

1 TO THE HONORABLE SENATE:

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

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

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

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

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

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

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

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

6        § 5410. FILING FEES

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

16       (b) The fee for an individual is ~~\$60.00~~ \$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 \* \* \* **Attorney General; Manufacturer Registration Fee;**

14 **Tobacco Substitutes \* \* \***

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

16 Subchapter 1c. Tobacco Substitute Manufacturers

17 § 1926. DEFINITIONS

18 (a) As used in this subchapter:

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

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

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

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

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

10 § 1001.

11 § 1927. TOBACCO SUBSTITUTE MANUFACTURERS; REGISTRATION;

12 FEES

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

17 (1) the name of the manufacturer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20               (2) marketing activities;

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

- 1           (4) securities analysis and standards for project approval;
- 2           (5) ongoing oversight and compliance of approved projects, including  
3 annual audits;
- 4           (6) the establishment of escrow accounts for capital investments and  
5 third-party oversight of requisitions, if deemed appropriate by the  
6 Commissioner and Secretary;
- 7           (7) investor relations and a formal complaint protocol;
- 8           (8) standards for revoking approval of a project;
- 9           (9) communication between the Agency and the Department, as well as  
10 with media outlets and with other regulatory or law enforcement entities;
- 11           (10) fees and costs of the Regional Center, consistent with subsection  
12 21(c) of this title; and
- 13           (11) any other matter the Commissioner and the Secretary determine  
14 will strengthen the oversight and management of the EB-5 Program and  
15 prevent fraudulent activities.
- 16           (e) The rules adopted under this section shall explicitly state that any  
17 interest obtained through a capital investment in the EB-5 Program is a  
18 “security” as defined in 9 V.S.A. § 5102(28) and as such is subject to  
19 regulation by the Commissioner of Financial Regulation under the Vermont  
20 Uniform Securities Act, 9 V.S.A. chapter 150.
- 21           Sec. 34b. 10 V.S.A. § 21 is amended to read:



1 § 21. EB-5 SPECIAL FUND

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

12 (b)(1) The receipt and expenditure of monies from the Special Fund shall  
13 be under the supervision of the Secretary of Commerce and Community  
14 Development.

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

1           (3) Expenditures from the Fund shall be used only to ~~administer the EB-~~  
2 ~~5 Program~~ support the operating expenses of the Regional Center, including  
3 the costs of providing specialized services to support participating economic  
4 development projects, marketing and related travel expenses, application  
5 review and examination expenses, and personnel expenses incurred by the  
6 Agency of Commerce and Community Development and the Department of  
7 Financial Regulation. At the end of each fiscal year, the Secretary of  
8 Administration shall transfer from the EB-5 Special Fund to the General Fund  
9 any amount that the Secretary of Administration determines, in his or her  
10 discretion, exceeds the funds necessary to administer the Program.

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

1 financial, examination or other services or studies deemed necessary by the  
2 Secretary or the Commissioner to assist with application or project review.

3 **The invoicing and collection of some or all charges authorized under this**  
4 **section may be suspended for a period of time as deemed appropriate by**  
5 **the Secretary for good cause shown.** Any charges imposed under this section  
6 shall be included in the consolidated Executive Branch fee report required  
7 under 32 V.S.A. § 605.

8 Sec. 34c. EB-5 PROJECT DEVELOPER; COLLECTION OF PAST-DUE  
9 FEES

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

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

19 \* \* \* Environmental Conservation; Stormwater Discharge Permits;

20 Concentrated Animal Feeding Operations \* \* \*

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

3             (A) Application review fee.

4   \* \* \*

5             (iv) Indirect discharge or  
6             underground injection control,  
7             excluding stormwater discharges.

8             (I) Indirect discharge, sewage.

9                 (aa) Individual permit:                     \$1,755.00 plus \$0.08 per  
10                 original application; amendment    gallon of design capacity  
11                 for increased flows;                     above 6,500 gpd.  
12                 amendment for  
13                 modification or replacement  
14                 of system.

15             (II) Indirect discharge, nonsewage.

16                 (aa) Individual permit:                 \$0.06 per gallon  
17                 original application;                     of design capacity;  
18                 amendment for increased flows;     minimum \$400.00.  
19                 amendment for modification  
20                 or replacement of system.

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

1                    amendment for increased flows; amendment for modification  
2                    or replacement of system.

3                    (aa) For applications                    \$500.00 and \$0.10 for  
4                    where the discharge meets                    each gallon per day  
5                    groundwater enforcement                    over 2,000 gallons  
6                    standards at the point of                    per day.  
7                    discharge:

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

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

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

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

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

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2 (Committee vote: \_\_\_\_\_)

3

\_\_\_\_\_

4

Senator \_\_\_\_\_

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FOR THE COMMITTEE