a foreign organization that is not a foreign corporation
9 may become a domestic corporation if the conversion is authorized by the law
10 of the foreign organization's jurisdiction of formation.

11 (d) If a protected agreement contains a provision that applies to a merger of
12 a domestic corporation but does not refer to a conversion, the provision applies
13 to a conversion of the corporation as if the conversion were a merger until the
14 provision is amended after July 1, 2017.

15 § 11.03. PLAN OF CONVERSION

16 (a) A domestic corporation may convert to a different type of organization
17 under section 11.02 of this title by approving a plan of conversion, and a
18 domestic organization, other than a corporation, may convert into a domestic
19 corporation by approving a plan of conversion. The plan shall be in a record
20 and shall contain:

21 (1) the name of the converting corporation or organization;

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

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

6 (4) the proposed public organizational documents of the converted
7 organization if it will be an organization with public organizational documents
8 filed with the Secretary of State;

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

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

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

14 (b) A plan of conversion may contain any other provision not prohibited
15 by law.

16 § 11.04. APPROVAL OF CONVERSION

17 Subject to section 11.17 of this title and any contractual rights, a converting
18 organization shall approve a plan of conversion as follows:

19 (1) a domestic corporation shall approve a plan of conversion in
20 accordance with the procedures for approving a merger under section 11.10 of
21 this title;

1 (2) any other organization shall approve a plan of conversion in
2 accordance with its governing statute and its organizational documents;
3 provided:

4 (A) if its organizational documents do not address the manner for
5 approving a conversion, then a plan of conversion shall be approved by the
6 same vote required under the organizational documents for a merger; and

7 (B) if its organizational documents do not provide for approval of a
8 merger, then by the approval of the number or percentage of interest holders
9 required to approve a merger under the governing statute.

10 § 11.05. AMENDMENT OR ABANDONMENT OF PLAN OF

11 CONVERSION

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

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

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

19 (A) the amount or kind of consideration the shareholder may receive
20 under the plan;

1 (B) the public organizational documents, if any, or private
2 organizational documents of the converted organization in effect after the
3 conversion, except for a change that the interest holders of the converted
4 organization are not required to approve under its governing statute or
5 organizational documents; or

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

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

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

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

15 (A) the amount or kind of consideration the partner may receive
16 under the plan;

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

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

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

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

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

9 (A) the amount or kind of consideration the member may receive
10 under the plan;

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

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

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

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

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

7 (2) The statement of abandonment shall contain:

8 (A) the name of the converting organization;

9 (B) the date the Secretary of State filed the statement of
10 conversion; and

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

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

15 § 11.06. STATEMENT OF CONVERSION; EFFECTIVE DATE OF

16 CONVERSION

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

19 (b) A statement of conversion shall contain:

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

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

3 (3) if the converting organization is a domestic organization, a statement
4 that the organization approved the plan of conversion in accordance with the
5 provisions of this chapter, or, if the converting organization is a foreign
6 organization, a statement that the organization approved the conversion in
7 accordance with its governing statute; and

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

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

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

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

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

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

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

19 § 11.07. EFFECT OF CONVERSION

20 (a) When a conversion takes effect:

21 (1) The converted organization is:

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

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

5 (2) The property of the converting organization continues to be vested in
6 the converted organization without transfer, assignment, reversion, or
7 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 public organizational documents of the converted organization
18 takes 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 and any contractual rights, a
3 constituent organization shall approve a plan of merger or share exchange as
4 follows:

5 (1) if the constituent organization is a corporation:

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

11 (B) the shareholders entitled to vote must approve the plan; and

12 (2) if the constituent organization is not a corporation, the plan of
13 merger or share exchange shall be approved in accordance with the
14 organization's governing statute and organizational documents.

15 (b) The board of directors of a constituent corporation may condition its
16 submission of the proposed merger or share exchange on any basis.

17 (c) For a constituent organization that is a domestic corporation:

18 (1)(A) The constituent organization shall notify each shareholder,
19 whether or not entitled to vote, of the proposed shareholders' meeting in
20 accordance with section 7.05 of this title.

1 (B) The notice shall also state that the purpose, or one of the
2 purposes, of the meeting is to consider the plan of merger or share exchange
3 and contain or be accompanied by a copy or summary of the plan.

4 (2) Unless this title, the articles of incorporation, or the board of
5 directors acting pursuant to subsection (b) of this section requires a greater
6 vote or a vote by voting groups, the plan of merger or share exchange must be
7 approved by each voting group entitled to vote separately on the plan by a
8 majority of all the votes entitled to be cast on the plan by that voting group.

9 (3) Separate voting by voting groups is required:

10 (A) on a plan of merger if the plan contains a provision that, if
11 contained in a proposed amendment to articles of incorporation, would require
12 action by one or more separate voting groups on the proposed amendment
13 under section 10.04 of this title; and

14 (B) on a plan of share exchange by each class or series of shares
15 included in the exchange, with each class or series constituting a separate
16 voting group.

17 (4) Action by the shareholders of the surviving corporation on a plan of
18 merger is not required if:

19 (A) the articles of incorporation of the surviving corporation will not
20 differ, except for amendments enumerated in section 10.02 of this title, from its
21 articles before the merger;

1 (B) each shareholder of the surviving corporation whose shares were
2 outstanding immediately before the effective date of the merger will hold the
3 same number of shares, with identical designations, preferences, limitations,
4 and relative rights, immediately after;

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

11 (D) the number of participating shares outstanding immediately after
12 the merger, plus the number of participating shares issuable as a result of the
13 merger, either by the conversion of securities issued pursuant to the merger or
14 the exercise of rights and warrants issued pursuant to the merger, will not
15 exceed by more than 20 percent the total number of participating shares
16 outstanding immediately before the merger.

17 (5) As used in this subsection:

18 (A) “Participating shares” means shares that entitle their holders to
19 participate without limitation in distributions.

20 (B) “Voting shares” means shares that entitle their holders to vote
21 unconditionally in elections of directors.

1 (d) Subject to section 11.17 of this title and any contractual rights, after a
2 constituent organization approves a merger or share exchange, and before the
3 organization delivers articles of merger or share exchange to the Secretary of
4 State for filing, a constituent organization may amend the plan or abandon the
5 merger or share exchange:

6 (1) as provided in the plan; or

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

9 § 11.11. FILING REQUIRED FOR MERGER OR SHARE EXCHANGE;

10 EFFECTIVE DATE

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

14 (1) each constituent corporation; and

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

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

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

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

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

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

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

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

12 (7) if the surviving constituent organization is a foreign constituent
13 organization not authorized to transact business in this State, the street and
14 mailing addresses of an office that the Secretary of State may use for service of
15 process pursuant to subsection 5.04(b) of this title; and

16 (8) any additional information the governing statute of a constituent
17 organization requires.

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

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

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

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

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

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

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

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

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

13 (4) if either constituent organization is a foreign organization not
14 authorized to transact business in this State, the street and mailing addresses of
15 an office that the Secretary of State may use for service of process pursuant to
16 subsection 5.04(b) of this title; and

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

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

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

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

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

5 § 11.12. EFFECT OF MERGER OR SHARE EXCHANGE

6 (a) When a merger takes effect:

7 (1) the surviving constituent organization continues or comes into
8 existence;

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

11 (3) the property of each constituent organization that ceases to exist
12 vests in the surviving constituent organization without transfer, assignment,
13 reversion, or impairment;

14 (4) the debts, obligations, and other liabilities of each constituent
15 organization that ceases to exist continue as debts, obligations, and other
16 liabilities of the surviving constituent organization;

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

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

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

3 (8) except as otherwise agreed, if a constituent corporation ceases to
4 exist, the merger does not dissolve the corporation for the purposes of chapter
5 14 of this title;

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

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

10 (b)(1) A surviving constituent organization that is a foreign organization
11 consents to the jurisdiction of the courts of this State to enforce a debt,
12 obligation, or other liability the constituent organization owes, if before the
13 merger the constituent organization was subject to suit in this State on the debt,
14 obligation, or other liability.

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

19 (3) A person shall serve the Secretary of State under this subsection in
20 the same manner, and the service has the same consequences, as in section
21 5.04 of this title.

1 (c) When a share exchange takes effect:

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

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

7 § 11.13. DOMESTICATION AUTHORIZED

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

11 (1) the foreign corporation’s governing statute and its organizational
12 documents permit the domestication; and

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

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

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

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

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

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

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

6 (3) the terms and conditions of the domestication, including the manner
7 and basis for converting an interest holder's interest in the domesticating
8 organization into any combination of an interest in the domesticated
9 organization and other consideration; and

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

12 § 11.14. ACTION ON PLAN OF DOMESTICATION

13 (a) A domesticating corporation shall approve a plan of domestication as
14 follows:

15 (1) if the domesticating corporation is a domestic corporation, in
16 accordance with this chapter and the corporation's organizational documents;
17 provided that:

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

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

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

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

10 (1) as provided in the plan; or

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

13 § 11.15. FILING REQUIRED FOR DOMESTICATION; EFFECTIVE DATE

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

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

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

20 (3) the name of the corporation and the jurisdiction of its governing
21 statute following domestication;

1 (4) the date the domestication takes effect under the governing statute of
2 the domesticated company; and

3 (5) a statement that the corporation approved the domestication as
4 required by the governing statute of the jurisdiction to which it is
5 domesticating.

6 (b) When a domesticating corporation delivers articles of domestication to
7 the Secretary of State pursuant to subsection (a) of this section, it shall include:

8 (1) if the domesticating corporation will be a domestic corporation,
9 articles of incorporation pursuant to section 2.02 of this title;

10 (2) if the domesticating corporation will be a foreign corporation
11 authorized to transact business in this State, an application for a certificate of
12 authority pursuant to section 15.03 of this title; or

13 (3) if the domesticating corporation will be a foreign corporation that is
14 not authorized to transact business in this State, the street and mailing
15 addresses of an office that the Secretary of State may use for service of process
16 pursuant to subsection 5.04(b) of this title.

17 (c) A domestication takes effect:

18 (1) when the articles of domestication of the domesticating corporation
19 take effect, if the corporation is domesticating to this State; and

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

1 § 11.16. EFFECT OF DOMESTICATION

2 (a) When a domestication takes effect:

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

5 (2) The property owned by the domesticating corporation remains
6 vested in the domesticated corporation.

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

10 (4) An action or proceeding pending by or against a domesticating
11 corporation continues as if the domestication had not occurred.

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

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

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

19 (b)(1) A domesticated corporation that was a foreign corporation consents
20 to the jurisdiction of the courts of this State to enforce a debt, obligation, or
21 other liability the domesticating corporation owes, if, before the domestication,

1 the domesticating corporation was subject to suit in this State on the debt,
2 obligation, or other liability.

3 (2) A domesticated corporation that was a foreign corporation and not
4 authorized to transact business in this State appoints the Secretary of State as
5 its agent for service of process for purposes of enforcing a debt, obligation, or
6 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) A corporation that domesticates in a foreign jurisdiction shall deliver to
11 the Secretary of State for filing a statement surrendering the corporation's
12 certificate of organization that includes:

13 (1) the name of the corporation;

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

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

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

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

3 (a) An approval or amendment of a plan of conversion, plan of merger, or
4 plan of domestication under this chapter is ineffective without the approval of
5 each interest holder of a surviving constituent who will have personal liability
6 for a 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. 11A V.S.A. § 13.02 is amended to read:

8 § 13.02. RIGHT TO DISSENT

9 (a) A shareholder is entitled to dissent from, and obtain payment of the fair
10 value of his or her shares in the event of, any of the following corporate
11 actions:

12 (1) Merger. Consummation of a plan of merger to which the
13 corporation is a party;

14 (A) if shareholder approval is required for the merger by section
15 ~~11.03~~ 11.10 of this title or the articles of incorporation and the shareholder is
16 entitled to vote on the merger; or

17 (B) if the corporation is a subsidiary that is merged with its parent
18 under section ~~11.04~~ 11.08 of this title;

19 (2) Share exchange. Consummation of a plan of share exchange to
20 which the corporation is a party as the corporation whose shares will be
21 acquired, if the shareholder is entitled to vote on the plan;

1 (3) Conversion. Consummation of a plan of conversion pursuant to
2 section 11.03 of this title to which the corporation is a party unless the
3 shareholders of the corporation will have the same dissenters' rights after
4 conversion to the converted organization as they hold before conversion.

5 (4) Domestication. Consummation of a plan of domestication pursuant
6 to section 11.14 of this title to which the corporation is a party unless the
7 shareholders of the corporation will have the same dissenters' rights after
8 domestication to the domesticated organization as they hold before
9 domestication.

10 (5) Sale of assets. Consummation of a sale or exchange of all, or
11 substantially all, of the property of the corporation other than in the usual and
12 regular course of business, if the shareholder is entitled to vote on the sale or
13 exchange, including a sale in dissolution, but not including a sale pursuant to
14 court order or a sale for cash pursuant to a plan by which all or substantially all
15 of the net proceeds of the sale will be distributed to the shareholders within one
16 year after the date of sale;

17 ~~(4)~~(6) Amendment to articles. An amendment of the articles of
18 incorporation that materially and adversely affects rights in respect of a
19 dissenter's shares because it:

20 (A) alters or abolishes a preferential right of the shares;

1 (B) creates, alters, or abolishes a right in respect of redemption,
2 including a provision respecting a sinking fund for the redemption or
3 repurchase, of the shares;

4 (C) alters or abolishes a preemptive right of the holder of the shares
5 to acquire shares or other securities;

6 (D) excludes or limits the right of the shares to vote on any matter, or
7 to cumulate votes, other than a limitation by dilution through issuance of
8 shares or other securities with similar voting rights; or

9 (E) reduces the number of shares owned by the shareholder to a
10 fraction of a share if the fractional share so created is to be acquired for cash
11 under section 6.04 of this title; ~~or.~~

12 ~~(5)~~(7) Market exception. Any corporate action taken pursuant to a
13 shareholder vote to the extent the articles of incorporation, bylaws, or a
14 resolution of the board of directors provides that voting or nonvoting
15 shareholders are entitled to dissent and obtain payment for their shares.

16 (b) A shareholder entitled to dissent and obtain payment for his or her
17 shares under this chapter may not challenge the corporate action creating his or
18 her entitlement unless the action is unlawful or fraudulent with respect to the
19 shareholder or the corporation.

1 Sec. E.3. 11 V.S.A. chapter 25 is amended to read:

2 CHAPTER 25. LIMITED LIABILITY COMPANIES

3 * * *

4 § 4003. EFFECT OF OPERATING AGREEMENT; NONWAIVABLE
5 PROVISIONS

6 (a) Except as otherwise provided in subsection (b) of this section, an
7 operating agreement regulates the affairs of the company and the conduct of its
8 business and governs relations among the members, among the managers, and
9 among the members, managers, and the limited liability company. To the
10 extent the operating agreement does not otherwise provide, this chapter
11 regulates the affairs of the company, the conduct of its business, and governs
12 relations among the members, among the managers, and among members,
13 managers, and the limited liability company.

14 (b) An operating agreement may not:

15 (1) vary a limited liability company's capacity under subsection 4011(e)
16 of this title to sue and be sued in its own name;

17 (2) except as provided in subchapter 8 of this chapter, vary the law
18 applicable under subsection 4011(g) of this title;

19 (3) vary the power of the court under section 4030 of this title;

20 (4) subject to subsections (c) through (f) of this section, eliminate or
21 restrict the duty of loyalty, the duty of care, or any other fiduciary duty;

1 (5) subject to subsections (c) through (f) of this section, eliminate or
2 restrict the contractual obligation of good faith and fair dealing under
3 subsection 4059(d) of this title;

4 (6) unreasonably restrict the duties and rights with respect to books,
5 records, and other information stated in section 4058 of this title, but the
6 operating agreement may impose reasonable restrictions on the availability and
7 use of information obtained under that section and may define appropriate
8 remedies, including liquidated damages, for a breach of any reasonable
9 restriction on use;

10 (7) vary the power of a court to decree dissolution in the circumstances
11 specified in subdivision 4101(a)(4) of this title;

12 (8) vary the requirement to wind up a limited liability company's
13 business as specified in section ~~4102~~ 4101 of this title;

14 * * *

15 § 4141. DEFINITIONS

16 ~~As~~ As used in this subchapter:

17 * * *

18 (3) "Conversion" means a transaction authorized by sections ~~by~~ 4142
19 through 4147 of this title.

20 * * *

1 ~~the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on
2 the date the organization elects to become subject to this chapter, whichever is
3 earlier.

4 * * *

5 § 4142. CONVERSION AUTHORIZED

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

9 (b) By complying with sections 4143 through 4146 of this title, a domestic
10 limited liability company may convert into a different type of foreign
11 organization if the conversion is authorized by the foreign statute that governs
12 the organization after conversion and the converting organization complies
13 with the statute.

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

17 (e)(d) By complying with sections ~~4142~~ 4143 through 4146 of this title
18 applicable to foreign organizations, a foreign organization that is not a foreign
19 limited liability company may become a domestic limited liability company if
20 the conversion is authorized by the law of the foreign organization's
21 jurisdiction of formation.

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

§ 1623. REGISTRATION BY ~~CORPORATIONS AND LIMITED~~
~~LIABILITY COMPANIES~~ BUSINESS ORGANIZATIONS

(a) A ~~corporation or limited liability company~~ business organization doing business in this State under any name other than that of the ~~corporation or limited liability company~~ business organization shall be subject to all the provisions of this chapter; and shall file returns sworn to by some officer or ~~member~~ director of ~~such~~ the ~~corporation or mutual benefit enterprise~~, or by some member or manager of ~~such~~ the ~~limited liability company, or by some partner of the partnership or limited partnership~~, setting forth:

(1) the name and location of the principal office of the business organization;

(2) the name other than the corporation or limited liability company name under which such the organization will conduct business is carried on;

(3) the name of the town wherein such business is to be carried on, or towns where the organization conducts business under the name; and

(4) a brief description of the kind of business transacted under such name, and the corporate or the limited liability company name and location of the principal office of such corporation or limited liability company the organization conducts under the name.

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

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

(a) Creation of Committee.

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

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

(b) Membership.

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

(A) the State Treasurer or designee;

(B) the Commissioner of Labor or designee;

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

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

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

4 (F) an individual with experience or expertise in the area of the
5 financial needs of Vermont youth or young working adults, to be appointed by
6 the Treasurer;

7 (G) a representative of employers, to be appointed by the
8 Speaker; and

9 (H) a representative of employees who currently lack access to
10 employer-sponsored retirement plans, to be appointed by the Committee
11 on Committees.

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

18 (c) Powers and duties.

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

1 (i) the access Vermont residents currently have to
2 employer-sponsored retirement plans and the types of employer-sponsored
3 retirement plans;

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

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

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

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

13 (vi) whether there is a need for a public retirement plan
14 in Vermont;

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

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

20 (B) if the Committee determines that a public retirement plan is
21 necessary, feasible, and effective, the Committee shall study:

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

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

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

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

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

10 (2) The Committee shall:

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

14 (B) further analyze the relationship between the role of states and the
15 federal government; and

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

18 (3) The Committee shall have the assistance of the staff of the Office of
19 the Treasurer, the Department of Labor, and the Department of Disabilities,
20 Aging, and Independent Living.

1 (d) Report. On or before January 15, 2018, the Committee shall report to
2 the General Assembly its findings and any recommendations for legislative
3 action. In its report, the Committee shall state its findings as to every factor set
4 forth in subdivision (c)(1)(A) of this section, whether it recommends that a
5 public retirement plan be created, and the reasons for that recommendation. If
6 the Committee recommends that a public retirement plan be created, the
7 Committee’s report shall include specific recommendations as to the factors
8 listed in subdivision (c)(1)(B) of this section.

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

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

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

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

19 § 8001. PROGRAM ESTABLISHED

20 * * *

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

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

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

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

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

20 (1) promotion and marketing of the Program;

- 1 (2) rules governing operation of ABLE accounts, including mechanisms
2 for consumer convenience;
- 3 (3) fees charged to account owners;
- 4 (4) future enhancements to protect from the loss of State benefits as may
5 be necessary to fulfill the intent of the ABLE Act;
- 6 (5) the composition and charge of an ABLE Advisory Board; and
- 7 (6) a progress update on implementation of the Program consistent with
8 U.S. Treasury Department Rules, the Internal Revenue Code, and the federal
9 ABLE Act (P.L. 113-295 of 2014).

10 * * * Vermont State Treasurer;

11 Private Activity Bond Advisory Committee * * *

12 Sec. F.4. PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

13 Notwithstanding any provision of 32 V.S.A. § 994 to the contrary, the
14 Private Activity Bond Advisory Committee shall not meet or perform its
15 statutory duties except upon call of the Vermont State Treasurer in his or her
16 discretion.

17 * * * Vermont State Treasurer;

18 Vermont Community Loan Fund * * *

19 Sec. F.5. REPEAL

20 2014 Acts and Resolves No. 179, Sec. E.131(a) (Treasurer authority to
21 invest in Vermont Community Loan Fund) is repealed.

1 Sec. F.6. 10 V.S.A. § 9 is added to read:

2 § 9. INVESTMENT IN VERMONT COMMUNITY LOAN FUND

3 (a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary,
4 the State Treasurer is authorized to invest up to \$1,000,000.00 of short-term
5 operating or restricted funds in the Vermont Community Loan Fund on terms
6 acceptable to the Treasurer and consistent with prudent investment principles
7 and guidelines pursuant to 32 V.S.A. § 433(b)–(c).

8 * * * Vermont State Treasurer; Treasurer’s Local Investment
9 Advisory Committee * * *

10 Sec. F.7. REPEAL

11 2014 Acts and Resolves No. 199, Secs. 23–25 (Treasurer’s Local
12 Investment Advisory Committee, Report, and Sunset) are repealed.

13 Sec. F.8. REPEAL

14 2015 Acts and Resolves No. 51, Sec. E.3 (extending sunset of Local
15 Investment Advisory Committee provisions) is repealed.

16 Sec. F.9. 10 V.S.A. §§ 10–11 are added to read:

17 § 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR

18 LOCAL INVESTMENTS

19 (a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary,
20 the Vermont State Treasurer shall have the authority to establish a credit
21 facility of up to 10 percent of the State’s average cash balance on terms

1 acceptable to the Treasurer and consistent with prudent investment principles
2 and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent
3 Investor Act, 14A V.S.A. chapter 9.

4 (b) The amount authorized in subsection (a) of this section shall include all
5 credit facilities authorized by the General Assembly and established by the
6 Treasurer, and the renewal or replacement of those credit facilities.

7 § 11. TREASURER’S LOCAL INVESTMENT ADVISORY COMMITTEE

8 (a) Creation of committee. The Treasurer’s Local Investment Advisory
9 Committee is established to advise the Treasurer on funding priorities and
10 address other mechanisms to increase local investment.

11 (b) Membership.

12 (1) The Advisory Committee shall be composed of six members as
13 follows:

14 (A) the State Treasurer or designee;

15 (B) the Chief Executive Officer of the Vermont Economic
16 Development Authority or designee;

17 (C) the Chief Executive Officer of the Vermont Student Assistance
18 Corporation or designee;

19 (D) the Executive Director of the Vermont Housing Finance Agency
20 or designee;

21 (E) the Director of the Municipal Bond Bank or designee; and

1 (F) the Director of Efficiency Vermont or designee.

2 (2) The State Treasurer shall be the Chair of the Advisory Committee
3 and shall appoint a vice chair and secretary. The appointed members of the
4 Advisory Committee shall be appointed for terms of six years and shall serve
5 until their successors are appointed and qualified.

6 (c) Powers and duties. The Advisory Committee shall:

7 (1) meet regularly to review and make recommendations to the State
8 Treasurer on funding priorities and using other mechanisms to increase local
9 investment in the State of Vermont;

10 (2) invite regularly State organizations, citizens' groups, and members
11 of the public to Advisory Committee meetings to present information on needs
12 for local investment, capital gaps, and proposals for financing; and

13 (3) consult with constituents and review feedback on changes and needs
14 in the local and State investment and financing environments.

15 (d) Meetings.

16 (1) Meetings of the Advisory Committee shall occur at the call of the
17 Treasurer.

18 (2) A majority of the members of the Advisory Committee who are
19 physically present at the same location or available electronically shall
20 constitute a quorum, and a member may participate and vote electronically.

1 (3) To be effective, action of the Advisory Committee shall be taken by
2 majority vote of the members at a meeting in which a quorum is present.

3 (e) Report. On or before January 15, the Advisory Committee annually
4 shall submit a report to the Senate Committees on Appropriations, on
5 Economic Development, Housing and General Affairs, on Finance, and on
6 Government Operations and the House Committees on Appropriations, on
7 Commerce and Economic Development, on Ways and Means, and on
8 Government Operations. The report shall include the following:

9 (1) the amount of the subsidies associated with lending through each
10 credit facility authorized by the General Assembly and established by the
11 Treasurer;

12 (2) a description of the Advisory Committee's activities; and

13 (3) any information gathered by the Advisory Committee on the State's
14 unmet capital needs, and other opportunities for State support for local
15 investment and the community.

16 * * * Medicaid for Working People with Disabilities * * *

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

18 § 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

19 (a) In determining whether a person is medically indigent, the Secretary of
20 Human Services shall prescribe and use an income standard and requirements

1 for eligibility which will permit the receipt of federal matching funds under
2 Title XIX of the Social Security Act.

3 (b) Workers with disabilities whose income is less than 250 percent of the
4 federal poverty level shall be eligible for Medicaid. The income also must not
5 exceed the Medicaid protected income level for one or the Supplemental
6 Security Income (SSI) payment level for two, whichever is higher, after
7 disregarding all earnings of the working individual with disabilities, any Social
8 Security disability insurance benefits, and any veteran's disability benefits.
9 Earnings of the working individual with disabilities shall be documented
10 by evidence of Federal Insurance Contributions Act tax payments,
11 Self-Employment Contributions Act tax payments, or a written business plan
12 approved and supported by a third-party investor or funding source. The
13 resource limit for this program shall be ~~\$5,000.00~~ \$10,000.00 for an individual
14 and ~~\$6,000.00~~ \$15,000.00 for a couple at the time of enrollment in the
15 program. Assets attributable to earnings made after enrollment in the program
16 shall be disregarded.

17 * * * Vermont Employment Growth Incentive * * *

18 Sec. H.1. 32 V.S.A. chapter 105 is added to read:

19 CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE

20 PROGRAM

21 Subchapter 1. Vermont Economic Progress Council

1 § 3025. VERMONT ECONOMIC PROGRESS COUNCIL

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

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

7 (2) tax increment financing districts pursuant to 24 V.S.A. chapter 53,
8 subchapter 5 and section 5404a of this title.

9 (b) Membership.

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

11 (A) nine residents of the State appointed by the Governor with the
12 advice and consent of the Senate who are knowledgeable and experienced in
13 the subjects of community development and planning, education funding
14 requirements, economic development, State fiscal affairs, property taxation, or
15 entrepreneurial ventures and represent diverse geographical areas of the State
16 and municipalities of various sizes;

17 (B) one member of the Vermont House of Representatives appointed
18 by the Speaker of the House; and

19 (C) one member of the Vermont Senate appointed by the Senate
20 Committee on Committees.

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

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

6 (c) Terms.

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

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

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

13 (d) Compensation.

14 (1) For attendance at a meeting and for other official duties, a member
15 appointed by the Governor shall be entitled to compensation for services and
16 reimbursement of expenses as provided in section 1010 of this title, except that
17 a member who is a member of the General Assembly shall be entitled to
18 compensation for services and reimbursement of expenses as provided in
19 2 V.S.A. § 406.

20 (2) A regional member who does not otherwise receive compensation
21 and reimbursement of expenses from his or her regional development or

1 planning organization shall be entitled to compensation and reimbursement of
2 expenses for attendance at meetings and for other official duties as provided in
3 section 1010 of this title.

4 (e) Operation.

5 (1) The Governor shall appoint a chair from the Council's members.

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

8 (3) The Council shall have:

9 (A) an executive director appointed by the Governor with the advice
10 and consent of the Senate who is knowledgeable in subject areas of the
11 Council's jurisdiction and who is an exempt State employee; and

12 (B) administrative staff.

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

16 (g) Decisions not subject to review. A decision of the Council to approve
17 or deny an application under subchapter 2 of this chapter, or to approve or
18 deny a tax increment financing district pursuant to 24 V.S.A. chapter 53,
19 subchapter 5 and section 5404a of this title, is an administrative decision that is
20 not subject to the contested case hearing requirements under 3 V.S.A. chapter
21 25 and is not subject to judicial review.

1 § 3026. COST-BENEFIT MODEL

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

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

7 Subchapter 2. Vermont Employment Growth Incentive Program

8 § 3030. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES

9 ELIGIBLE APPLICANT

10 (a) Purpose. The purpose of the Vermont Employment Growth Incentive
11 Program is to encourage a business to add incremental and qualifying payroll,
12 jobs, and capital investments by sharing with the business a portion of the
13 revenue generated by the new payroll, new jobs, and new capital investments,
14 thereby generating net new revenues to the State.

15 (b) Form of incentives; enhanced incentives.

16 (1) The Vermont Economic Progress Council may approve an incentive
17 under this subchapter in the form of a direct cash payment in annual
18 installments.

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

1 (A) an enhanced incentive for a business in a labor market area with
2 higher than average unemployment or lower than average wages pursuant to
3 section 3034 of this title;

4 (B) an enhanced incentive for an environmental technology business
5 pursuant to section 3035 of this title; and

6 (C) an enhanced incentive for a business that participates in a State
7 workforce training program pursuant to section 3036 of this title.

8 (c) Eligible applicant. Only a business may apply for an incentive pursuant
9 to this subchapter.

10 § 3031. DEFINITIONS

11 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

19 (C) The business provides for the position at least three of the
20 following:

1 (i) health care benefits with 50 percent or more of the premium

2 paid by the business;

3 (ii) dental assistance;

4 (iii) paid vacation;

5 (iv) paid holidays;

6 (v) child care;

7 (vi) other extraordinary employee benefits;

8 (vii) retirement benefits;

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

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

12 (E) When the position is added to base employment, the business's
13 total employment exceeds its average annual employment during the two
14 preceding years, unless the Council determines that the business is establishing
15 a significantly different, new line of business and creating new jobs in the new
16 line of business that were not part of the business prior to filing its application.

17 (10) "Utilization period" means each year of the award period and the
18 four years immediately following each year of the award period.

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

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

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

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

10 § 3032. APPLICATION; APPROVAL CRITERIA; **GUIDELINES**

11 (a) Application.

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

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

17 (A) specify a payroll performance requirement;

18 (B) specify a jobs performance requirement or a capital investment
19 performance requirement, or both; and

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

1 (b) Mandatory criteria. The Council shall not approve an application
2 unless it finds:

3 (1) Except as otherwise provided for an enhanced incentive for a
4 business in a qualifying labor market area under section 3034 of this title, the
5 new revenue the proposed activity generates to the State exceeds the costs of
6 the activity to the State.

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

8 (3) The proposed economic activity conforms to applicable town and
9 regional plans.

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

14 (5) But for the incentive, the proposed economic activity:

15 (A) would not occur; or

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

18 § 3033. CALCULATING THE VALUE OF AN INCENTIVE

19 Except as otherwise provided for an enhanced incentive for a business in a
20 qualifying labor market area under section 3034 of this title, an enhanced
21 incentive for an environmental technology business under section 3035 of this

1 title, or an enhanced incentive for workforce training under section 3036 of this
2 title, the Council shall calculate the value of an incentive for an award year as
3 follows:

4 (1) Calculate new revenue growth. To calculate new revenue growth,
5 the Council shall use the cost-benefit model created pursuant to section 3026
6 of this title to determine the amount by which the new revenue generated by
7 the proposed economic activity to the State exceeds the costs of the activity to
8 the State.

9 (2) Calculate the business's potential share of new revenue growth.
10 Except as otherwise provided for an environmental technology business in
11 section 3035 of this title, to calculate the business's potential share of new
12 revenue growth, the Council shall multiply the new revenue growth determined
13 under subdivision (1) of this subsection by 80 percent.

14 (3) Calculate the incentive percentage. To calculate the incentive
15 percentage, the Council shall divide the business's potential share of new
16 revenue growth by the sum of the business's annual payroll performance
17 requirements.

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

1 (5) Calculate the value of the incentive. To calculate the value of the
2 incentive, the Council shall multiply qualifying payroll by the incentive
3 percentage.

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

6 (A) divide the value of the incentive by five; and

7 (B) adjust the value of the first installment payment so that it is
8 proportional to the actual number of days that new qualifying employees are
9 employed in the first year of hire.

10 § 3034. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING
11 LABOR MARKET AREA

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

14 (1) the average annual unemployment rate is greater than the average
15 annual unemployment rate for the State; or

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

18 (b) In each calendar year, the amount by which the Council may increase
19 the value of all incentives pursuant to this section is:

20 (1) \$1,500,000.00 for one or more initial approvals; and

21 (2) \$1,000,000.00 for one or more final approvals.

1 (c) The Council may increase the cap imposed in subdivision (b)(2) of this
2 section by not more than \$500,000.00 upon application to, and approval of, the
3 Emergency Board.

4 (d) In evaluating the Council’s request, the Board shall consider the
5 economic and fiscal condition of the State, including recent revenue forecasts
6 and budget projections.

7 (e) The Council shall provide the Board with testimony, documentation,
8 company-specific data, and any other information the Board requests to
9 demonstrate that increasing the cap will create an opportunity for return on
10 investment to the State.

11 § 3035. ENHANCED INCENTIVE FOR ENVIRONMENTAL
12 TECHNOLOGY

13 BUSINESS

14 (a) As used in this section, an “environmental technology business” means
15 a business that:

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

17 (2) seeks an incentive for economic activity in Vermont that the

18 Secretary of Commerce and Community Development certifies is primarily

19 research, design, engineering, development, or manufacturing related to one or

20 more of the following:

1 (A) waste management, including waste collection, treatment,
2 disposal, reduction, recycling, and remediation;

3 (B) natural resource protection and management, including water and
4 wastewater purification and treatment, air pollution control and prevention or
5 remediation, soil and groundwater protection or remediation, and hazardous
6 waste control or remediation;

7 (C) energy efficiency or conservation;

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

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

13 (1) the business's potential share of new revenue growth shall be
14 90 percent; and

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

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

18 (B) multiply the business's full-time payroll for the award year by
19 20 percent of the background growth rate; and

20 (C) subtract the product from the payroll performance requirement
21 for the award year.

1 § 3036. ENHANCED INCENTIVE FOR WORKFORCE TRAINING

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

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

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

9 (b) If a business is awarded a grant for training under this section, the
10 Agency of Commerce and Community Development shall disburse grant funds
11 for on-the-job training of 75 percent of wages for each employee in training or
12 75 percent of trainer expense, and the business shall be responsible for the
13 remaining 25 percent of the applicable training costs.

14 (c) A business that successfully completes its training shall submit a
15 written certificate of completion to the Agency of Commerce and Community
16 Development which shall notify the Department of Taxes.

17 (d) Upon notification by the Agency, and if the Department determines that
18 the business has earned the incentive for the award year, it shall:

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

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

4 (3) disburse the remaining value of the incentive in annual installments
5 pursuant to section 3037 of this title.

6 § 3037. EARNING AN INCENTIVE

7 (a) Earning an incentive; installment payments.

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

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

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

14 (C) meets or exceeds the jobs performance requirement specified for
15 the award year, or the capital investment performance requirement specified
16 for the award year, or both.

17 (2) A business that earns an incentive specified for an award year is
18 eligible to receive an installment payment for the year in which it earns the
19 incentive and for each of the next four years in which the business:

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

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

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

6 (b) Award year one.

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

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

15 (c) Award years two and three.

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

19 (2) A business that does not meet the performance requirements
20 specified for award year two or for award year three within three years

1 becomes ineligible to earn incentives for the award year and for all remaining
2 award years in the award period.

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

4 Notwithstanding subsection (b) of this section:

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

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

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

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

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

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

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

17 (e) Award year four.

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

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

4 (f) Award year five.

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

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

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

1 § 3038. CLAIMING AN INCENTIVE; ANNUAL FILING WITH

2 DEPARTMENT OF TAXES

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

6 (b) A business shall include the information the Department requires,
7 including the information required in section 5842 of this title and other
8 documentation concerning payroll, jobs, and capital investment necessary to
9 determine whether the business earned the incentive specified for an award
10 year and any installment payment for which the business is eligible.

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

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

15 (1) notify the business and the Council whether the business is entitled
16 to an installment payment for the applicable year; and

17 (2) make an installment payment to which the business is entitled.

18 (e) The Department shall not pay interest on any amounts it holds or pays
19 for an incentive or installment payment pursuant to this subchapter.

20 § 3039. RECAPTURE; REDUCTION; REPAYMENT

21 (a) Recapture.

1 (1) The Department of Taxes may recapture the value of one or more
2 installment payments a business has claimed, with interest, if:

3 (A) the business fails to file a claim as required in section 3038 of
4 this title; or

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

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

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

9 (2) If the Department determines that a business is subject to recapture
10 under subdivision (1) of this subsection, the business becomes ineligible to
11 earn or claim an additional incentive or installment payment for the remainder
12 of the utilization period.

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

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

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

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

4 (1) The Department shall:

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

9 (B) reduce the value of any remaining installment payments for
10 which the business is eligible by the same proportion.

11 (2) If the value of the installment payments the business has already
12 received exceeds the value of the reduced incentive, then:

13 (A) the business becomes ineligible to claim any additional
14 installment payments for the award period; and

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

18 (c) Tax liability.

19 (1) A person who has the duty and authority to remit taxes under this
20 title shall be personally liable for an installment payment that is subject to
21 recapture under this section.

1 (2) For purposes of this section, the Department of Taxes may use any
2 enforcement or collection action available for taxes owed pursuant to chapter
3 151 of this title.

4 § 3040. REPORTING

5 (a) On or before September 1 of each year, the Vermont Economic
6 Progress Council and the Department of Taxes shall submit a joint report on
7 the incentives authorized in this subchapter to the House Committees on Ways
8 and Means, on Commerce and Economic Development, and on
9 Appropriations, to the Senate Committees on Finance, on Economic
10 Development, Housing and General Affairs, and on Appropriations, and to the
11 Joint Fiscal Committee.

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

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

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

15 (A) the date and amount of authorization;

16 (B) the calendar year or years in which the authorization is expected
17 to be exercised;

18 (C) whether the authorization is active; and

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

20 (3) the following aggregate information:

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

3 (B) the number of qualifying jobs; and

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

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

7 (d) Notwithstanding any provision of law to the contrary, an incentive
8 awarded pursuant to this subchapter shall be treated as a tax expenditure for
9 purposes of chapter 5 of this title.

10 § 3041. CONFIDENTIALITY OF PROPRIETARY BUSINESS

11 INFORMATION

12 (a) The Vermont Economic Progress Council and the Department of Taxes
13 shall use measures to protect proprietary financial information, including
14 reporting information in an aggregate form.

15 (b) Information and materials submitted by a business concerning its
16 income taxes and other confidential financial information shall not be subject
17 to public disclosure under the State's public records law in 1 V.S.A. chapter 5,
18 but shall be available to the Joint Fiscal Office or its agent upon authorization
19 of the Joint Fiscal Committee or a standing committee of the General
20 Assembly, and shall also be available to the Auditor of Accounts in connection
21 with the performance of duties under section 163 of this title; provided,

1 however, that the Joint Fiscal Office or its agent and the Auditor of Accounts
2 shall not disclose, directly or indirectly, to any person any proprietary business
3 information or any information that would identify a business except in
4 accordance with a judicial order or as otherwise specifically provided by law.

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

9 § 3042. ANNUAL PROGRAM CAP

10 (a) In each calendar year the Vermont Economic Progress Council may
11 approve one or more incentives under this subchapter, the total value of which
12 shall not exceed:

13 (1) \$15,000,000.00 for one or more initial approvals; and

14 (2) \$10,000,000.00 for one or more final approvals.

15 (b) The Council may increase the cap imposed in subdivision (a)(2) of this
16 section by not more than \$5,000,000.00 upon application to, and approval of,
17 the Emergency Board.

18 (c) In evaluating the Council's request, the Board shall consider the
19 economic and fiscal condition of the State, including recent revenue forecasts
20 and budget projections.

1 (d) The Council shall provide the Board with testimony, documentation,
2 company-specific data, and any other information the Board requests to
3 demonstrate that increasing the cap will create an opportunity for return on
4 investment to the State.

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

6 (2) disburse grant funds only for training hours that have been
7 successfully completed by employees; provided that, except for an award
8 under an enhanced ~~training~~ incentive for workforce training as provided in
9 ~~32 V.S.A. § 5930b(h)~~ 32 V.S.A. § 3036, a grant for on-the-job training shall
10 either provide not more than 50 percent of wages for each employee in
11 training, or not more than 50 percent of trainer expense, but not both, and
12 further provided that training shall be performed in accordance with a training
13 plan that defines the subject of the training, the number of training hours, and
14 how the effectiveness of the training will be evaluated; and

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

16 (e)(1) Subject to such restrictions as the Board may by regulation prescribe,
17 information from unemployment insurance records may be made available to
18 any public officer or public agency of this or any other state or the federal
19 government dealing with the administration or regulation of relief, public
20 assistance, unemployment compensation, a system of public employment
21 offices, wages and hours of employment, workers' compensation,

1 misclassification or miscoding of workers, occupational safety and health, or a
2 public works program for purposes appropriate to the necessary operation of
3 those offices or agencies. The Commissioner may also make information
4 available to colleges, universities, and public agencies of the State for use in
5 connection with research projects of a public service nature, and to the
6 Vermont Economic Progress Council with regard to the administration of
7 ~~32 V.S.A. chapter 151, subchapter 11E~~ 32 V.S.A. chapter 105, subchapter 2;
8 but no person associated with those institutions or agencies may disclose that
9 information in any manner that would reveal the identity of any individual or
10 employing unit from or concerning whom the information was obtained by
11 Commissioner.

12 * * *

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

14 (11) To the Joint Fiscal Office or its agent, provided that the disclosure
15 relates to a successful business applicant under ~~section 5930a~~ chapter 105,
16 subchapter 2 of this title and the ~~tax~~ incentive it has claimed and is reasonably
17 necessary for the Joint Fiscal Office or its agent to perform the duties
18 authorized by the Joint Fiscal Committee or a standing committee of the
19 General Assembly under ~~subsection 5930a(h)~~ that subchapter; to the Auditor
20 of Accounts for the performance of duties under section 163 of this title; to the
21 Department of Economic Development for the purposes of subsection 5922(f)

1 of this title; and to the Vermont Economic Progress Council, provided that the
2 disclosure relates to a successful business applicant under ~~sections 5930a and~~
3 ~~5930b~~ chapter 105, subchapter 2 of this title and the ~~tax~~ incentive it has
4 claimed and is reasonably necessary for the ~~council~~ Council to perform its
5 duties under ~~sections 5930a and 5930b~~ that subchapter.

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

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

8 * * *

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

15 (I) ~~Real property consisting of the value of remediation expenditures~~
16 ~~incurred by a business that has obtained the approval of the Vermont~~
17 ~~Economic Progress Council under section 5930a of this title for the~~
18 ~~construction of new, expanded or renovated facilities on contaminated property~~
19 ~~eligible under the redevelopment of contaminated properties program pursuant~~
20 ~~to 10 V.S.A. § 6615a(f), including supporting infrastructure, on sites eligible~~

1 ~~for the United States Environmental Protection Agency “Brownfield Program,”~~
2 ~~for a period of 10 years. [Repealed.]~~

3 * * *

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

5 § 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
6 FINANCING DISTRICTS

7 (a) Tax agreements and exemptions affecting the education property tax
8 grand list. A tax agreement or exemption shall affect the education property
9 tax grand list of the municipality in which the property subject to the
10 agreement is located if the agreement or exemption is:

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

12 (A) a tax stabilization agreement for any purpose authorized under
13 24 V.S.A. § 2741 or comparable municipal charter provisions entered into or
14 proposed and voted by the municipality before July 1, 1997, or a property tax
15 exemption adopted by vote pursuant to chapter 125 of this title or comparable
16 municipal charter provisions before July 1, 1997; or

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

20 (2) A tax stabilization agreement relating to industrial or commercial
21 property entered into under 24 V.S.A. § 2741, or comparable municipal charter

1 provisions ~~or an exemption for the purposes of economic development adopted~~
2 ~~by vote under sections 3834 (factories; quarries; mines), 3836 (private homes~~
3 ~~and dwellings), 3837 (airports), or 3838 (hotels) of this title or comparable~~
4 ~~municipal charter provisions after June 30, 1997 if subsequently approved by~~
5 ~~the Vermont Economic Progress Council pursuant to this subsection and~~
6 ~~section 5930a of this title. An agreement or exemption may be approved by~~
7 ~~the Vermont Economic Progress Council only if it has first been approved by~~
8 ~~the municipality in which the property is located with respect to the municipal~~
9 ~~tax liability of the property in that municipality. Any agreement or exemption~~
10 ~~approved by the Vermont Economic Progress Council may not affect the~~
11 ~~education tax liability of the property in a greater proportion than the~~
12 ~~agreement or exemption affects the municipal tax liability of the property. A~~
13 ~~municipality's approval of an agreement or exemption under this subsection~~
14 ~~may be made conditional upon approval of the agreement or exemption by the~~
15 ~~Vermont Economic Progress Council. The legislative body of the municipality~~
16 ~~in which the property subject to the agreement or exemption is located or the~~
17 ~~business that is subject to the agreement or exemption may request the~~
18 ~~Vermont Economic Progress Council to approve an agreement or exemption~~
19 ~~pursuant to section 5930a of this title. The Council shall also report to the~~
20 ~~General Assembly on the terms of the agreement or exemption, and the effect~~
21 ~~of the agreement or exemption on the education property tax grand list of the~~

1 ~~municipality and of the State. If so approved by the Council, an agreement or~~
2 ~~exemption shall be effective to reduce the property tax liability of the~~
3 ~~municipality under this chapter beginning April 1 of the year following~~
4 ~~approval.~~

5 (3) An agreement relating to affordable housing, which ~~may be~~
6 ~~submitted to the council for its approval under subdivision (2) of this~~
7 ~~subsection, or alternatively~~ may be approved under this subdivision by the
8 Commissioner of Taxes upon recommendation of the Commissioner of
9 Housing and Community Affairs provided the agreement provides either for
10 new construction housing projects or rehabilitated preexisting housing projects
11 and secures federal financial participation which may include projects financed
12 with federal low income housing tax credits.

13 * * *

14 (b) An agreement affecting the education property tax grand list defined
15 under subsection (a) of this section shall reduce the municipality's education
16 property tax liability under this chapter for the duration of the agreement or
17 exemption without extension or renewal, and for a maximum of 10 years;
18 ~~subject to the provisions of subsection 5930b(f) of this title.~~ A municipality's
19 property tax liability under this chapter shall be reduced by any difference
20 between the amount of the education property taxes collected on the subject
21 property and the amount of education property taxes that would have been

1 collected on such property if its fair market value were taxed at the equalized
2 nonresidential rate for the tax year.

3 (c) Tax agreements not affecting the education property tax grand list. A
4 tax agreement shall not affect the education property tax grand list if it is:

5 (1) A tax exemption adopted by vote of a municipality after July 1, 1997
6 under chapter 125 of this title, or voted under a comparable municipal charter
7 provision or other provision of law for property owned by nonprofit
8 organizations used for public, pious, or charitable purposes, ~~other than~~
9 ~~economic development exemptions voted under section 3834, 3836, 3837, or~~
10 ~~3838 of this title and approved by the Vermont Economic Progress Council, or~~
11 exemptions of property of a nonprofit volunteer fire, rescue, or ambulance
12 organization adopted by vote of a municipality.

13 (2) A tax stabilization agreement relating to agricultural property, ~~forest~~
14 ~~land~~ forestland, open space land, or alternate energy generating plants entered
15 into after July 1, 1997 by a municipality under 24 V.S.A. § 2741.

16 (3) A tax stabilization agreement relating to commercial or industrial
17 property entered into after July 1, 1997 by a municipality under 24 V.S.A.
18 § 2741, or a property tax exemption for purposes of economic development
19 adopted by vote after July 1, 1997, ~~which has not been approved by the~~
20 ~~Vermont Economic Progress Council to affect the education grand list under~~
21 ~~subsection (a)(2) of this section and section 5930a of this title. In granting tax~~

1 ~~stabilization agreements for commercial or industrial property under 24 V.S.A.~~
2 ~~§ 2741, a municipality shall consider any applicable guidelines established for~~
3 ~~the approval of such stabilization agreements by the Vermont Economic~~
4 ~~Progress Council established in subsection 5930a(e) of this title.~~

5 * * *

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

7 § 5813. STATUTORY PURPOSES

8 * * *

9 (u) The statutory purpose of the ~~Vermont employment growth incentive~~
10 Vermont Employment Growth Incentive Program in ~~section 5930b-~~ chapter
11 105, subchapter 2 of this title is to ~~provide a cash incentive to encourage~~
12 quality job growth in Vermont encourage a business to add incremental and
13 qualifying payroll, jobs, and capital investments by sharing with the business a
14 portion of the revenue generated by the new payroll, new jobs, and new capital
15 investments, thereby generating net new revenues to the State.

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. VERMONT EMPLOYMENT GROWTH INCENTIVE

9 PROGRAM REVIEW

10 (a) On or before August 15, 2016, the Joint Fiscal Committee shall convene
11 a Vermont Employment Growth Incentive Program Review Group.

12 (b)(1) For the purpose of addressing the technical issues specified in
13 subdivisions (c)(1)–(6) of this section, the Group shall consist of the following
14 members:

15 (A) the State legislative economist or a designee of the Joint Fiscal
16 Committee;

17 (B) the State executive economist;

18 (C) a policy analyst from the Agency of Commerce and Community
19 Development;

20 (D) an economic and labor market information chief from the
21 Department of Labor;

1 (E) a fiscal analyst from the Department of Taxes; and

2 (F) the Executive Director of the Vermont Economic Progress

3 Council.

4 (2) For the purpose of addressing the issues in subdivisions (c)(7)–(10)

5 of this section, the Group shall consist of all the members specified in

6 subdivision (1) of this subsection and the following additional members:

7 (A) a representative of the Vermont Regional Development

8 Corporations appointed by the Secretary of Commerce and Community

9 Development;

10 (B) a representative of the business community designated by the

11 Governor; and

12 (C) a member of the public designated jointly by the Speaker of the

13 House and the Senate Committee on Committees.

14 (c) The Group shall review the following questions relating to the Vermont

15 Employment Growth Incentive Program:

16 (1) whether the cost-benefit model is the most current and appropriate

17 tool for evaluating fiscal impacts of the Program and whether it is effectively

18 utilized;

19 (2) whether the inputs to the cost-benefit model should be adjusted for

20 those applicants who assert that but for the incentive the scale or timing of the

21 project would change;

1 (3) whether the Program can integrate the use of business-specific
2 background growth rates in addition to, or in place of, industry-specific
3 background growth rates; and, if industry-specific background growth rates are
4 recommended, a methodology to review, calculate, and set those rates
5 routinely;

6 (4) whether differential rates in annual average wages or annual average
7 unemployment, defined by labor market area, are appropriate triggers for an
8 incentive enhancement for projects located in, or lower wage threshold for jobs
9 created in, qualifying labor market areas, and whether the margins of error in
10 annual labor market area wage and unemployment rates are within an
11 acceptable range of tolerance for this use;

12 (5) whether the enhanced incentives available under the program are
13 appropriate and necessary, including:

14 (A) an analysis of the growth in the environmental technology sector
15 in Vermont as defined in the enhanced incentive for environmental technology
16 business and whether growth in this sector obviates the need for the current
17 enhancement;

18 (B) whether the State should forego additional net fiscal benefit
19 under the enhancements and whether the policy objectives of the
20 enhancements are met;

1 (6) 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 (7) how to most effectively ensure, through the application and award
5 process, that recipients of VEGI incentives are in compliance with all federal
6 and State water quality and air quality laws and regulations;

7 (8) 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 (9) changes to the Program to ensure incentives will benefit the creation
11 and growth of more small businesses; and

12 (10) whether additional applicant and program data reporting and
13 transparency could be accomplished without damage to applicant businesses.

14 (d) On or before January 15, 2018, the Group shall report its findings,
15 conclusions, recommendations, and supporting data for legislative action to the
16 House Committees on Commerce and Economic Development, on Ways and
17 Means, and on Appropriations, and to the Senate Committees on Economic
18 Development, Housing and General Affairs, on Finance, and on
19 Appropriations.

1 Sec. H.11. EXTENSION OF CURRENT VEGI STATUTE; TRANSITION

2 Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by
3 Sec. 2 of No. 52 of the Acts of 2011, and as further amended by 2012 Acts and
4 Resolves No. 143, Sec. 20, is amended to read:

5 (c) Beginning April 1, 2009, the economic incentive review board is
6 authorized to grant payroll-based growth incentives pursuant to the Vermont
7 employment growth incentive program established by Sec. 9 of this
8 act. Unless extended by act of the General Assembly, as of ~~July 1, 2017~~
9 January 1, 2018, no new Vermont employment growth incentive (VEGI)
10 awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted
11 prior to ~~July 1, 2017~~ January 1, 2018 may remain in effect until used and shall
12 governed by the provisions of 32 V.S.A chapter 105.

13 Sec. H.12. PROSPECTIVE REPEAL OF CURRENT VEGI STATUTE

14 32 V.S.A. §§ 5930a and 5930b are repealed.

15 * * * Blockchain Technology * * *

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

17 § 1913. BLOCKCHAIN ENABLING

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

1 **(b) Presumptions and admissibility.**

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

5 **(2) The following presumptions apply:**

6 **(A) A fact or record verified through a valid application of**
7 **blockchain technology is authentic.**

8 **(B) The date and time of the recordation of the fact or record**
9 **established through such a blockchain is the date and time that the fact or**
10 **record was added to the blockchain.**

11 **(C) The person established through such a blockchain as the person**
12 **who made such recordation is the person who made the recordation.**

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

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

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

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

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

6 (3) identity, participation, and status in the formation, management,
7 record keeping, and governance of any person;

8 (4) identity, participation, and status for interactions in private
9 transactions and with a government or governmental subdivision, agency, or
10 instrumentality;

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

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

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

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

17 (2) the legality or authorization for any particular underlying activity
18 whose practices or data are verified through the application of blockchain
19 technology.

20 * * * Regulation of Lodging Accommodations * * *

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

1 On or before January 15, 2017, the Department of Taxes, the Department of
2 Health, the Department of Tourism and Marketing, the Department of
3 Financial Regulation, and the Division of Fire Safety within the Department of
4 Public Safety, engaging interested stakeholders as necessary, shall:

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

8 (2) report its findings, conclusions, and any recommendations for
9 administrative action or legislative action, or both, to the House Committees on
10 Commerce and Economic Development and on Ways and Means, and to the
11 Senate Committees on Finance and on Economic Development, Housing and
12 General Affairs.

13 * * * State Workforce Development Board * * *

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

15 CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

16 § 540. WORKFORCE EDUCATION AND TRAINING LEADER

17 The Commissioner of Labor shall be the leader of workforce education and
18 training in the State, and shall have the authority and responsibility for the
19 coordination of workforce education and training within State government,
20 including the following duties:

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

2 Workforce ~~Investment~~ Development Board:

3 * * *

4 § 541a. STATE WORKFORCE ~~INVESTMENT~~ DEVELOPMENT BOARD

5 (a) Board established; duties. Pursuant to the requirements of 29 U.S.C.

6 § ~~2824~~ 3111, the Governor shall establish a State Workforce ~~Investment~~

7 Development Board to assist the Governor in the execution of his or her duties

8 under the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014

9 and to assist the Commissioner of Labor as specified in section 540 of this

10 title.

11 (b) Additional duties; planning; process. In order to inform its

12 decision-making and to provide effective assistance under subsection (a) of

13 this section, the Board shall:

14 * * *

15 (2) maintain familiarity with the federal Comprehensive Economic

16 Development Strategy (CEDS) and other economic development planning

17 processes, and coordinate workforce and education activities in the State,

18 including the development and implementation of the State plan required under

19 the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014, with

20 economic development planning processes occurring in the State, as

21 appropriate.

1 (c) Membership. The Board shall consist of the Governor and the
2 following members who are appointed by the Governor in conformance with
3 the federal Workforce Innovation and Opportunity Act and who serve at his or
4 her pleasure, unless otherwise indicated:

5 (1) the Commissioner of Labor;

6 (2) two members of the Vermont House of Representatives appointed by
7 the Speaker of the House;

8 ~~(2)~~(3) two members of the Vermont Senate appointed by the Senate
9 Committee on Committees;

10 ~~(3)~~(4) the President of the University of Vermont or designee;

11 ~~(4)~~(5) the Chancellor of the Vermont State Colleges or designee;

12 ~~(5)~~(6) the President of the Vermont Student Assistance Corporation or
13 designee;

14 ~~(6)~~(7) a representative of an independent Vermont college or university;

15 ~~(7)~~ the Secretary of Education or designee;

16 (8) a director of a regional technical center;

17 (9) a principal of a Vermont high school;

18 (10) two representatives of labor organizations who have been
19 nominated by a State labor federations federation;

1 (11) two representatives of individuals and organizations who have
2 experience with respect to youth activities, as defined in 29 U.S.C. § ~~2801(52)~~
3 3102(71);

4 (12) two representatives of individuals and organizations who have
5 experience in the delivery of workforce investment activities, as defined in
6 29 U.S.C. § ~~2801(51)~~ 3102(68);

7 (13) the lead State agency officials with responsibility for the programs
8 and activities carried out by one-stop partners, as described in 29 U.S.C.
9 § ~~2841(b)~~ 3151(b), or if no official has that responsibility, ~~a representative~~
10 representatives in the State with ~~expertise~~ responsibility relating to these
11 programs and activities;

12 (14) the Commissioner of Economic Development;

13 (15) ~~the Commissioner of Labor~~ the Secretary of Commerce and
14 Community Development;

15 (16) the Secretary of Human Services ~~or designee~~;

16 (17) the Secretary of Education;

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

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

1 (A) are owners, chief executives, or operating officers of businesses,
2 and other business executives or employers with optimum policymaking or
3 hiring authority;

4 (B) represent businesses with employment opportunities that reflect
5 ~~the~~ in-demand sectors and employment opportunities ~~of~~ in the State; and

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

8 (d) Operation of Board.

9 (1) Member representation.

10 (A) A member of the State Board may send a designee that meets the
11 requirements of subdivision (B) of this subdivision (1) to any State Board
12 meeting who shall count towards a quorum and shall be allowed to vote on
13 behalf of the Board member for whom he or she serves as a designee.

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

17 ~~(B)~~(C) The members of the Board shall represent diverse regions of
18 the State, including urban, rural, and suburban areas.

19 * * *

20 (6) Reimbursement.

21 * * *

1 (B) Unless otherwise compensated by his or her employer for
2 performance of his or her duties on the Board, a nonlegislative member of the
3 Board shall be eligible for per diem compensation of \$50.00 per day for
4 attendance at a meeting of the Board, and for reimbursement of his or her
5 necessary expenses, which shall be paid ~~by the Department of Labor solely~~
6 ~~from~~ through funds available for that purpose under the Workforce ~~Investment~~
7 Innovation and Opportunity Act of 1998 2014.

8 (7) Conflict of interest. A member of the Board shall not:

9 * * *

10 (B) engage in any activity that the Governor determines constitutes a
11 conflict of interest as specified in the State Plan required under 29 U.S.C.
12 § ~~2822~~ 3112 or 3113.

13 (8) Sunshine provision. The Board shall make available to the public,
14 on a regular basis through open meetings, information regarding the activities
15 of the Board, including information regarding the State Plan adopted pursuant
16 to 29 U.S.C. § ~~2822~~ 3112 or 3113 and prior to submission of the State Plan to
17 the U.S. Secretary of Labor, information regarding membership, and, on
18 request, minutes of formal meetings of the Board.

19 § 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF
20 OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE
21 PARTNERS

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

7 (b) The Agency of Commerce and Community Development shall
8 coordinate its work in adopting a statewide economic development plan with
9 the activities of the Board and the Commissioner of Labor, ~~including the~~
10 ~~development and implementation of the State Plan for workforce education~~
11 ~~and training required under the Workforce Investment Act of 1998.~~

12 § 542. REGIONAL WORKFORCE EDUCATION AND TRAINING

13 (a) The Commissioner of Labor, in coordination with the Secretary of
14 Commerce and Community Development, and in consultation with the State
15 Workforce Investment Development Board, is authorized to issue performance
16 grants to one or more persons to perform workforce education and training
17 activities in a region.

18 * * *

19 § 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT
20 PROGRAMS

21 * * *

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

4 * * *

5 § 544. VERMONT STRONG INTERNSHIP PROGRAM

6 * * *

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

12 * * *

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

14 (a)(1) The Secretary of Commerce and Community Development, in
15 consultation with the State Workforce ~~Investment~~ Development Board, shall
16 have the authority to design and implement a Vermont Training Program, the
17 purpose of which shall be to issue performance-based grants to employers and
18 to education and training providers to increase employment opportunities in
19 Vermont consistent with this chapter.

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

1 (b) A regional advisory board, with the consent of the State Workforce
2 ~~Investment~~ Development Board, may delegate its responsibilities to the grantee
3 that performs workforce development activities in the region pursuant to
4 10 V.S.A. § 542. In this case, the grantee shall become the regional advisory
5 board unless and until the school board that operates the career technical center
6 requests that the regional advisory board be reconstituted pursuant to
7 subsection (a) of this section.

8 * * * Vermont Creative Network * * *

9 Sec. L.1. VERMONT CREATIVE NETWORK

10 (a) Creation. The Vermont Arts Council, an independent nonprofit
11 corporation, in collaboration with statewide partners, shall perform the duties
12 specified in this section and establish the Vermont Creative Network, which
13 shall be:

14 (1) a communications, advocacy, and capacity-building entity that
15 strengthens Vermont's creative sector, utilizes it to enhance Vermonters'
16 quality of life, increases the State's economic vitality; and

17 (2) based on a collective impact model and shall use Results Based
18 Accountability as a planning and assessment tool.

19 (b) Outcomes and Indicators.

20 (1) The outcomes of the Vermont Creative Network are as follows:

1 (A) The Vermont creative sector enhances Vermonters' quality of
2 life and has a positive economic impact on the State.

3 (B) Participants in Vermont's creative sector thrive as significant
4 contributors to the State's general and economic well-being.

5 (C) Participants in Vermont's creative sector effectively share their
6 talents with a broad range of Vermonters and visitors throughout the State.

7 (D) The creative sector focuses its collective energy on planning and
8 development to advance the creative sector and its contributions to
9 Vermonters' quality of life and the State's economic well-being.

10 (E) Participants in Vermont's creative sector collaborate to identify,
11 advocate on behalf of, and promote common interests.

12 (2) Indicators to measure the success of these outcomes include the
13 following:

14 (A) advancement of quality of life measures;

15 (B) improvements in planning and development;

16 (C) increases in workforce development;

17 (D) increases in economic activity;

18 (E) inclusion of creativity and innovation in the Vermont brand;

19 (F) increases in access and equity;

20 (G) increases in sustainability; and

21 (H) cross-pollination with other sectors.

1 (c) Duties. With oversight and support from the Vermont Arts Council, the
2 Vermont Creative Network shall perform the following duties:

3 (1) On or before June 30, 2017, the Vermont Creative Network shall
4 create, and may update and revise as necessary, a strategic plan that:

5 (A) identifies and addresses the needs of the creative sector and gaps
6 in the creative sector's infrastructure;

7 (B) includes a plan to inventory Vermont's creative sector and
8 creative industries based on existing data, studies, and analysis, including:

9 (i) existing assets, infrastructure, and resources;

10 (ii) the potential for new creators to enter the local economy, the
11 methods to secure appropriate space and other infrastructure, and the
12 opportunities and barriers to creative labor;

13 (iii) the types of creative products, services, and industries
14 available in Vermont, and the financial viability of each; and

15 (iv) the current and potential markets in which Vermont creators
16 can promote, distribute, and sell their products and services.

17 (2) The Vermont Creative Network shall support regional creativity
18 zones.

19 (3) The Vermont Creative Network shall identify methods and
20 opportunities to strengthen the links within the sector, including:

1 (A) advocacy for the use of local arts and cultural resources by
2 Vermont schools, businesses, and institutions;

3 (B) support for initiatives that improve direct marketing of arts,
4 culture, and creativity to consumers; and

5 (C) identifying creative financing opportunities for the creative
6 sector.

7 (d) Authority. To accomplish the goals and perform the duties in this
8 section, the Vermont Creative Network may:

9 (1) create a Network steering team;

10 (2) hire or assign staff;

11 (3) seek and accept funds from private and public entities; and

12 (4) utilize technical assistance, loans, grants, or other means approved
13 by the Network steering team.

14 (e) Report.

15 (1) On or before January 15, 2017, the Vermont Arts Council shall
16 submit a report concerning the activities of the Vermont Creative Network to
17 the Governor and to the General Assembly.

18 (2) The report shall include a summary of work, including progress
19 toward meeting the program outcomes, information regarding any meetings of
20 the Network steering team, an accounting of all revenues and expenses related
21 to the Network, and recommendations regarding future Network activity.

1 Sec. L.2. APPROPRIATION

2 In Fiscal Year 2017, the amount of \$35,000.00 is appropriated from the
3 General Fund to the Vermont Arts Council to perform the duties specified in
4 this act.

5 Sec. L.3. IMPLEMENTATION

6 Notwithstanding any provision of this act to the contrary, if the General
7 Assembly does not appropriate \$35,000.00 or more in funding to the Vermont
8 Arts Council to implement this act, the Council is encouraged, but is not
9 required, to perform the duties specified in Sec. L.1 of this act.

10 Secs. M.1.–M.2. [Reserved.]

11 Secs. N.1–N.2. [Reserved.]

12 * * * Vermont Sustainable Jobs Fund * * *

13 Sec. O.1. 10 V.S.A. § 328 is amended to read:

14 § 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

15 (a) There is created a Sustainable Jobs Fund Program to create quality jobs
16 that are compatible with Vermont’s natural and social environment.

17 (b) The Vermont Economic Development Authority shall incorporate a
18 nonprofit corporation pursuant to the provisions of subdivision 216(14) of this
19 title to administer the Sustainable Jobs Fund Program, and to fulfill the
20 purposes of this chapter by means of loans or grants to eligible applicants for
21 eligible activities, provided that any funds contributed to the Program by the

1 Authority under subsection (c) of this section shall be used for lending
2 purposes only.

3 (c)(1) Notwithstanding the provisions of subdivision 216(14) of this title,
4 the Authority may contribute not more than \$1,000,000.00 to the capital of the
5 corporation formed under this section, and the Board of Directors of the
6 corporation formed under this section shall consist of:

7 (A) the Secretary of Commerce and Community Development or his
8 or her designee;

9 (B) the Secretary of Agriculture, Food and Markets or his or her
10 designee;

11 (C) a director appointed by the Governor; and

12 (D) eight independent directors, no more than two of whom shall be
13 State government employees or officials, and who shall be selected as
14 vacancies occur by vote of the existing directors from a list of names offered
15 by a nominating committee of the Board created for that purpose.

16 (2)(A) Each independent director shall serve a term of three years or
17 until his or her earlier resignation.

18 (B) A director may be reappointed, but no independent director and
19 no director appointed by the Governor shall serve for more than three terms.

1 (C) The director appointed by the Governor shall serve at the
2 pleasure of the Governor and may be removed at any time with or without
3 cause.

4 (3) A director of the Board who is or is appointed by a State government
5 official or employee shall not be eligible to hold the position of Chair, Vice
6 Chair, Secretary, or Treasurer of the Board.

7 (d) ~~The Vermont Economic Development Authority may hire or assign a~~
8 ~~program director to administer, manage, and direct the affairs and business of~~
9 ~~the Board, subject to the policies, control, and direction of the corporation~~
10 ~~formed under this section. [Repealed.]~~

11 (e) The Agency of Commerce and Community Development shall have the
12 authority and responsibility for the administration and implementation of the
13 Program.

14 (f) The Vermont Sustainable Jobs Fund Program shall work collaboratively
15 with the Agency of Agriculture, Food and Markets to assist the Vermont
16 slaughterhouse industry in supporting its efforts at productivity and
17 sustainability.

18 Sec. O.2. 2002 Acts and Resolves No. 142, Sec. 254(a) is amended to read:

19 (a) ~~All authority and responsibility for the administration and~~
20 ~~implementation of the sustainable jobs fund and the sustainable jobs program~~
21 ~~established by chapter 15A of Title 10 is transferred from the Vermont~~

1 economic development authority to the agency of commerce and community
2 development, secretary's office. The agency shall be the successor to all rights
3 and obligations of the authority in any matter pertaining to the fund and the
4 program on and after July 1, 2002. [Repealed.]

5 **Secs. P.1–P.2. [Reserved.]**

6 ~~Sec. P.1. SOUTHERN VERMONT SUSTAINABLE MARKETING~~

7 ~~———— PROJECT; APPROPRIATION~~

8 ~~In fiscal year 2017, of the amounts paid by Entergy Nuclear Vermont~~
9 ~~Yankee, LLC to the State of Vermont pursuant paragraph 11 of the~~
10 ~~December 23, 2013 Memorandum of Understanding in Public Service Board~~
11 ~~Docket No. 7862 to promote economic development in Windham County, the~~
12 ~~Secretary of Commerce and Community Development shall transfer~~
13 ~~\$75,000.00 to the Brattleboro Development Credit Corporation to implement a~~
14 ~~Southern Vermont Sustainable Recruitment and Marketing Project, a publicly~~
15 ~~and privately funded multi-faceted marketing campaign that serves as a vehicle~~
16 ~~for employers across the Southern Vermont Economic Development Zone to~~
17 ~~collaboratively promote and recruit employees and visitors to southern~~
18 ~~Vermont.~~

19 ~~Sec. P.2. BENNINGTON COUNTY ECONOMIC DEVELOPMENT~~

20 ~~PLANNING; APPROPRIATION~~

1 In fiscal year 2017, the amount of \$50,000.00 is appropriated from the
2 General Fund to the Bennington County Regional Commission, which the
3 Commission shall use to:

4 (1) identify Bennington County region businesses, institutions,
5 individuals, and resources that are critical for building a partnership with the
6 Windham County region;

7 (2) establish a steering committee of interested parties, consistent with
8 guidelines established by the U.S. Economic Development Administration for
9 Comprehensive Economic Development Strategy steering committees, to serve
10 as the foundation for economic development work in the Bennington County
11 region;

12 (3) focus the steering committee, the private sector, and municipalities
13 on the process required for developing a Comprehensive Economic
14 Development Strategy, and solicit commitments, as appropriate, from these
15 parties for performing the work;

16 (4) publicize the initiative to build support for performing regional
17 economic development work; and

18 (5) partner with the Windham County region to host a Southern
19 Vermont Economic Development Summit, to share economic success stories
20 from southern Vermont and present the steps needed to develop the Southern
21 Vermont Comprehensive Economic Development Strategy.

1 (c) Based upon the data resulting from the study in subsection (b) of this
2 section, the Joint Fiscal Office shall, as part of the study or separately, prepare
3 a review of the future Vermont economic and demographic trends and
4 implications for Vermont’s tax structure as regards revenue, equity, and
5 competitiveness.

6 (d) The Vermont Department of Taxes shall cooperate with and provide
7 assistance as needed to the Joint Fiscal Office.

8 (e) The Joint Fiscal Office shall submit the study, including
9 recommendations for further research or analysis, to the Joint Fiscal
10 Committee on or before January 15, 2017.

11 * * * Financial Literacy Commission * * *

12 Sec. R.1. 9 V.S.A. § 6002(b)(7) is amended to read:

13 (7) ~~a representative~~ two representatives, each from a nonprofit entity
14 that provides financial literacy and related services to persons with low
15 income;

16 (A) one appointed by the Governor; and

17 (B) one appointed by the Office of Economic Opportunity from
18 among candidates proposed by the Community Action Agencies;

19 * * *

20 * * * Vermont Enterprise Fund * * *

21 **S.1. REPEAL**

1 2014 Acts and Resolves No. 179, Sec. E.100.5 (Vermont Enterprise Fund)
2 is repealed.

3 S.2. 10 V.S.A. § 12 is added to read:

4 § 12. VERMONT ENTERPRISE FUND

5 (a) There is created a Vermont Enterprise Fund, the sums of which may be
6 used by the Governor, with the approval of the Emergency Board, for the
7 purpose of making economic and financial resources available to businesses
8 facing circumstances that necessitate State government support and response
9 more rapidly than would otherwise be available from, or that would be in
10 addition to, other economic incentives.

11 (b)(1) The Fund shall be administered by the Commissioner of Finance and
12 Management as a special fund under the provisions of chapter 7, subchapter 5
13 of this title.

14 (2) The Fund shall contain any amounts transferred or appropriated to it
15 by the General Assembly.

16 (3) Interest earned on the Fund and any balance remaining at the end of
17 the fiscal year shall remain in the Fund.

18 (4) The Commissioner shall maintain records that indicate the amount of
19 money in the Fund at any given time.

20 (c) The Governor is authorized to use amounts available in the Fund to
21 offer economic and financial resources to an eligible business pursuant to this

1 section, subject to approval by the Emergency Board as provided in subsection
2 (e) of this section.

3 (d) To be eligible for an investment through the Fund, the Governor shall
4 determine that a business:

5 (1) adequately demonstrates:

6 (A) a substantial statewide or regional economic or employment
7 impact; or

8 (B) approval or eligibility for other economic development incentives
9 and programs offered by the State of Vermont; and

10 (2) is experiencing one or more of the following circumstances:

11 (A) a merger or acquisition may cause the closing of all or a portion
12 of a Vermont business, or closure or relocation outside Vermont will cause the
13 loss of employment in Vermont;

14 (B) a prospective purchaser is considering the acquisition of an
15 existing business in Vermont;

16 (C) an existing employer in Vermont, which is a division or
17 subsidiary of a multistate or multinational company, may be closed or have its
18 employment significantly reduced; or

19 (D) is considering Vermont for relocation or expansion.

1 (e)(1) Any economic and financial resources offered by the Governor under
2 this section must be approved by the Emergency Board before an eligible
3 business may receive assistance from the Fund.

4 (2) The Board shall invite the Chair of the Senate Committee on
5 Economic Development, Housing and General Affairs and the Chair of the
6 House Committee on Commerce and Economic Development to participate in
7 Board deliberations under this section in an advisory capacity.

8 (3) The Governor or designee, shall present to the Emergency Board for
9 its approval:

10 (A) information on the company;

11 (B) the circumstances supporting the offer of economic and financial
12 resources;

13 (C) a summary of the economic activity proposed or that would be
14 forgone;

15 (D) other State incentives and programs offered or involved;

16 (E) the economic and financial resources offered by the Governor
17 requiring use of monies from the Fund;

18 (F) employment, investment, and economic impact of Fund support
19 on the employer, including a fiscal cost-benefit analysis; and

20 (G) terms and conditions of the economic and financial resources
21 offered, including:

1 (i) the total dollar amount and form of the economic and financial
2 resources offered;

3 (ii) employment creation, employment retention, and capital
4 investment performance requirements; and

5 (iii) disallowance and recapture provisions.

6 (4) The Emergency Board shall have the authority to approve,
7 disapprove, or modify an offer of economic and financial resources in its
8 discretion, including consideration of the following:

9 (A) whether the business has presented sufficient documentation to
10 demonstrate compliance with subsection (d) of this section;

11 (B) whether the Governor has presented sufficient information to the
12 Board under subdivision (3) of this subsection;

13 (C) whether the business has received other State resources and
14 incentives, and if so, the type and amount; and

15 (D) whether the business and the Governor have made available to
16 the Board sufficient information and documentation for the Auditor of
17 Accounts to perform a performance audit of the program.

18 (f)(1) Proprietary business information and materials or other confidential
19 financial information submitted by a business to the State, or submitted by the
20 Governor to the Emergency Board, for the purpose of negotiating or approving
21 economic and financial resources under this section shall not be subject to

1 public disclosure under the State's public records law in 1 V.S.A. chapter 5,
2 but shall be available to the Joint Fiscal Office or its agent upon authorization
3 of the Chair of the Joint Fiscal Committee, and shall also be available to the
4 Auditor of Accounts in connection with the performance of duties under
5 32 V.S.A. § 163; provided, however, that the Joint Fiscal Office or its agent,
6 and the Auditor of Accounts, shall not disclose, directly or indirectly, to any
7 person any proprietary business or other confidential information or any
8 information which would identify a business except in accordance with a
9 judicial order or as otherwise specifically provided by law.

10 (2) Nothing in this subsection shall be construed to prohibit the
11 publication of statistical information, rulings, determinations, reports, opinions,
12 policies, or other information so long as the data are disclosed in a form that
13 cannot identify or be associated with a particular business.

14 (g) On or before January 15 of each year following a year in which
15 economic and financial resources were made available pursuant to this section,
16 the Secretary of Commerce and Community Development shall submit to the
17 House Committees on Commerce and Economic Development and on Ways
18 and Means and to the Senate Committees on Finance and on Economic
19 Development, Housing and General Affairs a report on the resources made
20 available pursuant to this section, including:

21 (1) the name of the recipient;

1 (2) the amount and type of the resources;

2 (3) the aggregate number of jobs created or retained as a result of the
3 resources;

4 (4) a statement of costs and benefits to the State; and

5 (5) whether any offer of resources was disallowed or recaptured.

6 **Sec. S.3. APPROPRIATION; VERMONT ENTERPRISE FUND**

7 In fiscal year 2017 the amount of \$85,000.00 is appropriated from the
8 General Fund to the Vermont Enterprise Fund created in 10 V.S.A. § 12.

9 * * * Workforce Housing; Pilot Projects;

10 Down Payment Assistance Program* * *

11 **Sec. T.1. PURPOSE**

12 The purpose of Sec. T.2 of this act is to promote the creation of workforce
13 housing:

14 (1) by creating two or more workforce housing pilot projects in targeted
15 areas that benefit from funding for infrastructure improvements;

16 (2) by funding grants to municipalities so they can pursue designated
17 downtown development districts, designated new town centers, designated
18 growth centers, and designated neighborhood development areas, and by
19 capitalizing on the existing regulatory benefits for these designated areas to
20 promote the creation of new workforce housing; and

1 (3) by extending the First Time Homebuyer’s Down Payment
2 Assistance Program through the Vermont Housing Finance Agency to provide
3 loans to more Vermont employees for down payment assistance and closing
4 costs.

5 Sec. T.2. WORKFORCE HOUSING PILOT PROJECTS;

6 INFRASTRUCTURE IMPROVEMENTS; APPROPRIATION

7 (a) Definition. As used in this act, “workforce housing pilot project”
8 means a discrete project located on a single tract or multiple contiguous tracts
9 of land that consists exclusively of owner-occupied housing or rental housing,
10 or both, that meets each of the following:

11 (1) The project includes 12 or more independent dwelling units, which
12 may be detached or connected.

13 (2) For a minimum of 25 percent of the total units in the project, the
14 total annual cost of owner-occupied housing, including principal, interest,
15 taxes, insurance, and condominium association fees, and the total annual cost
16 of rental housing, including rent, utilities, and condominium association fees,
17 will not exceed 30 percent of the gross annual income of a household at
18 80 percent of:

19 (A) the county median income, as defined by the U.S. Department of
20 Housing and Urban Development; or

1 (B) the standard metropolitan statistical area median income if the
2 municipality is located in such an area, as defined by the U.S. Department of
3 Housing and Urban Development.

4 (3) For a minimum of 50 percent of the total units in the project, the
5 total annual cost of owner-occupied housing, including principal, interest,
6 taxes, insurance, and condominium association fees, and the total annual cost
7 of rental housing, including rent, utilities, and condominium association fees,
8 will be between 30 percent of the gross annual income of a household at more
9 than 80 percent, and 30 percent of the gross annual income of a household at
10 120 percent, of:

11 (A) the county median income, as defined by the U.S. Department of
12 Housing and Urban Development; or

13 (B) the standard metropolitan statistical area median income if the
14 municipality is located in such an area, as defined by the U.S. Department of
15 Housing and Urban Development.

16 (4) The project will:

17 (A) be located in a designated downtown development district,
18 designated new town center, designated growth center, or designated
19 neighborhood development area under 24 V.S.A. chapter 76A; or

20 (B)(i) have a minimum residential density greater than or equal to
21 four single-family detached dwelling units per acre, exclusive of accessory

1 dwelling units as defined in 24 V.S.A. § 4303, or no fewer than the average
2 existing density of the surrounding neighborhood, whichever is greater; and

3 (ii) the area in which the project is located represents a logical
4 extension of an existing compact settlement pattern and is consistent with
5 smart growth principles as defined in 24 V.S.A. § 2791.

6 (b) Pilot projects.

7 (1) Of the amounts appropriated to the Agency of Human Services to
8 replace legacy technologies pursuant to 2010 Acts and Resolves No. 156,
9 Sec. D.106(c)(1), as amended by 2011 Acts and Resolves No. 63, Sec. C.100,
10 the amount of \$1,000,000.00 is hereby appropriated to the Vermont Housing
11 and Conservation Board for the purpose of awarding grants to fund
12 infrastructure improvements benefitting two or more workforce housing pilot
13 projects pursuant to this section.

14 (2) The Board, in consultation with the Department of Housing and
15 Community Development, shall create an application and approval process to
16 select two or more workforce housing pilot projects to provide the funding for
17 all or a portion of infrastructure improvements that benefit the project or
18 projects.

19 (c) Eligibility.

20 (1) Not more than one project may be located in a municipality with a
21 population of more than 10,000 full-time residents.

1 (2) Not more than one project may be located in a single county.

2 (3) Eligible infrastructure improvements shall include roads, sidewalks,
3 bridges, culverts, water, wastewater, stormwater, and other utilities.

4 (4) To remain eligible for grant funds, the person developing a project
5 shall complete the project within two years from the effective date of a grant
6 agreement with the Board.

7 (5) The Board shall give preference to proposals in which some or all of
8 the units required by subdivision (a)(2) of this section are subject to covenants
9 or other restrictions that make them perpetually affordable.

10 (d) Rescission. Any amounts that remain uncommitted to a pilot project on
11 July 1, 2018 shall revert to the General Fund.

12 (e) Reports.

13 (1) On or before December 15, 2016, the Vermont Housing and
14 Conservation Board shall submit an initial report to the House Committees on
15 Commerce and Economic Development and on General, Housing and Military
16 Affairs and the Senate Committee on Economic Development, Housing and
17 General Affairs, on action it has taken pursuant to this act, the status of any
18 workforce housing pilot projects, and any recommendations for additional
19 administrative or legislative action.

20 (2) On or before December 15, 2016, the Agency of Commerce and
21 Community Development shall report to the House Committees on Commerce

1 and Economic Development and on General, Housing and Military Affairs and
2 the Senate Committee on Economic Development, Housing and General
3 Affairs on the following:

4 (A) A review of existing statutes and programs, such as property tax
5 reallocation, that may serve as tools to update existing housing stock.

6 (B) Data from the Agency of Natural Resources, the Agency of
7 Agriculture, Food and Markets, and the Natural Resources Board with respect
8 to priority housing projects.

9 (i) For each such project, these agencies shall provide in the
10 report:

11 (I) Whether the project received an exemption under 10 V.S.A.
12 chapter 151 (Act 250).

13 (II) The amount of the fee savings under Act 250.

14 (III) The amount of the fee savings under permit programs
15 administered by the Agency of Natural Resources.

16 (IV) The cost under 10 V.S.A. § 6093 to mitigate primary
17 agricultural soils and a comparison to what that cost of such mitigation would
18 have been if the project had not qualified as a priority housing project.

19 (ii) Based on this data, the report shall summarize the benefits
20 provided to priority housing projects.

1 (iii) In this subdivision (B), “primary agricultural soils” and
2 “priority housing project” have the same meaning as in 10 V.S.A. § 6001.

3 (C) The results of a process led by the Executive Director of the
4 Vermont Economic Progress Council to engage stakeholders, including
5 representatives of the private lending industry; the private housing
6 development industry; a municipality that has an Tax Increment Financing
7 District; a municipality that has a designated downtown, growth center, or
8 neighborhood development area; a municipality that has a priority housing
9 project; the Department of Housing and Community Development; the
10 Department of Economic Development; the Department of Taxes; and the
11 Vermont Housing and Conservation Board, to investigate alternative municipal
12 infrastructure financing to enable smaller communities to build the needed
13 infrastructure to support mixed-income housing projects in communities
14 around the State.

15 (3) On or before December 15, 2018, the Vermont Housing and
16 Conservation Board shall submit a final report to the House Committees on
17 Commerce and Economic Development and on General, Housing and Military
18 Affairs and the Senate Committee on Economic Development, Housing and
19 General Affairs on action it has taken pursuant to this act, the status of any
20 workforce housing pilot projects, and any recommendations for additional
21 administrative or legislative action.

1 Sec. T.3. 10 V.S.A. § 303 is amended to read:

2 § 303. DEFINITIONS

3 As used in this chapter:

4 (1) "Board" means the Vermont Housing and Conservation Board
5 established by this chapter.

6 (2) "Fund" means the Vermont Housing and Conservation Trust Fund
7 established by this chapter.

8 (3) "Eligible activity" means any activity which will carry out either or
9 both of the dual purposes of creating affordable housing and conserving and
10 protecting important Vermont lands, including activities which will encourage
11 or assist:

12 (A) the preservation, rehabilitation, or development of residential
13 dwelling units ~~which~~ that are affordable to:

14 (i) lower income Vermonters; or

15 (ii) for owner-occupied housing, Vermonters whose income is less
16 than or equal to 120 percent of the median income based on statistics from
17 State or federal sources;

18 * * *

19 Sec. T.4. 32 V.S.A. § 5930u is amended to read:

20 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

21 * * *

1 (g)(1) In any fiscal year, the allocating agency may award up to:

2 (A) \$400,000.00 in total first-year credit allocations to all applicants
3 for rental housing projects, for ~~a total~~ an aggregate limit of \$2,000,000.00 over
4 any given five-year period that credits are available under this subdivision (A);

5 (B) \$300,000.00 in total first-year credit allocations for
6 owner-occupied unit financing or down payment loans consistent with the
7 allocation plan, including for new construction and manufactured housing, for
8 ~~a total~~ an aggregate limit of \$1,500,000.00 over any given five-year period that
9 credits are available under this subdivision (B).

10 ~~(2) In fiscal years 2016, 2017, and 2018, the allocating agency may~~
11 ~~award up to \$125,000.00 in total first year credit allocations for loans through~~
12 ~~the Down Payment Assistance Program created in subdivision (b)(2) of this~~
13 ~~section for a total aggregate limit of \$375,000.00 over the five year period that~~
14 ~~credits are available under this subdivision.~~

15 In any fiscal year, total first-year credit allocations under subdivision (1)
16 of this subsection plus succeeding-year deemed allocations shall not exceed
17 \$3,500,000.00.

18 ~~(h) The aggregate limit for all credit allocations available under this section~~
19 ~~in any fiscal year is \$3,875,000.00.~~

20 (1) In fiscal year 2016 through fiscal year 2022, the allocating agency
21 may award up to \$125,000.00 in total first-year credit allocations for loans

1 through the Down Payment Assistance Program created in subdivision (b)(2)
2 of this section.

3 (2) In any fiscal year, total first-year credit allocations under subdivision
4 (1) of this subsection plus succeeding-year deemed allocations shall not exceed
5 \$625,000.00.

6 * * * Effective Dates * * *

7 Sec. Z.1. EFFECTIVE DATES

8 (a) This section and the following sections shall take effect on passage:

9 (1) Secs. A.1–A.7 (Vermont Economic Development Authority).

10 (2) Sec. B.1 (cooperatives; electronic voting).

11 (3) Sec. E.4 (technical correction to business registration statute).

12 (4) Sec. G.1 (Medicaid for working people with disabilities).

13 (5) Sec. Q.2 (tax study).

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

15 (1) Sec. D.1 (Vermont Training Program).

16 (2) Secs. F.1–F.9 (Vermont State Treasurer).

17 (3) Secs. H.10–H.11 (VEGI Working Group review; extension of
18 sunset).

19 (4) Sec. I.1 (blockchain technology).

20 (5) Sec. J.1 (Internet-based lodging accommodations study).

21 (6) Secs. K.1–K.3 (State Workforce Development Board).

- 1 (7) Secs. L.1–L.3 (Vermont Creative Network).
- 2 ~~(8) Secs. M.1–M.2 (employee ownership).~~
- 3 ~~(9) Secs. N.1–N.3 (Veterans Entrepreneurship Program).~~
- 4 (10) Secs. O.1–O.2 (Vermont Sustainable Jobs Fund).
- 5 ~~(11) Secs. P.1–P.2 (southern Vermont economic development).~~
- 6 ~~(12) Secs. S.1–S.3 (Vermont Enterprise Fund; appropriation).~~
- 7 (13) Secs. T.1–~~T.4~~ (workforce housing; down payment assistance).

8 (c) The following sections shall take effect on July 1, 2017:

- 9 (1) Secs. C.1–C.2 (regional planning and development).
- 10 (2) Secs. E.1–E.2 (conversion, merger, share exchange, and
- 11 domestication of a corporation).

12 (d)(1) Notwithstanding 1 V.S.A. § 214, Sec. E.3 (technical corrections to

13 LLC Act) shall take effect retroactively as of July 1, 2015, and apply only to:

- 14 (A) a limited liability company formed on or after July 1, 2015; and
- 15 (B) except as otherwise provided in subdivision (4) of this
- 16 subsection, a limited liability company formed before July 1, 2015 that elects,
- 17 in the manner provided in its operating agreement or by law for amending the
- 18 operating agreement, to be subject to this act.

- 19 (2) Sec. E.3 does not affect an action commenced, a proceeding brought,
- 20 or a right accrued before July 1, 2015.

1 (3) Except as otherwise provided in subdivision (4) of this subsection,
2 Sec. E.3 shall apply to all limited liability companies on and after July 1, 2016.

3 (4) For the purposes of applying Sec. E.3 to a limited liability company
4 formed before July 1, 2015, for the purposes of applying 11 V.S.A. § 4023 and
5 subject to 11 V.S.A. § 4003, language in the company’s articles of
6 organization designating the company’s management structure operates as if
7 that language were in the operating agreement.

8 (e) Sec. R.1 (Financial Literacy Commission) shall take effect on July 2,
9 2016.

10 (f) Secs. H.1–H.9 (Vermont Employment Incentive Growth Program) and
11 Sec. H.12 (prospective repeal of current VEGI statute) shall take effect on
12 January 1, 2018.

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20 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE