Senate proposal of amendment

H. 516

An act relating to miscellaneous tax changes

The Senate proposes to the House to amend the bill as follows:

First: By striking out the reader assistance heading before Sec. 1, and inserting in lieu thereof a new reader assistance heading to read as follows:

* * * Administrative and Technical Provisions * * *

And by striking the reader assistance heading between Sec. 1 and Sec. 2

Second: By striking out Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. 3 V.S.A. chapter 10 is added to read:

CHAPTER 10. FEDERAL TAX INFORMATION

§ 241. BACKGROUND INVESTIGATIONS

(a) "Federal tax information" or "FTI" means returns and return information as defined in 26 U.S.C. § 6103(b) that are received directly from the Internal Revenue Service or obtained through an IRS-authorized secondary source, that are in the Recipient's possession or control, and that are subject to the confidentiality protections and safeguarding requirements of the Internal Revenue Code and corresponding federal regulations and guidance.

(b) As used in this chapter, "Recipient" means the following authorities of the Executive Branch of State government that receive FTI:

(1) Agency of Human Services, including:

(A) Department for Children and Families;

(B) Department of Health;

(C) Department of Mental Health; and

(D) Department of Vermont Health Access.

(2) Department of Labor.

(3) Department of Motor Vehicles.

(4) Department of Taxes.

(c) The Recipient shall conduct an initial background investigation of any individual, including a current or prospective employee, volunteer, contractor, or subcontractor, to whom the Recipient permits access to FTI for the purpose of assessing the individual's fitness to be permitted access to FTI. The Recipient shall conduct, every 10 years at a minimum, periodic background

investigations of employees or other individuals to whom the Recipient permits access to FTI.

(d) The Recipient shall request and obtain from the Vermont Crime Information Center (VCIC) the Federal Bureau of Investigation and State and local law enforcement criminal history records based on fingerprints for the purpose of conducting a background investigation under this section.

(e) The Recipient shall sign and keep a user agreement with the VCIC.

(f) A request made under subsection (d) of this section shall be accompanied by a release signed by the individual on a form provided by the VCIC, a set of the individual's fingerprints, and a fee established by the VCIC that shall reflect the cost of obtaining the record. The fee for a current or prospective employee shall be paid by the Recipient. The release form to be signed by the individual shall include a statement informing the individual of:

(1) the right to challenge the accuracy of the record by appealing to the VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

(2) the Recipient's policy regarding background investigations and the maintenance and destruction of records.

(g) Upon completion of a criminal history record check under subsection (d) of this section, the VCIC shall send to the Recipient either a notice that no record exists or a copy of the record. If a copy of a criminal history record is received, the Recipient shall forward it to the individual and shall inform the individual in writing of:

(1) the right to challenge the accuracy of the record by appealing to the VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

(2) the Recipient's policy regarding background investigations and the maintenance and destruction of records.

(h) Criminal history records and information received under this chapter are exempt from public inspection and copying under the Public Records Act and shall be kept confidential by the Recipient, except to the extent that federal or State law authorizes disclosure of such records or information to specifically designated persons.

(i) The Recipient shall adopt policies in consultation with the Department of Human Resources to carry out this chapter and to guide decisions based on the results of any background investigation conducted under this chapter.

§ 242. RAP BACK PROGRAM

The Recipient may request the Vermont Crime Information Center (VCIC) to provide Federal Bureau of Investigation "Rap Back" background investigation services based on fingerprints for the purpose of assessing the

fitness of an individual with access to FTI, including a current employee, volunteer, contractor, or subcontractor, to continue to be permitted access to FTI. A Rap Back investigation authorized under this section may be requested upon:

(1) obtaining informed written consent from the individual to authorize the retention of fingerprints for future background investigation purposes;

(2) creating sufficient controls and processes to protect the confidentiality and privacy of the records and information received;

(3) notifying the individual in a timely manner of new records and information received; and

(4) notifying the individual of the background investigation policy established by the Recipient in consultation with the Department of Human Resources.

Third: In Sec. 13, 31 V.S.A. chapter 23, in subdivision 1201(5), by adding a third sentence to read as follows:

An organization shall be considered a nonprofit organization under this subdivision only if it certifies annually, on a form with whatever information is required by the Commissioner, how it meets the definition under this subdivision.

And in section 1203, by striking subsection (f) in its entirety, and inserting in lieu thereof a new subsection (f) to read as follows:

(f) A nonprofit organization that sells break-open tickets, other than a club as defined in 7 V.S.A. § 2(7), shall report to the Department of Liquor Control on a quarterly basis the number of tickets purchased and distributed, and the corresponding serial numbers of those tickets, the amount of revenue realized by the nonprofit organization, and the amounts accounted for under subdivisions (e)(2)(A)–(D) of this section. The nonprofit organization shall also identify an individual from the organization responsible for the reporting requirements under this subsection. If the Department of Liquor Control determines that a nonprofit organization has failed to comply with the requirements of this subsection, the Department of Liquor Control shall notify the nonprofit organization and any licensed distributors of this failure, and any licensed distributor that continues to sell break-open tickets to that nonprofit organization after notice shall be considered in violation of the requirements of this chapter, until the Department of Liquor Control has determined the nonprofit organization is back in compliance with this subsection.

Fourth: By striking out Sec. 15 (health information technology report) in its entirety, and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. HEALTH INFORMATION TECHNOLOGY REPORT

(a) The Secretaries of Administration and of Human Services shall conduct a comprehensive review of the State's Health-IT Fund established by 32 V.S.A. § 10301, Health Information Technology Plan established by 18 V.S.A. § 9351, and Vermont Information Technology Leaders administered pursuant to 18 V.S.A. § 9352.

(b) The report shall:

(1) review the need for a State-sponsored Health-IT Fund;

(2) review how past payments from the Fund have or have not promoted the advancement of health information technology adoption and utilization in Vermont;

(3) review the past development, approval process, and use of the Vermont Health Information Technology Plan;

(4) review the Vermont Information Technology Leaders (VITL) organization, including:

(A) its maintenance and operation of Vermont's Health Information Exchange (VHIE);

(B) the organization's ability to support current and future health care reform goals;

(C) defining VITL's core mission;

(D) identifying the level of staffing necessary to support VITL in carrying out its core mission; and

(E) examining VITL's use of its staff for activities outside its core mission;

(5) recommend whether to continue the Health-IT Fund, including with its current revenue source as set forth in 32 V.S.A § 10402;

(6) recommend any changes to the structure of VITL, including whether it should be a public or private entity, and any other proposed modifications to 18 V.S.A § 9352;

(7) review property and ownership of the VHIE, including identifying all specific tangible and intangible assets that comprise or support the VHIE (especially in regards to VITL's current and previous agreements with the State), and the funding sources used to create this property;

(8) evaluate approaches to health information exchange in other states, including Maine and Michigan, in order to identify opportunities for reducing duplication in Vermont's health information exchange infrastructure; and

(9) recommend any accounting or financial actions the State should take

regarding State-owned tangible and intangible assets that comprise or support the VHIE.

(c) On or before November 15, 2017, the Secretaries of Administration and of Human Services shall submit this report to the House Committees on Health Care, on Appropriations, on Energy and Technology, and on Ways and Means and the Senate Committees on Health and Welfare, on Appropriations, and on Finance.

Fifth: By striking out Sec. 18 in its entirety and inserting in lieu thereof a reader assistance and five new sections to be Secs. 18–18d to read as follows:

* * * Health Care Provisions; Home Health Agency Provider Tax * * *

Sec. 18. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

(1) "Assessment" means a tax levied on a health care provider pursuant to this chapter.

(2)(A) "~~Core home~~ Home health ~~care~~ services" means any of the following:

(i) those medically necessary, intermittent, skilled ~~nursing, home health aide, therapeutic, and personal care attendant services, provided exclusively in the home by home health agencies. Core home health services do not include private duty nursing, hospice, homemaker, or physician services, or services provided under early periodic screening, diagnosis, and treatment (EPSDT), traumatic brain injury (TBI), high technology programs, or services provided by a home for persons who are terminally ill as defined in subdivision 7102(3) of this title~~ home health services provided by Medicare-certified home health agencies of the type covered under Title XVIII (Medicare) or XIX (Medicaid) of the Social Security Act;

(ii) services covered under the adult and pediatric High Technology Home Care programs as of January 1, 2015;

(iii) personal care, respite care, and companion care services provided through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration; and

(iv) hospice services.

(B) The term "home health services" shall not include any other service provided by a home health agency, including:

(i) private duty services;

(ii) case management services, except to the extent that such

services are performed in order to establish an individual's eligibility for services described in subdivision (A) of this subdivision (2);

(iii) homemaker services;

(iv) adult day services;

(v) group-directed attendant care services;

(vi) primary care services;

(vii) nursing home room and board when a hospice patient is in a nursing home; and

(viii) health clinics, including occupational health, travel, and flu clinics.

(C) The term "home health services" shall not include any services provided by a home health agency under any other program or initiative unless the services fall into one or more of the categories described in subdivision (A) of this subdivision (2). Other programs and initiatives include:

(i) the Flexible Choices or Assistive Devices options under the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration;

(ii) services provided to children under the early and periodic screening, diagnostic, and treatment Medicaid benefit;

(iii) services provided pursuant to the Money Follows the Person demonstration project;

(iv) services provided pursuant to the Traumatic Brain Injury Program; and

(v) maternal-child wellness services, including services provided through the Nurse Family Partnership program.

* * *

(10) "Net ~~operating~~ patient revenues" means a provider's gross charges related to patient care services less any deductions for bad debts, charity care, contractual allowances, and other payer discounts.

* * *

Sec. 18a. 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a)(1) ~~Beginning October 1, 2011, each~~ Each home health agency's assessment shall be ~~19.30~~ 4.25 percent of its net ~~operating~~ patient revenues from ~~core~~ home health ~~care~~ services~~, excluding revenues for services provided under Title XVIII of the federal Social Security Act; provided, however, that~~

~~each home health agency's annual assessment shall be limited to no more than six percent of its annual net patient revenue~~ provided exclusively in Vermont.

(2) On or before May 1 of each year, each home health agency shall provide to the Department a copy of its most recent audited financial statement prepared in accordance with generally accepted accounting principles. The amount of the tax shall be determined by the Commissioner based on the home health net patient revenue attributable to services reported on the agency's ~~most recent audited~~ financial ~~statements~~ statement ~~at the time of submission, a copy of which shall be provided on or before May 1 of each year to the Department~~.

(3) For providers who ~~begin~~ began operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

~~(1)~~(A) Until such time as the home health agency submits audited financial statements for its first full year of operation as a home health agency, the Commissioner, in consultation with the home health agency, shall annually estimate the amount of tax payable and shall prescribe a schedule for interim payments.

~~(2)~~(B) At such time as the full-year audited financial statement is filed, the final assessment shall be determined, and the home health agency shall pay any underpayment or the Department shall refund any overpayment. The assessment for the State fiscal year in which a provider commences operations as a home health agency shall be prorated for the proportion of the State fiscal year in which the new home health agency was in operation.

* * *

Sec. 18b. 2016 Acts and Resolves No. 134, Sec. 32 is amended to read:

Sec. 32. HOME HEALTH AGENCY ASSESSMENT FOR FISCAL ~~YEARS~~ YEAR 2017 ~~AND 2018~~

Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for fiscal ~~years~~ year 2017 ~~and 2018~~ only, the amount of the home health agency assessment under 33 V.S.A. § 1955a for each home health agency shall be 3.63 percent of its annual net patient revenue.

Sec. 18c. TRANSITIONAL PROVISION FOR FISCAL YEAR 2018

Notwithstanding any provision of 33 V.S.A. § 1955a(a)(2) to the contrary, for fiscal year 2018 only, the Commissioner of Vermont Health Access may determine the amount of a home health agency's provider tax based on such documentation as the Commissioner deems acceptable.

Sec. 18d. REPEAL

33 V.S.A. § 1955a (home health agency assessment) is repealed on July 1,

2019.

Sixth: After Sec. 24, by adding a Sec. 24a to read as follows:

Sec. 24a. SMALL BUSINESS TAXPAYER OUTREACH AND EDUCATION WORKING GROUP

The Taxpayer Advocate at the Department of Taxes shall convene a working group of interested stakeholders to examine the ways the Department can improve outreach and education to small business taxpayers. On or before November 15, 2017, the Taxpayer Advocate shall report to the House Committee on Ways and Means and the Senate Committee on Finance recommendations to improve the relationship between the Department and small businesses. In considering the recommendations, the Taxpayer Advocate shall examine the following:

(1) identifying complex areas of the law that could be simplified to enhance voluntary compliance;

(2) compiling a list of common issues on which the Department may focus its outreach and education efforts;

(3) considering how the Department can maximize its existing resources to provide additional guidance targeted to small businesses;

(4) directing the Department to identify existing organizations and resources for small businesses and how to provide tax guidance through those organizations;

(5) providing for a plan to contact and provide direction to new small businesses in Vermont within one year of their operation in the State;

(6) recommending guidelines to forgive tax penalties and interest under certain circumstances; and

(7) making other recommendations as appropriate.

Seventh: By striking out Sec. 26 (clean water working group) in its entirety and inserting in lieu thereof a new Sec. 26 to read as follows:

Sec. 26. CLEAN WATER WORKING GROUP

(a) Creation. There is created the Working Group on Water Quality Funding (Working Group) to develop a recommended method of assessing a statewide impervious surface fee, per parcel fee, per acre fee, or some combination of the foregoing, in order to generate revenue to be deposited in the Clean Water Fund under 10 V.S.A. § 1388 to fund water quality restoration and conservation in the State.

(b) Membership. The Working Group shall be composed of the following 13 members:

(1) the Secretary of Natural Resources or designee;

(2) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(3) one current member of the Senate, who shall be appointed by the Committee on Committees;

(4) one member from the Vermont League of Cities and Towns, appointed by the Board of Directors of that organization;

(5) one member from the Vermont Municipal Clerks and Treasurers Association, appointed by the Executive Board of that organization;

(6) one member from the Vermont Mayors' Coalition appointed by that organization;

(7) one member representing commercial or industrial business interests in the State, to be appointed by the Lake Champlain Regional Chamber of Commerce, after consultation with other business groups in the State;

(8) the Commissioner of Environmental Conservation or designee;

(9) the Commissioner of Forests, Parks and Recreation or designee;

(10) a representative of an environmental advocacy group, appointed by the Speaker of the House;

(11) a representative of the agricultural community appointed by the Vermont Farm Bureau;

(12) a representative of University of Vermont Extension, appointed by the President Pro Tempore of the Senate; and

(13) the Secretary of Agriculture, Food and Markets or designee.

(c) Powers and duties. The Working Group shall recommend to the General Assembly draft legislation to establish a statewide method of assessing an impervious surface fee, a per parcel fee, a per acre fee, or some combination of the foregoing, in order to generate revenue to fund water quality restoration and conservation in the State. In developing the draft legislation, the Working Group shall address:

(1) whether the fee or fees shall be assessed on impervious surface, per parcel, per acre, or some combination of the foregoing;

(2) whether the fee or fees shall be tiered to reflect the amount of impervious surface, size of a parcel, acreage of a parcel, type of property, usage of the property, impact of the property on water quality, or other factors;

(3) the amount of fee or fees to be assessed;

(4) how the fee or fees shall be collected and remitted to the State;

(5) whether any property shall be exempt from the fee or fees;

(6) how an owner of property subject to a municipal stormwater utility fee or other revenue mechanism for funding water quality improvements shall receive a credit or reduced fee for payment of the municipal fee; and

(7) how to provide for abatement, delinquency, and enforcement of the required fee or fees.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Agency of Natural Resources and the Department of Taxes. The Working Group shall have the technical assistance of the Vermont Center for Geographic Information or designee.

(e) Report. On or before January 15, 2018, the Working Group shall submit to the General Assembly a summary of its activities and the draft legislation establishing a statewide method of assessing an impervious surface fee, per parcel fee, per acre fee, or some combination of the foregoing.

(f) Meetings.

(1) The Secretary of Natural Resources shall call the first meeting of the Working Group to occur on or before July 1, 2017.

(2) The Secretary of Natural Resources shall be the Chair of the Working Group.

(3) A majority of the membership shall constitute a quorum.

(4) The Working Group shall cease to exist on March 1, 2018.

Eighth: After Sec. 26, by inserting a Sec. 26a to read as follows:

Sec. 26a. 2015 Acts and Resolves No. 64, Sec. 39 is amended to read:

Sec. 39. REPEAL OF CLEAN WATER SURCHARGE

32 V.S.A. § 9602a (Clean Water Surcharge) shall be repealed on July 1, ~~2018~~ 2019.

Ninth: After Sec. 26a, by striking out Secs. 27 (repeals) and 28 (effective dates) in their entirety and inserting reader assistance headings and ten new sections to read as follows:

* * * Property Tax Appeals * * *

Sec. 27. 32 V.S.A. § 5412 is amended to read:

§ 5412. REDUCTION OF LISTED VALUE AND RECALCULATION OF EDUCATION TAX LIABILITY

(a)(1) If a listed value is reduced as the result of an appeal or court action~~, and if the municipality files a written request with the Commissioner within 30 days after the date of the determination, entry of the final order, or settlement~~

~~agreement if the Commissioner determines that the settlement value is the fair market value of the parcel, the Commissioner~~ made pursuant to section 4461 of this title, a municipality may submit a request for the Director of Property Valuation and Review to recalculate its education property tax liability for the education grand list value lost due to a determination, declaratory judgment, or settlement. The Director shall recalculate the municipality's education property tax liability for ~~the~~ each year at issue, in accord with the reduced valuation, provided that:

(A) ~~the~~ The reduction in valuation is the result of an appeal under chapter 131 of this title to the Director of Property Valuation and Review or to a court, with no further appeal available with regard to that valuation, or any judicial decision with no further right of appeal, or a settlement of either an appeal or court action if the ~~Commissioner~~ Director determines that the settlement value is the fair market value of the parcel~~;~~.

(B) ~~the~~ The municipality ~~notified the Commissioner of the appeal or court action, in writing, within 10 days after notice of the appeal was filed under section 4461 of this title or after the complaint was served; and~~ submits the request on or before January 15 for a request involving an appeal or court action resolved within the previous calendar year.

(C) ~~as a result of the valuation reduction of the parcel, the value of the municipality's grand list is reduced at least one percent.~~ [Repealed.]

(D) The Director determines that the municipality's actions were consistent with best practices published by the Property Valuation and Review in consultation with the Vermont Assessors and Listers Association. The municipality shall have the burden of showing that its actions were consistent with the Director's best practices.

(2) A determination of the Director made under subdivision (1) of this subsection (a) may be appealed within 30 days by an aggrieved municipality to the Commissioner for a hearing to be held in accordance with 3 V.S.A. §§ 809–813. The Commissioner's determination may be further appealed to Superior Court, which shall review the Commissioner's determination using the record that was before the Commissioner. The Commissioner's determination may only be overturned for abuse of discretion.

(3) ~~The municipality's~~ Upon the Director's request, a municipality submitting a request under subdivision (1) of this subsection (a) shall include a copy of the agreement, determination or final order, and any other documentation necessary to show the existence of these conditions.

(b) To the extent that the municipality has paid that liability, the ~~Commissioner~~ Director shall allow a credit for any reduction in education tax liability against the next ensuing year's education tax liability ~~or, at the request~~

~~of the municipality, may refund to the municipality an amount equal to the reduction in education tax liability~~.

(c) If a listed value is increased as the result of an appeal under chapter 131 of this title or court action, whether adjudicated or settled and the ~~Commissioner~~ Director determines that the settlement value is the fair market value of the parcel, with no further appeal available with regard to that valuation, the ~~Commissioner~~ Director shall recalculate the municipality's education property tax for each year at issue, in accord with the increased valuation, and shall assess the municipality for the additional tax at the same time the ~~Commissioner~~ Director assesses the municipality's education tax liability for the next ensuing year, unless the resulting assessment would be less than $300.00. Payment under this section shall be due with the municipality's education tax liability for the next ensuing year.

(d) Recalculation of education property tax under this section shall have no effect other than to reimburse or assess a municipality for education property tax changes ~~which~~ that result from property revaluation.

(e) A reduction made under this section shall be an amount equal to the loss in education grand list value multiplied by the tax rate applicable to the subject property in the year the request is submitted. However, the total amount for all reductions made under this section in one year shall not exceed $1,000,000.00. If total reductions for a calendar year would exceed that amount, the Director shall instead prorate the reductions proportionally among all municipalities eligible for a reduction so that total reductions equal $1,000,000.00.

(f) Prior to the issuance of a final administrative determination or judicial order, a municipality may request that the Director certify that best practices were followed for purposes of meeting the requirements of subdivision (a)(1)(D) of this section. The Director may choose to grant certification, deny certification, or refrain from a decision until a request is submitted under subdivision (a)(1) of this section. The Director shall consider the potential impact on the Education Fund, the unique character of the subject property or properties, and any extraordinary circumstances when deciding whether to grant certification under this subsection. The Director shall be bound by a decision to grant certification unless the municipality agrees to a settlement after such certification was made.

Sec. 28. GRAND LIST LITIGATION ASSISTANCE; STUDY

(a) The Attorney General, in consultation with the Vermont League of Cities and Towns, property owners, and other interested stakeholders, shall study approaches to assisting municipalities with expenses incurred during litigation pursuant to chapter 131 of this title, including assigning an Assistant Attorney General to the Division of Property Valuation and Review to support

municipalities litigating complex matters.

(b) On or before December 1, 2017, the Attorney General shall submit a report to the Senate Committee on Finance and the House Committee on Ways and Means on the findings of the study described in subsection (a) of this section. The report shall include recommendations for legislative action based on the findings of the study.

Sec. 29. REIMBURSEMENT OF EDUCATION TAX LIABILITY; REPORT

(a) On or before December 1, 2019, the Director of Property Valuation and Review shall submit a report to the Senate Committee on Finance and the House Committee on Ways and Means on the reimbursement of education tax liabilities to municipalities pursuant to Sec. 26a of this act.

(b) The report shall include:

(1) the annual number of reductions to the education grand list;

(2) the annual amount reimbursed to municipalities from the Education Fund; and

(3) the annual increase, if any, to the education grand list.

Sec. 29a. COMPENSATION FOR OVERPAYMENT

Notwithstanding any other provision of law, the sum of $56,791.80 shall be transferred from the Education Fund to the Town of Georgia in fiscal year 2018 to compensate the town for an overpayment of education taxes in fiscal year 2017 due to an erroneous classification of certain property.

* * * Premium Tax Credit; Captive Insurance Companies * * *

Sec. 30. 8 V.S.A. § 6014(k) is amended to read:

(k) A captive insurance company first licensed under this chapter on or after January 1, ~~2011~~ 2017 shall receive a nonrefundable credit of ~~$7,500.00~~ $5,000.00 applied against the aggregate taxes owed for the first two taxable ~~year~~ years for which the company has liability under this section.

* * * Vermont Employment Growth Incentive Program * * *

Sec. 31. 32 V.S.A. chapter 105 is amended to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM

* * *

§ 3332. APPLICATION; APPROVAL CRITERIA

(a) Application.

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

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

(A) specify a payroll performance requirement;

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

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

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

(1) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, the new revenue the proposed activity ~~generates~~ would generate to the State ~~exceeds~~ would exceed the costs of the activity to the State.

(2) The host municipality welcomes the new business.

(3) ~~The~~ Pursuant to a self-certification or other documentation the Council requires by rule or procedure, the business attests to the best of its knowledge:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree;

(B) the business complies with applicable State laws and regulations; and

(C) the proposed economic activity ~~conforms~~ would conform to applicable town and regional plans and with applicable State laws and regulations.

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

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

(A) would not occur; or

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

* * *

§ 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING LABOR MARKET AREA

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

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

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

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

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

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

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than $500,000.00 upon application by the Governor to, and approval of, the Joint Fiscal Committee.

(d) In evaluating the Governor's request, the Committee shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

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

(f) The purpose of the enhanced incentive for a business in a qualifying labor market area is to increase job growth in economically disadvantaged regions of the State, as provided in subsection (a) of this section.

§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

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

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

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

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

(C) energy efficiency or conservation;

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

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

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

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

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

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

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

(c) The purpose of the enhanced incentive for an environmental technology business is to promote the growth of businesses in Vermont that both create and sustain high quality jobs and improve the natural environment.

* * *

§ 3338. CLAIMING AN INCENTIVE; ANNUAL FILING WITH DEPARTMENT OF TAXES

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

(b) A business shall include:

(1) the information the Department requires, including the information required in section 5842 of this title and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment for which the business is eligible; and

(2) a self-certification or other documentation the Department requires by rule or procedure, by which the business attests to the best of its knowledge that:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree; and

(B) the business complies with applicable State laws and regulations.

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

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

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

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

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

§ 3339. RECAPTURE; REDUCTION; REPAYMENT

(a) Recapture.

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

(A) the business fails to file a claim as required in section 3338 of this title; ~~or~~

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

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

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

(C) the Department determines that during the application or claims process the business knowingly made a false attestation that the business:

(i) was not a named party to, or was in compliance with, an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State: or

(ii) was in compliance with State laws and regulations.

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

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of

this subsection as follows:

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

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

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

(1) The Department shall:

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

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

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

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

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

(c) Tax liability.

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

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

* * *

§ 3341. CONFIDENTIALITY OF ~~PROPRIETARY~~ BUSINESS INFORMATION

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

~~(b) Information~~ Except for information required to be reported under section 3340 of this title or as provided in this section, information and materials submitted by a business ~~concerning its income taxes and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be~~ to the Vermont Economic Progress Council, or business-specific data generated by the Council as part of its consideration of an application under this subchapter, that is not otherwise publicly disclosed, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Records related to incentive claims under this chapter that are produced or acquired by the Department of Taxes are confidential returns or return information and are subject to the provisions of section 3102 of this title.

(b)(1) The Council shall disclose information and materials described in subsection (a) of this section:

(A) to the Joint Fiscal Office or its agent upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly~~, and shall also be available~~; and

(B) to the Auditor of Accounts in connection with the performance of duties under section 163 of this title~~; provided, however, that the~~.

(2) The Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any ~~proprietary business~~ information or ~~any information that would identify a business~~ materials received under this subsection ~~except in accordance with a judicial order or as otherwise specifically provided~~ unless authorized by law.

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

* * *

* * * VEGI; Confidentiality * * *

Sec. 32. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

(a) No present or former officer, employee, or agent of the Department of Taxes shall disclose any return or return information to any person who is not an officer, employee, or agent of the Department of Taxes except in accordance with the provisions of this section. A person who violates this section shall be fined not more than $1,000.00 or imprisoned for not more than one year, or both; and if the offender is an officer or employee of this State, he or she shall, in addition, be dismissed from office and be incapable of holding

any public office for a period of five years thereafter.

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B;

(6) to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed and is reasonably necessary for the Council to perform its duties under that subchapter.

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

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

* * *

* * * Public Retirement * * *

Sec. 33. THE GREEN MOUNTAIN SECURE RETIREMENT PLAN

(a) The State of Vermont shall, consistent with federal law and regulation, adopt and implement a voluntary Multiple Employer Plan (MEP) public retirement plan, which shall remain in compliance with federal law and regulations once implemented, and shall be called the "Green Mountain Secure Retirement Plan."

(b) The Plan shall be designed and implemented based upon the following guiding principles:

(1) Simplicity: the Plan should be easy for participants to understand.

(2) Affordability: the Plan should be administered to maximize cost effectiveness and efficiency.

(3) Ease of access: the Plan should be easy to join.

(4) Trustworthy oversight: the Plan should be administered by an organization with unimpeachable credentials.

(5) Protection from exploitation: the Plan should protect its participants, particularly the elderly, from unscrupulous business practices and individuals.

(6) Portability: the Plan should not depend upon employment with a specific firm or organization.

(7) Choice: the Plan should provide sufficient investment alternatives to be suitable for individuals with distinct goals, but not too many options to induce analysis paralysis.

(8) Voluntary: the Plan should not be mandatory but autoenrollment should be used to increase participation.

(9) Financial education and financial literacy: the Plan should assist the individual in understanding their financial situation.

(10) Sufficient savings: the Plan should encourage adequate savings in retirement combined with existing pension savings and Social Security.

(11) Additive not duplicative: the Plan should not compete with existing private sector solutions.

(12) Use of pretax dollars: contributions to the Plan should be made using pretax dollars.

(c) The Plan shall:

(1) be available on a voluntary basis to:

(A) employers:

(i) with 50 employees or fewer; and

(ii) who do not currently offer a retirement plan to their employees; and

(B) self-employed individuals;

(2) automatically enroll all employees of employers who choose to participate in the MEP;

(3) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;

(4) be funded by employee contributions with an option for future voluntary employer contributions; and

(5) be overseen by a board:

(A) that shall:

(i) set program terms;

(ii) prepare and design plan documents; and

(iii) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services; and

(B) that shall be composed of seven members as follows:

(i) an individual with investment experience, to be appointed by the Governor;

(ii) an individual with private sector retirement plan experience, to be appointed by the Governor;

(iii) an individual with investment experience, to be appointed by the State Treasurer;

(iv) an individual who is an employee or retiree, to be appointed by the State Treasurer;

(v) an individual who is an employee advocate or consumer advocate, to be appointed by the Speaker of the House;

(vi) an individual who is an employer, to be appointed by the Committee on Committees; and

(vii) the State Treasurer, who shall serve as chair.

(d) The State of Vermont shall implement the "Green Mountain Secure Retirement Plan" on or before January 15, 2019, based on the recommendations of the Public Retirement Plan Study Committee as set forth in Sec. 34 of this act.

Sec. 34. 2016 Acts and Resolves No. 157, Sec. F.1 is amended to read:

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

(a) Creation of Committee.

(1) There is created ~~a~~ the 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, and to develop specific recommendations concerning the design, creation, and implementation of the Multiple Employer Plan (MEP), pursuant to in Sec. 33 of H.516 (2017) as enacted and as set forth in the January 6, 2017 report issued by the Committee.

(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;

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

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

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

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

(2) Unless another appointee is specified pursuant to the authority granted under subdivision (1) of this subsection, the members 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, shall serve as the members of the Committee created pursuant to this section.

(c) Powers and duties.

(1)(A) The Committee shall ~~study the feasibility of establishing a~~ develop specific recommendations concerning the design, creation, and implementation time line of the Multiple Employer Plan (MEP) public

retirement plan~~, including the following~~ pursuant to Sec. 33 of H.516 (2017) as enacted, which shall:

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

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

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

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

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

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

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

~~(viii) other programs or incentives the State could pursue in combination with a public retirement plan, or instead of such a plan, in order to encourage residents to save and prepare for retirement; and~~ be available on a voluntary basis to:

(I) employers:

(aa) with 50 employees or fewer; and

(bb) who do not currently offer a retirement plan to their employees; and

(II) self-employed individuals;

(ii) automatically enroll all employees of employers who choose to participate in the MEP;

(iii) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;

(iv) be funded by employee contributions with an option for future voluntary employer contributions; and

(v) be overseen by a board that shall:

(I) set programs terms;

(II) prepare and design plan documents; and

(III) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services.

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

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

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

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

~~(iv) whether such a plan should impose any obligation or liability upon private sector employers;~~ The Committee, and thereafter the board that will oversee the MEP, shall study and make specific recommendations concerning:

(i) options to provide access to retirement plans to individuals who are not eligible to participate in, or choose not to participate in, the MEP public retirement plan, including alternative plans and options vetted by the board that shall oversee the MEP, and which plans and options shall be provided through a marketplace implemented no earlier than one year after the MEP begins;

(ii) options for paying for the costs of administering the MEP for the period during which program costs may exceed revenues, including allowing financial service providers to subsidize costs in exchange for longer term contracts;

(iii) the composition, membership, and powers of the board that shall oversee the MEP;

(iv) if after three years there remain significant numbers of Vermonters who are not covered by a retirement plan, methods to increase participation in the MEP; and

(v) any other issue the Committee deems relevant.

(2) The Committee shall:

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

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

(C) continue its collaboration with educational institutions, other

states, and national stakeholders.

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

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

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

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

* * * Workers' Compensation; VOSHA * * *

Sec. 35. 21 V.S.A. § 210 is amended to read:

§ 210. PENALTIES

(a) Upon issuance of a citation under this chapter, the Review Board is authorized to assess civil penalties for grounds provided in this subsection. In assessing civil penalties, the Review Board shall follow to the degree practicable the federal procedures prescribed in rules ~~promulgated~~ adopted under the Act. The Review Board shall give due consideration to the appropriateness of the penalty with respect to the size of the business or operation of the employer being assessed, the gravity of the violation, the good faith of the employer, and the history of previous violations. Civil penalties shall be paid to the Commissioner for deposit with the State Treasurer, and may be recovered in a civil action in the name of the State of Vermont brought in any court of competent jurisdiction. The Commissioner shall not reduce the assessed penalties in any fiscal year by more than 50 percent.

(1) Any employer who willfully or repeatedly violates the requirements of this Code or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or regulations prescribed pursuant to this Code~~ may be assessed a civil penalty of not more than ~~$70,000.00~~ $126,749.00 for each violation, but not less than $5,000.00 for each willful violation.

(2) Any employer who has received a citation for a serious violation of the requirements of this Code, or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code~~, or of any regulations prescribed pursuant to this Code~~, shall be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each violation.

(3) Any employer who has received a citation for a violation of the requirements of this Code, or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or of regulations prescribed pursuant to this Code, and such violation~~ if the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each such violation.

(4) Any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction, which period shall not begin to run until the date of the final order of the Review Board, in the case of any review proceeding under section 226 of this title initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than ~~$7,000.00~~ $12,675.00 for each day during which the failure or violation continues.

(5) Any employer who willfully violates any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than ~~$20,000.00~~ $126,749.00 or by imprisonment for not more than one year, or by both.

* * *

(8) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Code, shall be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each violation.

(9)(A) As provided under the federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and the Act, the penalties provided in subdivisions (1), (2), (3), (4), (5), and (8) of this subsection shall annually, on January 1, be adjusted to reflect the increase in the Consumer Price Index, CPI-U, U.S. City Average, not seasonally adjusted, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous December 1.

(B) The Commissioner shall calculate and publish the adjustment to the penalties on or before January 1 of each year and the penalties shall apply to fines imposed on or after that date.

* * *

Sec. 36. 21 V.S.A. § 711 is amended to read:

§ 711. WORKERS' COMPENSATION ADMINISTRATION FUND

(a) A Workers' Compensation Administration Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for the administration of the workers' compensation and occupational disease programs. The Fund shall consist of contributions from employers made at a rate of ~~1.75~~ 1.4 percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of workers' compensation losses of corporations approved under this chapter. Disbursements from the Fund shall be on warrants drawn by the Commissioner of Finance and Management in anticipation of receipts authorized by this section.

* * *

* * * Workforce Development; Career and Technical Education * * *

Sec. 37. 10 V.S.A. § 540 is amended to read:

§ 540. WORKFORCE ~~EDUCATION AND TRAINING~~ DEVELOPMENT LEADER

(a) The Commissioner of Labor shall be the leader of workforce ~~education and training~~ development in the State~~,~~ and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Development Board:

(A) advise the Governor on the establishment of an integrated system of workforce education and training for Vermont;

(B) create and maintain an inventory of all existing workforce education and training programs and activities in the State;

(C) use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs;

(D) develop a State plan, as required by federal law, to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible;

(E) ensure coordination and non-duplication of workforce education and training activities;

(F) identify best practices and gaps in the delivery of workforce education and training programs;

(G) design and implement criteria and performance measures for workforce education and training activities; and

(H) establish goals for the integrated workforce education and training system.

(2) Require from each business, training provider, or program that receives State funding to conduct workforce education and training a report that evaluates the results of the training. Each recipient shall submit its report on a schedule determined by the Commissioner and shall include at least the following information:

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description, including the gender of the trainees;

(E) employment status of trainees; and

(F) future needs for resources.

(3) Review reports submitted by each recipient of workforce education and training funding.

(4) Issue an annual report to the Governor and the General Assembly on or before December 1 that includes a systematic evaluation of the accomplishments of the State workforce investment system and the performance of participating agencies and institutions.

(5) Coordinate public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact.

(6) Facilitate effective communication between the business community and public and private educational institutions.

(7) Notwithstanding any provision of State law to the contrary, and to the fullest extent allowed under federal law, ensure that in each State and State-funded workforce education and training program, the program administrator collects and reports data and results at the individual level by Social Security Number or an equivalent.

(8) Coordinate within and across State government a comprehensive workforce development strategy that grows the workforce, recruits new workers to the State, and meets employers' workforce needs.

Sec. 38. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT

PROGRAMS

(a) Creation. There is created a Workforce Education and Training Fund in the Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Department shall use the Fund for the following purposes:

(1) training for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another;

(2) internships to provide students with work-based learning opportunities with Vermont employers;

(3) apprenticeship, preapprenticeship, and industry-recognized credential training; and

(4) other workforce development initiatives related to current and future job opportunities in Vermont as determined by the Commissioner of Labor.

(c) Administrative and other support. The Department of Labor shall provide administrative support for the grant award process. When appropriate and reasonable the State Workforce Investment Board and all other public entities involved in economic development and workforce education and training shall provide other support in the process.

(d) Eligible activities.

(1) The Department shall grant awards from the Fund to employers and entities, including private, public, and nonprofit entities, institutions of higher education, high schools, middle schools, technical centers, and workforce education and training programs that:

(A) create jobs, offer education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, career planning, or work-based learning activities, or any combination;

(B) employ student-oriented approaches to workforce education and training; and

(C) link workforce education and economic development strategies.

(2) The Department may fund programs or projects that demonstrate actual increased income and economic opportunity for employees and employers for more than one year.

(3) The Department may fund student internships and training programs that involve the same employer in multiple years with approval of the Commissioner.

(e) [Repealed].

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

(1) Training Programs.

(A) Public, private, and nonprofit entities, including employers and education and training providers, for existing or new training programs that enhance the skills of Vermont workers and:

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available training funded with public money;

(iii) provide a project timeline, including performance goals, and identify how the effectiveness and outcomes of the program will be measured, including for the individual participants, the employers, and the program as a whole; and

(iv) articulate the need for the training and the direct connection between the training and the job.

(B) The Department shall grant awards under this subdivision (1) to programs or projects that:

(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, or any combination of these;

(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed, and workers who are in transition from one job or career to another;

(iii) address the needs of employers to hire new employees, or retrain incumbent workers, when the employer has demonstrated a need not within the normal course of business, with priority to training that results in new or existing job openings for which the employer intends to hire; or

(iv) in the discretion of the Commissioner, otherwise serve the purposes of this chapter.

(2) Vermont Strong Internship Program. Funding for eligible internship programs and activities under the Vermont Strong Internship Program established in section 544 of this title.

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be

used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(4) Career Focus and Planning programs. Funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

* * * Vermont Minimum Wage * * *

Sec. 39. MINIMUM WAGE STUDY

(a) Creation. There is created a Minimum Wage Study Committee.

(b) Membership. The Committee shall be composed of the following members:

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall study the following issues:

(1) the minimum wage in Vermont and livable wage in Vermont in relation to real cost of living;

(2) the economic effects of small to large increases in the Vermont minimum wage, including in relation to the minimum wage in neighboring states;

(3) how the potential for improving economic prosperity for Vermonters with low and middle income through the Vermont Earned Income Tax Credit might interact with raising the minimum wage;

(4) specific means of mitigating the "benefits cliff," especially for those earning below the livable wage, to enhance work incentives;

(5) the effects of potential reductions in federal transfer payments as the minimum wage increases, and impacts of possible reductions in federal benefits due to changes in federal law;

(6) ways to offset losses in State and federal benefits through State benefit programs or State tax policy; and

(7) further research to better understand the maximum beneficial minimum wage level in Vermont.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Joint Fiscal Office, the Office of Legislative Council, the Department of Labor, the Department of Taxes, and the Agency of Human Services.

(e) Report. On or before December 1, 2017, the Committee shall submit a written report with its findings and any recommendations for legislative action to the Senate Committee on Economic Development, Housing and General Affairs, and the House Committee on General, Housing and Military Affairs.

(f) Meetings.

(1) The Joint Fiscal Office shall convene the first meeting of the Committee on or before July 1, 2017.

(2) A majority of the membership shall constitute a quorum.

(3) The members of the Committee shall select a chair at its first meeting.

(4) The Committee shall cease to exist on December 1, 2017.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than five meetings.

* * * Financial Technology * * *

Sec. 40. FINANCIAL TECHNOLOGY

(a) The General Assembly finds:

(1) The field of financial technology is rapidly expanding in scope and application.

(2) These developments present both opportunities and challenges.

(3) On the opportunity side, Vermont has been a leader in previous innovations in finance in contexts such as captive insurance.

(4) The existing Vermont legislation on blockchain technology and other aspects of e-finance have given Vermont the potential for leadership in this new era of innovation as well, with the possibility of expanded economic activity in the financial technology sector that would provide opportunities for employment, tax revenues, and other benefits.

(5) Furthermore, it is important for Vermonters that these developments proceed in ways that do not create avoidable risks for individuals and enterprises in the new e-economy.

(6) The legislative and regulatory response in Vermont will be critical to our ability to embrace the benefits of financial technology and to avoid challenges it may create.

(b)(1) In order to permit the legislature to respond to these developing opportunities and concerns on an informed basis, on or before November 30, 2017 the Center for Legal Innovation at Vermont Law School, in consultation

with the Commissioner of Financial Regulation, the Secretary of Commerce and Community Development, and the Attorney General, shall submit a report to the General Assembly that includes:

(A) findings and recommendations on the potential opportunities and risks presented by developments in financial technology;

(B) suggestions for an overall policy direction and proposals for legislative and regulatory action that would effectively implement that policy direction; and

(C) measurable goals and outcomes that would indicate success in the implementation of such a policy.

(2) In developing the background for this report, the Center, Commissioner, Secretary, and Attorney General may consult such other constituencies and stakeholders within and outside of the State as they may determine for information that will be helpful to their considerations.

* * * Municipal Outreach; Sewerage and Water Service Connections * * *

Sec. 41. AGENCY OF NATURAL RESOURCES; EDUCATION AND OUTREACH; DELEGATION; SEWERAGE AND WATER SERVICE CONNECTIONS

(a) The Secretary of Natural Resources, after consultation with the Vermont League of Cities and Towns, shall conduct outreach and education for municipalities regarding the ability of a municipality under 10 V.S.A. § 1976 to be delegated the authority to permit the connection of a municipal sewer or water service line to subdivided land, a building, or a campground.

(b) The education and outreach shall specify the conditions or requirements for delegation, how a municipality can seek delegation, and contact information or other resource to provide additional information regarding delegation. The education and outreach may include educational materials, workshops, or classes regarding the ability of a municipality to be delegated under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

(c) On or before January 15, 2018, the Secretary of Natural Resources shall submit a report to the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife and on Commerce and Economic Development summarizing the education and outreach conducted or planned by the Secretary under the requirements of this section and whether any municipality has sought delegation of sewer and water service connection permitting under 10 V.S.A. § 1976 since the effective date of this act.

* * * Municipal Land Use and Development; Affordable Housing * * *

Sec. 42. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

(1) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~ Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Act 250; Priority Housing Projects * * *

Sec. 43. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) "Development" means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) ~~275 or more, in a municipality with a population of 15,000 or more;~~ [Repealed.]

(bb) ~~150 or more, in a municipality with a population of 10,000 or more but less than 15,000;~~ [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000~~;~~.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000~~;~~.

(ee) 25 or more, in a municipality with a population of less than 3,000~~; and~~.

(ff) ~~notwithstanding~~ Notwithstanding subdivisions ~~(aa)~~(cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing

project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

(D) The word "development" does not include:

* * *

(viii) The construction of a priority housing project in a municipality with a population of 10,000 or more. However, if the construction of the project involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

* * *

(27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency~~;~~.

(B) Rental ~~Housing~~ housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of ~~no~~ not less than ~~20~~ 15 years.

(28) "Mixed use" means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. "Mixed use" does not include industrial use.

(29) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual~~

~~household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~ Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district,

designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

* * *

Sec. 44. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A. ~~§ 2793~~ chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the basis of that designation.

(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below ~~the~~ any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

Sec. 45. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF REVIEW

* * *

(f) This subsection concerns an application for a permit amendment to change the conditions of an existing permit or permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the permit or permit amendment or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party retained party status.

(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions proposed to be changed, the applicant shall file a permit application pursuant to this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

Sec. 46. 30 V.S.A. § 55 is added to read:

§ 55. PRIORITY HOUSING PROJECTS; STRETCH CODE

A priority housing project as defined in 10 V.S.A. § 6001 shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

* * * ACCD; Publication of Median Household Income and Qualifying Costs for Affordable Housing * * *

Sec. 47. 3 V.S.A. § 2472 is amended to read:

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

(a) The Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The Department shall:

* * *

(5) In conjunction with the Vermont Housing Finance Agency, annually publish data and information to enable the public to determine income levels and costs for owner-occupied and rental housing to qualify as affordable housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

(A) the median income for each Vermont county, as defined by the U.S. Department of Housing and Urban Development;

(B) the standard metropolitan statistical area median income for each municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; and

(C) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Downtown Tax Credits * * *

Sec. 48. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$2,200,000.00~~ $2,400,000.00;

* * *

* * * Tax Credit for Affordable Housing; Captive Insurance Companies * * *

Sec. 49. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

* * *

(5) "Credit certificate" means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer's individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

* * *

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer's individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

* * *

* * * Vermont State Housing Authority; Powers * * *

Sec. 50. 24 V.S.A. § 4005 is amended to read:

§ 4005. VERMONT STATE HOUSING AUTHORITY; ESTABLISHMENT, MEMBERS, POWERS

* * *

(e) Notwithstanding any provision of law, no person~~, domestic or foreign,~~ shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

(1) ~~a subcontractor of~~ the State Authority; ~~or~~

(2) a State public body authorized by law to administer such allocations;

(3) a person authorized to administer such allocations pursuant to an agreement with the State Authority; or

(4) an organization, of which the State Authority is a promoter, member, associate, owner, or manager, that is authorized by a federal agency to administer such allocations in this State.

(f) In addition to the powers granted by this chapter, the State Authority shall have all the powers necessary or convenient for the administration of federal monies pursuant to subsection (e) of this section, including the power:

(1) to enter into one or more agreements for the administration of federal monies;

(2) to be a promoter, partner, member, associate, owner, or manager of any partnership, limited liability company, joint venture, association, trust, or other organization;

(3) to conduct its activities, locate offices, and exercise the powers granted by this title within or outside this State;

(4) to carry on a business in the furtherance of its purposes; and

(5) to do all things necessary or convenient, consistent with law, to further the activities and affairs of the Authority.

* * * Tax Increment Financing Districts * * *

Sec. 51. 24 V.S.A. chapter 53, subchapter 5 is amended to read:

Subchapter 5. Tax Increment Financing

* * *

§ 1892. CREATION OF DISTRICT

* * *

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district~~, and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter~~:

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;

(3) the Town of Milton, North and South;

(4) the City of Newport;

(5) the City of Winooski;

(6) the Town of Colchester;

(7) the Town of Hartford;

(8) the City of St. Albans;

(9) the City of Barre; ~~and~~

(10) the Town of Milton, Town Core; and

(11) the City of South Burlington, New Town Center.

* * *

§ 1894. POWER AND LIFE OF DISTRICT

* * *

(c) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, not less than an equal share plus five percent of the municipal tax increment pursuant to subsection (f) of this section shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

* * *

(f) Equal share required. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), no more than 75 percent of the State property tax increment and no less than an equal percent, plus five percent, of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

* * *

Sec. 52. 32 V.S.A. § 5404a is amended to read:

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

* * *

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply up to 75 percent of the State education property tax increment, and not less than an equal share plus five percent of the municipal tax increment, as defined in 24 V.S.A. § 1896, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than two districts in a single county, and not more than an additional 14 districts in the State, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the 14-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the 14-district limit.

(3)(A) A municipality shall immediately notify the Council if it resolves not to incur debt for an approved district within five years of approval or a five-year extension period as required in 24 V.S.A. § 1894.

(B) Upon receiving notification pursuant to subdivision (3)(A) of this subsection, the Council shall terminate the district and may approve a new district, subject to the provisions of this section and 24 V.S.A. chapter 53, subchapter 5.

(4) The Council shall not approve any additional districts on or after July 1, 2024.

* * *

(h) Criteria for approval. To approve utilization of incremental revenues

pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

(1) Review each application to determine that the ~~new real property~~ proposed infrastructure improvements and the proposed development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. The review shall take into account:

(A) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(B) how the proposed development components and size would differ, if at all, without education property tax increment financing, including, if applicable to the development, the number of units of affordable housing, as defined in 24 V.S.A. § 4303; and

(C) the amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the education fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.

(2) Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont Economic Progress Council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and

regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements.

(3) Location criteria. Determine that each application meets one of the following criteria:

(A) The development or redevelopment is compact, high density, and located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, ~~or~~ new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the ~~area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values~~ municipality in which the area is located has at least one of the following:

(i) a median family income that is 80 percent or less of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data is available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is 80 percent or less than the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least ~~three~~ two of the following ~~five~~ four criteria:

(A) ~~The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.~~

~~(B)~~ The development includes new or rehabilitated affordable housing ~~that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. "Affordable" has the same meaning as in 10 V.S.A. § 6001(29),~~ as defined in 24 V.S.A. § 4303.

~~(C)~~(B) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

~~(D)~~(C) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

~~(E)~~(D) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

* * *

* * * Effective Dates * * *

Sec. 53. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 7 (annual update of income tax link to the IRC) shall take effect retroactively on January 1, 2016 and apply to taxable years beginning on and after January 1, 2016.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 8 (estate tax) shall take effect retroactively on January 1, 2016.

(3) Sec. 11 (3 V.S.A. chapter 10) shall take effect on passage, except for 3 V.S.A. § 242, which shall take effect when the VCIC has been authorized in statute to subscribe to the FBI Rap Back program.

(4) Secs. 12–13 (break-open tickets) shall take effect on September 1, 2017, except the first quarter for which nonprofit organizations shall be required to comply with 31 V.S.A. § 1203(f) shall be the fourth quarter of 2017.

(5) Secs. 16–17 (transferring employer assessment from the Department of Labor to the Department of Taxes) and 27(5) shall take effect on January 1, 2018 with the return of the fourth quarter of 2017 being due on January 25, 2018.

(6) Sec. 19 (sales tax exemption for aircraft) shall take effect on July 1, 2017.

(7) Notwithstanding 1 V.S.A. § 214, Sec. 20 (use tax reporting) shall take effect retroactively on January 1, 2017 and apply to returns filed for tax year 2017 and after.

(8) Notwithstanding 1 V.S.A. § 214, Sec. 22 (third party settlement network reporting requirements) shall take effect retroactively on January 1, 2017 and apply to taxable year 2017 and after.

(9) Sec. 23 (additional noncollecting vendor reporting requirements)

shall take effect on July 1, 2017.

(10) Secs. 27–29 (property tax appeals) and 30 (premium tax credit) shall take effect on July 1, 2017.

(11) Secs. 31–50 (economic development provisions) shall take effect on July 1, 2017.

(12) Secs. 51 and 52 (tax increment financing districts) shall take effect on passage and shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.