

1 TO THE HONORABLE SENATE:

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

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

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

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

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

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

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

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

6 § 5410. FILING FEES

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

16 (b) The fee for an individual is ~~\$60.00~~ \$80.00 when filing an application
17 for registration as an agent, ~~\$60.00~~ \$80.00 when filing a renewal of registration
18 as an agent, and ~~\$60.00~~ \$80.00 when filing for a change of registration as an
19 agent. If the filing results in a denial or withdrawal, the Commissioner shall
20 retain the fee.

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

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

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

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

6 * * *

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

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

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

13 * * * Manufacturer Registration Fee; Tobacco Substitutes * * *

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

15 Subchapter 1c. Tobacco Substitute Manufacturers

16 § 1926. DEFINITIONS

17 (a) As used in this subchapter:

18 (1)(A) “Brand” means a corporate or product name, a business image, or
19 a mark, regardless of whether it may legally qualify as a trademark used by a
20 manufacturer to identify goods and to distinguish them from competitors’
21 goods.

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

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

7 (3) “Tobacco substitute” shall have the same meaning as in 7 V.S.A.
8 § 1001.

9 § 1927. REGULATION OF TOBACCO SUBSTITUTE

10 MANUFACTURERS; REGISTRATION; FEES

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

15 (1) the name of the manufacturer;

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

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

18 (4) any other information that **the Attorney General** considers to be
19 necessary.

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

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

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

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

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

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

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

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

19 (b) The Agency of Commerce and Community Development has the
20 personnel and resources to market and promote economic opportunities in
21 Vermont, whereas the Department of Financial Regulation has the personnel

1 and resources to supervise financial services and products offered in Vermont
2 in a manner that advances fair business practices and protects the investing
3 public. It is imperative that management of the EB-5 Program reflect the
4 existing expertise of both these State entities.

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

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

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

17 (2) marketing activities;

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

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

20 (5) ongoing oversight and compliance of approved projects, including
21 annual audits;

1 (6) the establishment of escrow accounts for capital investments and
2 third-party oversight of requisitions, if deemed appropriate by the
3 Commissioner and Secretary;
4 (7) investor relations and a formal complaint protocol;
5 (8) standards for revoking approval of a project;
6 (9) communication between the Agency and the Department, as well as
7 with media outlets and with other regulatory or law enforcement entities;
8 (10) fees and costs of the Regional Center, consistent with subsection
9 21(c) of this title; and
10 (11) any other matter the Commissioner and the Secretary determine
11 will strengthen the oversight and management of the EB-5 Program and
12 prevent fraudulent activities.

13 (e) The rules adopted under this section shall explicitly state that any
14 interest obtained through a capital investment in the EB-5 Program is a
15 “security” as defined in 9 V.S.A. § 5102(28) and as such is subject to
16 regulation by the Commissioner of Financial Regulation under the Vermont
17 Uniform Securities Act, 9 V.S.A. chapter 150.

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

19 § 21. EB-5 SPECIAL FUND

20 (a) An EB-5 Special Fund is created ~~for the operation of the State of~~ to
21 support the operating costs of the Vermont Regional Center for Immigrant

1 Investment under the federal EB-5 Program. The Fund shall consist of
2 revenues derived from administrative charges by the Agency of Commerce and
3 Community Development pursuant to subsection (c) of this section, any
4 interest earned by the Fund, and all sums which are from time to time
5 appropriated for the support of the Regional Center and its operations. It is the
6 intent of the General Assembly, however, that the collection of charges
7 authorized by this section will obviate the need for legislative appropriations to
8 support Regional Center expenses.

9 (b)(1) The receipt and expenditure of monies from the Special Fund shall
10 be under the supervision of the Secretary of Commerce and Community
11 Development.

12 (2) The Secretary of Commerce and Community Development shall
13 maintain accurate and complete records of all receipts and expenditures by and
14 from the Fund, and shall make an annual report on the condition of the Fund to
15 the Secretary of Administration, the House Committees on Commerce and
16 Economic Development and on Ways and Means, and the Senate Committees
17 on Finance and on Economic Development, Housing and General Affairs.

18 (3) Expenditures from the Fund shall be used only to ~~administer the EB-~~
19 ~~5 Program~~ support the operating expenses of the Regional Center, including
20 the costs of providing specialized services to support participating economic
21 development projects, marketing and related travel expenses, application

1 review and examination expenses, and personnel expenses incurred by the
2 Agency of Commerce and Community Development and the Department of
3 Financial Regulation. At the end of each fiscal year, the Secretary of
4 Administration shall transfer from the EB-5 Special Fund to the General Fund
5 any amount that the Secretary of Administration determines, in his or her
6 discretion, exceeds the funds necessary to administer the Program.

7 (c) Notwithstanding 32 V.S.A. § 603, the Secretary of Commerce and
8 Community Development, with input from the Commissioner of Financial
9 Regulation, is authorized to impose ~~an administrative charge~~ charges on
10 project developers for the costs of administering the Regional Center and
11 providing specialized services in support of participating economic
12 development projects to achieve the Fund's purpose. The charges shall include
13 a one-time application fee as well as an annual assessment apportioned among
14 approved projects in a fair and equitable manner as specified in rules adopted
15 under section 20 of this title. In addition, the rules shall require that an
16 applicant or approved project developer, as applicable, is liable for any
17 additional expenses incurred with respect to the retention of outside legal,
18 financial, examination **or other** services **or studies** deemed necessary by the
19 Secretary or the Commissioner to assist with application or project review.
20 **The charges authorized under this section may be waived in whole or in**
21 **part by the Secretary for good cause shown.** Any charges imposed under

1 this section shall be included in the consolidated Executive Branch fee report
2 required under 32 V.S.A. § 605.

3 Sec. 34c. EB-5 PROJECT DEVELOPER; COLLECTION OF PAST-DUE
4 FEES

5 On or before July 1, 2016, the Secretary of Commerce and Community
6 Development shall make every reasonable effort to collect all fees incurred by
7 an EB-5 project developer, or that would have been incurred by an EB-5
8 project developer had they not been waived, and owing to the EB-5 Special
9 Fund established under 10 V.S.A. § 21. The fees shall be collected in a
10 manner that does not diminish the value of a foreign investor’s interest
11 acquired through a capital investment in an EB-5 project.

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

14 * * * Environmental Conservation; Stormwater Discharge Permits;
15 Concentrated Animal Feeding Operations * * *

16 Twelfth: In Sec. 45, 3 V.S.A. § 2822(j), after subdivision (2), by striking
17 out the “* * *” and inserting in lieu thereof the following:

18 (A) Application review fee.

19 * * *

20 (iv) Indirect discharge or
21 underground injection control,

1 excluding stormwater discharges.

2 (I) Indirect discharge, sewage.

3 (aa) Individual permit: \$1,755.00 plus \$0.08 per
4 original application; amendment gallon of design capacity
5 for increased flows; above 6,500 gpd.
6 amendment for
7 modification or replacement
8 of system.

9 (II) Indirect discharge, nonsewage.

10 (aa) Individual permit: \$0.06 per gallon
11 original application; of design capacity;
12 amendment for increased flows; minimum \$400.00.
13 amendment for modification
14 or replacement of system.

15 (III) Underground injection; ~~original~~ individual permit;
16 amendment for increased flows; amendment for modification
17 or replacement of system.

18 (aa) For applications \$500.00 and \$0.10 for
19 where the discharge meets each gallon per day
20 groundwater enforcement over 2,000 gallons
21 standards at the point of per day.

1 discharge:
2 (bb) For applications where \$1,500.00 and \$0.20 for
3 the discharge meets groundwater each gallon per day
4 enforcement standards at the over 2,000 gallons
5 point of compliance: per day.

6 Thirteenth: After Sec. 47, 16 V.S.A. § 1694, by inserting two reader
7 assistances and a Sec. 47a to read as follows:

8 * * * Department of Taxes * * *

9 * * * Traffic Violations; Setoff of Court Judgments; Reciprocity * * *

10 Sec. 47a. 32 V.S.A. § 5941 is amended to read:

11 § 5941. PROCEDURE FOR SETOFF OF COURT JUDGMENTS

12 (a) The Court shall include in any judgment a notice that any unpaid
13 amount of a fine, penalty, surcharge, or fee, but not damages, may be certified
14 to the Department for a setoff on the judgment debtor's income tax refund and
15 property tax adjustment under chapter 154 of this title, ~~and the~~ or may be
16 certified to a tax officer of another state for a setoff on any tax refund owed to
17 the judgment debtor in that state pursuant to subsection (f) of this section. The
18 notice shall also explain how the judgment debtor may challenge the
19 certification.

1 (b) Sections 5934(c) and 5936 of this title, relating to the procedure for
2 contesting the debt, shall not apply to a court seeking setoff from a judgment
3 debtor under this subchapter.

4 (c) Notwithstanding section 502 of this title, the Department may assess
5 against the judgment debtor a collection assistance fee in an amount
6 established pursuant to section 5938 of this title.

7 (d) If a judgment debtor identified by the Court clerk is entitled to a refund,
8 the Department shall retain the collection assistance fee and then transfer to the
9 Court in which the judgment was issued an amount equal to the refund owed or
10 the amount unpaid, whichever is less.

11 (e) The Court Administrator may contract with one or more collection
12 agencies to serve as a claimant agency on behalf of a court for purposes of this
13 subchapter.

14 (f)(1) Upon request to the Commissioner by the appropriate state officer of
15 another state who has authority to collect traffic violation judgments, and
16 certification that a judgment debtor owes any unpaid amount on a fine, penalty,
17 surcharge, or fee, but not damages, relating to a traffic violation, the
18 Commissioner may set off any tax refund that it owes to the judgment debtor
19 against the amount of the unpaid judgment relating to a traffic violation, and
20 pay that amount to the requesting state officer in another state.

1 (2) The Commissioner shall not set off any unpaid judgment relating to
2 a traffic violation unless the laws of the requesting state allow the
3 Commissioner, in cases where the judgment debtor owes an unpaid judgment
4 relating to a traffic violation to this State, to certify that the unpaid judgment is
5 owed, and to request a tax officer of the requesting state to set off any tax
6 refund owed to the judgment debtor, and pay that amount to this State.

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

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

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

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

14

15

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17

18 (Committee vote: _____)

19

20

Senator _____

21

FOR THE COMMITTEE