

House Calendar

Wednesday, May 03, 2017

120th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Action Postponed Until May 3, 2017

Favorable with Amendment

S. 122

An act relating to increased flexibility for school district mergers

Rep. Sharpe of Bristol, for the Committee on Education, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1 (Findings), with its reader assistance, by striking out the reader assistance in its entirety and inserting in lieu thereof the following:

* * * Findings and Purpose * * *

Second: In Sec. 1, by striking out the section heading in its entirety and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

Third: In Sec. 1, by adding a new subsection (b) to read:

(b) While Vermont generally does an excellent job educating our children, we fall short in two critical areas. First, we are not as successful as we need to be in educating children from families with low income, and second, while we have a very high graduation rate from our high schools, not enough of our graduates continue their education. Fulfilling the goals of Act 46 is a critical step in addressing these shortcomings.

and by relettering the remaining sections to be alphabetically correct

Fourth: In Sec. 1, in relettered subsection (e), by striking out the last sentence in its entirety

Fifth: In Sec. 1, by adding a subsection (f) to read:

(f) This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act's fundamental phased merger and incentive structures and requirements. Nothing in this act should suggest that it is acceptable for a school district to fail to take reasonable and robust action to seek to meet the goals of Act 46.

Sixth: In Sec. 2, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The incentives provided under this act shall be available only if the new

districts receive final approval of their electorate on or before November 30, 2017. This section is repealed on July 1, 2017 2019.

Seventh: By striking out Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; EXEMPTION
FROM STATEWIDE PLAN

(a) If the conditions of this section are met, the Merged District and the Existing District or Districts shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan.

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with one or two existing districts (each an Existing District), are, following the receipt of all approvals required under this section, members of the same supervisory union (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, each Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) The Merged District and each Existing District have, following the receipt of all approvals required under this section, a model of operating schools or paying tuition that is different from the model of each other; provided, however, that if two Existing Districts are members of the Three-by-One Side-by-Side Structure, the Existing Districts may have the same model of operating schools or paying tuition if they are geographically isolated from each other, within the meaning of subdivision (2)(A) of this subsection. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students

in prekindergarten through grade 12.

(4) Each Existing District and the districts proposing to merge into the Merged District jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Three-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) each Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a);

(C) each Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(5) Each Existing District and the districts proposing to merge into the Merged District obtain State Board approval of their proposal to form the proposed Three-by-One Side-by-Side Structure.

(6) Each Existing District obtains the approval of its electorate to be an Existing District in the proposed Three-by-One Side-by-Side Structure on or before November 30, 2017.

(7) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(8) The Three-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged District may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) The formation of a Three-by-One Side-by-Side Structure shall not entitle the Merged District or an Existing District to qualify for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4. However, a Merged District that is otherwise entitled to incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, shall not lose these incentives due to its participation as a member of a Three-by-One Side-by-Side Structure.

Eighth: By striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an Existing District, are, following the receipt of all approvals required under this section, members of the same supervisory union (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) Each Merged District and the Existing District, following the receipt of all approvals required under this section, have a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students

in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The Existing District and the districts proposing to merge into the Merged Districts jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Two-by-Two-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) the Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a); and

(C) the Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(6) The Existing District and the districts proposing to merge into the Merged Districts obtain State Board approval of their proposal to form the proposed Two-by-Two-by-One Side-by-Side Structure.

(7) The Existing District obtains the approval of its electorate to be an Existing District in the proposed Two-by-Two-by-One Side-by-Side Structure on or before November 30, 2017.

(8) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(9) Each Merged District has the same effective date of merger.

(10) The Two-by-Two-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged Districts may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the

effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) If the conditions of this section are met, the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District, unless the Merged District has already received incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended. These incentives shall not be available to the Existing District.

(d) If the conditions of this section are met, the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and exempt from the State Board's statewide plan.

Ninth: By adding three new sections, to be Secs. 6a, 6b, and 6c, with reader assistances, to read as follows:

* * * Reduction of Average Daily Membership; Guidelines for Alternative Structures * * *

Sec. 6a. 2015 Acts and Resolves No. 46, Sec. 5 is amended to read:

Sec. 5. PREFERRED EDUCATION GOVERNANCE STRUCTURE;
ALTERNATIVE STRUCTURE

* * *

(c) Alternative structure: supervisory union with member districts. An Education District as envisioned in subsection (b) of this section may not be possible or the best model to achieve Vermont's education goals in all regions of the State. In such situations, a supervisory union composed of multiple member districts, each with its separate school board, ~~can~~ may meet the State's goals, particularly if:

(1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

(2) the supervisory union operates in a manner that complies with its obligations under 16 V.S.A. § 261a and that maximizes efficiencies through economies of scale and the flexible management, transfer, and sharing of nonfinancial resources among the member districts, which may include a common personnel system, with the goal of increasing the ratio of students to full-time equivalent staff;

(3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns; and

(4) the supervisory union has the smallest number of member school districts practicable after consideration of greatly differing levels of indebtedness among the member districts; and

~~(4)~~(5) the combined average daily membership of all member districts is not less than 1,100 900.

* * * Secretary and State Board; Consideration of Alternative Structure
Proposals * * *

Sec. 6b. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE

STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(c) Process. On and after October 1, 2017, the Secretary and State Board shall consider any proposals submitted by districts or groups of districts under Sec. 9 of this act. Districts that submit such a proposal shall have the opportunity to add to or otherwise amend their proposal in connection with the Secretary's consideration of the proposal and conversations with the district or districts under subsection (a) of this section, and in connection with testimony presented to the State Board under subsection (b) of this section. The State Board may, in its discretion, approve an alternative governance proposal at any time on or before November 30, 2018.

(d) The statewide plan required by subsection (b) of this section shall include default Articles of Agreement to be used by all new unified union school districts created under the plan until the board of the new district votes to approve new or amended articles.

(e) After the State Board of Education issues the statewide plan under subsection (b) of this section, districts subject to merger shall have 90 days to form a study committee under 16 V.S.A. § 706b and to draft Articles of Agreement for the new district. During this period, the study committee shall hold at least one public hearing to consider and take comments on the draft Articles of Agreement.

(f) If the study committee formed under subsection (e) of this section does not approve Articles of Agreement within the 90-day period provided in that subsection, the provisions in the default Articles of Agreement included in the statewide plan shall apply to the new district.

~~(e)~~(g) Applicability. This section shall not apply to:

- (1) an interstate school district;
- (2) a regional career technical center school district formed under 16 V.S.A. chapter 37, subchapter 5A; or
- (3) a district that, between June 30, 2013 and July 2, 2019, began to operate as a unified union school district and:

(A) voluntarily merged into the preferred education governance structure, an Education District, as set forth Sec. 5(b) of this act; or

(B) is a regional education district or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156.

* * * Deadline for Small School Support Metrics * * *

Sec. 6c. 2015 Acts and Resolves No. 46, Sec. 21 is amended to read:

Sec. 21. SMALL SCHOOL SUPPORT; METRICS

On or before July 1, 2018, the State Board of Education shall adopt and publish metrics by which it will make determinations whether to award small school support grants pursuant to 16 V.S.A. § 4015 on and after July 1, 2019, as amended by Sec. 20 of this act; provided, however, that on or before September 30, 2017, the State Board shall publish a list of districts that it determines to be geographically isolated pursuant to that section as amended by Sec. 20 of this act.

Tenth: By striking out Sec. 7 (Self-Evaluation, Meetings, and Proposal) in its entirety and inserting in lieu thereof the following:

Sec. 7. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) On or before ~~November 30, 2017~~ the date that is the earlier of six months after the date the State Board's rules on the process for submitting alternative governance proposals take effect or January 31, 2018, the board of each school district in the State that has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019, shall perform each of the following actions, unless the district qualifies for an exemption under Sec. 10(g) of this act.

* * *

Eleventh: In Sec. 9, in subsection (e), by deleting subsection (e) in its entirety

Twelfth: By adding a new section, to be Sec. 17, to read as follows:

Sec. 17. QUALIFICATION FOR INCENTIVES; ASSIGNMENT TO A
SUPERVISORY UNION BY THE STATE BOARD

Notwithstanding any requirement under 2015 Acts and Resolves No. 46, Secs. 6 and 7 that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

Thirteen: By adding four new sections, to be Secs. 18, 19, 20, and 21, with reader assistances, to read as follows:

* * * State Board Rulemaking Authority * * *

Sec. 18. 2015 Acts and Resolves No. 46, Sec. 8 is amended to read:

Sec. 8. EVALUATION BY THE STATE BOARD OF EDUCATION

* * *

(c) The State Board may adopt rules designed to assist districts in submitting alternative structure proposals, but shall not by rule or otherwise impose more stringent requirements than those in this act.

* * * Tax Provisions * * *

Sec. 19. CALCULATION OF EDUCATION PROPERTY TAX SPENDING
ADJUSTMENT AND EDUCATION INCOME TAX SPENDING
ADJUSTMENT FOR CERTAIN SCHOOL DISTRICTS

(a) Under this section, a qualifying school district is a school district:

(1) that operates no schools and pays tuition for all resident students in prekindergarten through grade 12;

(2) that, on or before November 15, 2017, obtains final approval from its electorate to consolidate with an existing unified union school district that is eligible to receive incentives under 2010 Acts and Resolves No. 153 (consolidated district), as amended; and

(3) for which either:

(A) the education property tax spending adjustment under 32 V.S.A. § 5401(13)(A) for the district's fiscal year 2017 exceeded the district's education property tax spending adjustment for the district's 2015 fiscal year by more than 100 percent; or

(B) the education income tax spending adjustment under 32 V.S.A. § 5401(13)(B) for the district's fiscal year 2017 exceeded the district's

education income tax spending adjustment for the district's 2015 fiscal year by more than 100 percent.

(b) Notwithstanding any provision of law to the contrary:

(1) for the first year in which the consolidated district's equalized homestead tax rate or household income percentage is reduced under 2010 Acts and Resolves No. 153, as amended, the equalized homestead tax rate and household income percentage for the town associated with the qualifying district shall be set at the average equalized homestead tax rate and household income percentage of the towns associated with the other districts that merge into the consolidated district; and

(2) 2010 Acts and Resolves No. 153, Sec. 4(a)(2), which limits the amount by which tax rates are permitted to change, shall not apply to the town associated with the qualifying district for the first year for which the consolidated district's equalized homestead tax rate or household income percentage is reduced under that act.

Sec. 20. MODIFIED UNIFIED UNION SCHOOL DISTRICTS; TAX RATE CALCULATIONS

The tax rate provisions in 2010 Acts and Resolves No. 155, Sec. 13(a)(1), as amended, shall not apply to the calculation of tax rates in a member of a modified unified union school district (MUUSD) formed under 2012 Acts and Resolves No. 156, Sec. 17, as amended, if that member is a member for fewer than all grades, prekindergarten through grade 12. This section shall apply to the calculation of taxes in any MUUSD that began full operation after July 1, 2015.

* * * Elections to Unified Union School District Board * * *

Sec. 21. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

(a) Notwithstanding any provision to the contrary under 16 V.S.A. § 706k, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting in accordance with the district's articles of agreement.

(b) Notwithstanding any provision to the contrary under 16 V.S.A. § 706l, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk shall immediately notify the selectboard of the town. Within 30 days of the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an

election is held in accordance with the unified union school district's articles of agreement.

(c) This section is repealed on July 1, 2018.

and by renumbering the remaining section (Effective Date) to be numerically correct

(Committee vote: 11-0-0)

(For text see Senate Journal March 30, 31, 2017)

Rep. Ancel of Calais, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education and when further amended as follows:

House propose to the Senate that the report be amended in the ninth instance of amendment, in Sec. 6a, amending 2015 Acts and Resolves No. 46, Sec. 5 (preferred education governance structure; alternative structure), by striking out the section designation "PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE" and inserting in lieu thereof "PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE GUIDELINES".

(Committee Vote: 10-0-1)

Rep. Juskiewicz of Cambridge, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committees on Education and Ways and Means.

(Committee Vote: 11-0-0)

Senate Proposal of Amendment

H. 167

An act relating to alternative approaches to addressing low-level illicit drug use

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Misdemeanor Possession of Drugs Study * * *

Sec. 1. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES

(a) It is the intent of the General Assembly to encourage persons cited or arrested for a misdemeanor drug possession charge to engage with pretrial services, and, if appropriate, enter treatment, and that, in turn, a person who complies with such conditions will be eligible for dismissal of the charge.

(b) The Attorney General, the Defender General, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

* * * Findings * * *

Sec. 2. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(5) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

* * * Prevention * * *

Sec. 3. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Agency of Agriculture, Food, and Markets, the Agency of Education, and the Governor's Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2018, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2018.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

* * * Legal Possession; Civil and Criminal Penalties * * *

Sec. 4. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all civil penalties for possession of one ounce or less of marijuana and a small number of marijuana plants for a person who is 21 years of age or older while retaining the current criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains the current civil and criminal penalties for possession of marijuana by a person under 21 years of age, which are the same as possession of alcohol by a person under 21 years of age.

Sec. 5. 18 V.S.A. § 4201(15) is amended to read:

(15)(A) "Marijuana" means any plant material of the genus *Cannabis* or any preparation, compound, or mixture thereof except:

(A) sterilized seeds of the plant;

(B) fiber produced from the stalks; or

(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant *Cannabis sativa* L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or

preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or

(iv) the sterilized seed of the plant that is incapable of germination.

Sec. 6. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants~~ of four mature marijuana plants or eight immature

marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound or more of marijuana or more than 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than 10 plants of six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds or more of marijuana or more than one pound or more of hashish or knowingly and unlawfully cultivating more than 25 plants of 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

* * *

Sec. 7. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; CIVIL VIOLATION

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

~~(1) not more than \$200.00 for a first offense;~~

~~(2) not more than \$300.00 for a second offense;~~

~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use

shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 or chapter 37 of this title or 16 V.S.A. § 140.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.~~

(1) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(2) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(3) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(4) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(5) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(6) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 8. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

* * *

Sec. 9. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, “dwelling unit” means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

Sec. 10. 18 V.S.A. § 4230f is added to read:

§ 4230f. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter

87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 11. 18 V.S.A. § 4230g is added to read:

§ 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is

impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, "social host" means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

Sec. 12. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety

pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

* * * Commercial Marijuana Regulation * * *

Sec. 13. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Agency” means the Agency of Agriculture, Food, and Markets.

(3) “Applicant” means a person that applies for a license to operate a marijuana establishment pursuant to this chapter.

(4) “Child care facility” means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

(5) “Commissioner” means the Commissioner of Public Safety.

(6) “Department” means the Department of Public Safety.

(7) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(8) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(9) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or otherwise provides financing to a person with the expectation of a financial return.

(10) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(11) “Marijuana cultivator” or “cultivator” means a person registered with the Agency to engage in commercial cultivation of marijuana in accordance with this chapter.

(12) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Agency to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Agency to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(14) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Agency to test marijuana for cultivators and retailers in accordance with this chapter.

(15) “Owns or controls,” “is owned or controlled by,” and “under common ownership or control” mean direct ownership or beneficial ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the power to direct, or cause the direction of, the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(16) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(17) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the

storage of fertilizers, pesticides, or other products.

(18) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice-president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(19) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(20) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(21) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

(22) “Secretary” means the Secretary of Agriculture, Food, and Markets.

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a

public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection (a) for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

§ 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

§ 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption; or

(3) is designed to appeal to children or persons under 18 years of age by portraying anyone under 18 years of age or objects suggestive of the presence of anyone under 18 years of age, or containing the use of a figure, a symbol, or language that is customarily associated with anyone under 18 years of age.

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) In accordance with section 4512 of this chapter, the Agency shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(d) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

Subchapter 2. Administration

§ 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Agency shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(b)(1) There is established the Marijuana Advisory Board within the Agency for the purpose of advising the Agency and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

(A) the Secretary of Agriculture, Food and Markets or designee;

(B) the Commissioner of Public Safety or designee;

(C) the Commissioner of Health or designee;

(D) the Commissioner of Taxes or designee; and

(E) a member of local law enforcement appointed by the Governor.

(2) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2017 and shall attend Board meetings.

§ 4512. RULEMAKING

(a) The Agency shall adopt rules to implement this chapter on or before March 15, 2018, in accordance with subdivisions (1)–(4) of this subsection.

(1) Rules concerning any marijuana establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;

(C) oversight requirements;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;

(G) security requirements, including lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is

sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2) Rules concerning cultivators shall include:

(A) labeling requirements for products sold to retailers; and

(B) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.

(3) Rules concerning retailers shall include:

(A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;

(B) requirements for proper verification of age and residency of customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.

(4) Rules concerning testing laboratories shall include:

(A) procedures for destruction of all samples; and

(B) requirements for chain of custody recordkeeping.

(b) The Agency shall consult with the Department in the development and adoption of the following rules identified in subsection (a) of this section:

(1) regarding any marijuana establishment, subdivisions (1)(B), (G), (K), (L), (P), and (Q);

(2) regarding cultivators, subdivision (2)(A)(vi);

(3) regarding retailers, subdivisions (4)(B), (C), and (E); and

(4) regarding testing laboratories, subdivisions (5)(B), (C), and (D).

§ 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2018, the Agency shall begin accepting

applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2018, the Agency shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2018, the Agency shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2018, the Agency shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2019.

(c)(1) Prior to July 1, 2019, provided applicants meet the requirements of this chapter, the Agency shall issue:

(A) an unlimited number of cultivator licenses that permit a cultivation space of not more than 500 square feet;

(B) a maximum of 20 cultivator licenses that permit a cultivation space of more than 500 square feet but not more than 1,000 square feet;

(C) a maximum of 15 cultivator licenses that permit a cultivation space of more than 1,000 square feet up to 2,500 square feet;

(D) a maximum of 10 cultivator licenses that permit a cultivation space of more than 2,500 square feet up to 5,000 square feet;

(E) a maximum of five cultivator licenses that permit a cultivation space of more than 5,000 square feet up to 10,000 square feet;

(F) a maximum of five testing laboratory licenses; and

(G) a maximum of 42 retailer licenses.

(2) On or after July 1, 2019, the limitations in subdivision (1) of this subsection shall not apply and the Agency shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed prior to July 1, 2019 may apply to the Agency to modify its license to expand its cultivation space.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Agency shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Agency shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

Subchapter 3. Licenses

§ 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Agency.

(b) All licenses shall expire at midnight, April 30, of each year beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Agency and shall be accompanied by the fees provided for in section 4528 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), an applicant and its affiliates may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtains no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Agency. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Agency. Failure to provide proof of insurance to the Agency, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade

secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

(i) This subchapter shall not apply to possession regulated by chapters 84 or 86 of this title.

§ 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant shall be a resident of Vermont.

(2) A principal of an applicant, and a person who owns or controls an applicant, shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(3) An applicant, principal of an applicant, or person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(b) A financier of an applicant shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Agency, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and

expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to retailers; and

(J) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product; and

(E) the types of testing to be offered.

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) an applicant or financier;

(2) a principal of an applicant or financier; and

(3) a person who owns or controls an applicant or financier.

(e) When considering applications for a marijuana establishment license, the Agency shall:

(1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;

(2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Agency designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Agency. A license shall not be renewed unless the records of the Agency show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Agency prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Agency. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Agency shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the marijuana establishment with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Agency

shall obtain from the Department the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Agency and the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Agency.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Agency, in consultation with the Department, shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. Previous nonviolent drug-related convictions shall not automatically disqualify an applicant. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Agency's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(f) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

§ 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility which is either indoors, or if outdoors, not visible to the public, and which can only be accessed by principal officers and employees of the licensee who have valid identification cards.

(c) An applicant shall designate on his or her operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for

human consumption shall be tested for safety and potency in accordance with rules adopted by the Agency.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the marijuana is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the

Secretary and shall clearly identify the marijuana affected and the basis for the appeal.

§ 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption off the registered premises;

(2) purchase marijuana from a licensed cultivator; and

(3) provide marijuana to a licensed testing laboratory.

(b)(1) In a single transaction, a retailer may provide:

(A) one-half ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer shall only sell “useable marijuana” which means the dried flowers of marijuana, and does not include the seeds, stalks, leaves, and roots of the plant, and shall not package marijuana with other items, such as paraphernalia, for sale to customers.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the

Agency in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Agency and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

§ 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

§ 4528. FEES

(a) The Agency shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or

renewal.

(b)(1) The nonrefundable fee accompanying an application for a cultivator license pursuant to section 4525 of this chapter shall be:

(A) \$1,000.00 for a cultivation space that does not exceed 500 square feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be:

(A) \$1,000.00 for a cultivation space that does not exceed 500 square feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for

a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.

(d) The following administrative fees shall apply:

(1) Change of corporate structure fee (per person) shall be \$1,000.00.

(2) Change of name fee shall be \$1,000.00.

(3) Change of location fee shall be \$1,000.00.

(4) Modification of license premises fee shall be \$250.00.

(5) Addition of financier fee shall be \$250.00.

(6) Duplicate license fee shall be \$100.00.

§ 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Subchapter 4. Marijuana Program Review Commission

§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

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

(1) two members of the public appointed by the Governor;

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

(c) Term. Legislative members shall serve only while in office.

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(3) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;

(4) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of impaired driving as it relates to marijuana;

(5) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

(6) examine whether Vermont should allow additional types of

marijuana establishment licenses, including a processor license and product manufacturer license;

(7) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(8) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Agency of Agriculture, Food, and Markets and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(9) monitor the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;

(10) identify strategies for preventing youth from using marijuana;

(11) identify academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy in accordance with this act;

(12) consider whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees;

(13) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

(14) report any recommendations to the General Assembly and the Governor, as needed.

(b) On or before January 15, 2020, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

§ 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

(b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2017.

(2) The Commission shall select a chair from among its members at the first meeting.

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

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 14. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

§ 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter

shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this

chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

§ 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Agency of Agriculture, Food, and Markets.

(b) The Agency of Agriculture, Food, and Markets may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Sec. 15. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

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

* * *

(18) "Vermont net income" means, for any taxable year and for any

corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from

federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

Sec. 16. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

* * * Impaired Driving * * *

Sec. 17. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 18. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 19. 23 V.S.A. § 1219 is amended to read:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person's general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Sec. 20. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

* * *

(4) refusal to submit to a test to determine the operator's alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

* * *

Sec. 21. VERMONT GOVERNOR'S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the

inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to comprehensively address the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor's Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2018 regarding implementation of this section.

Sec. 22. REPORTING IMPAIRED DRIVING DATA

The Commissioner of Public Safety and the Secretary of Transportation, in collaboration, shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

(1) the previous year's data in Vermont,

(2) the latest information regarding best practices on prevention and enforcement, and

(3) their recommendations for legislative action.

Sec. 23. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for the enforcement impaired driving.

* * * Appropriations and Positions * * *

Sec. 24. FISCAL YEAR 2018 APPROPRIATIONS FROM THE
MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2018 the following amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter marketing programs.

(2) Department of Taxes: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Agency of Agriculture, Food and Markets:

(A) \$112,500.00 for the Vermont Agriculture and Environmental Lab.

(B) \$272,500.00 for staffing expenses related to rulemaking, program administration, and processing of applications and licenses.

(4) Agency of Administration: \$150,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

Sec. 25. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2018 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and two (2) Program Administrator.

(4) In the Marijuana Program Review Commission—one (1) exempt Commission Director.

Sec. 26. MARIJUANA REGULATION AND RESOURCE FUND
BUDGET AND REPORT

Annually, through 2019, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

* * * Miscellaneous * * *

Sec. 27. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, "marijuana establishment" is as defined in 18 V.S.A. chapter 87.

Sec. 28. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 29. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

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

members:

(1) the Secretary of Commerce and Community Development or designee;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

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

(1) whether Vermont's workers' compensation and unemployment insurance systems are adversely impacted by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct post-accident, employer-wide, or post-rehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

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

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2017.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Committee shall cease to exist on December 31, 2017.

Sec. 30. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession public consumption of marijuana and 18 V.S.A. § 4230e relating to cultivation of marijuana.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1 (misdemeanor drug possession study), 2 (legislative findings and intent), 3 (marijuana youth education and prevention), 13 (marijuana establishments), 14 (marijuana taxes), and 29 (Workforce Study Committee) shall take effect on passage.

(b) Secs. 12 (chemical extraction via butane or hexane prohibited), 17 (consumption or possession of marijuana by the operator of a motor vehicle), 18 (consumption or possession of marijuana by a passenger of a motor vehicle), 21 (Vermont Governor's Highway Safety Program), 22 (reporting impaired driving data), 23 (training for law enforcement; impaired driving), 24 (appropriations), 25 (positions), 26 (Marijuana Regulation and Resource Fund budget and report), 27 (local authority to regulate marijuana establishments), and 28 (zoning) shall take effect on July 1, 2017.

(c) Sec. 15 (taxes; definitions) shall take effect on January 1, 2018 and shall apply to taxable year 2018 and after.

(d) Secs. 4 (legislative intent; civil and criminal penalties), 5 (marijuana definition), 6 (marijuana; criminal), 7 (marijuana; civil), 8 (marijuana possession by a person under 21 years of age), 9 (cultivation of marijuana by a person 21 years of age or older), 10 (sale or furnishing marijuana to a person under 21 years of age; criminal), 11 (sale of furnishing marijuana to a person under 21 years of age; civil action for damages), 16 (sales tax), 19 (commercial motor vehicle), 20 (disqualification; commercial motor vehicle), and 30 (Judicial Bureau; jurisdiction) shall take effect on January 2, 2019.

(For text see House Journal March 21, 2017)

H. 219

An act relating to the Vermont spaying and neutering program

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 3815(a) is amended to read:

(a) ~~The agency of human services~~ Agency of Human Services shall administer a dog, cat, and wolf-hybrid spaying and neutering program providing reduced-cost spaying and neutering services and presurgical immunization for dogs, cats, and wolf-hybrids owned or cared for by ~~low income~~ individuals with low income. ~~The agency~~ Agency shall implement the program through an agreement with a qualified organization ~~consistent with the applicable administrative rules, except that the Agency may implement the program if the Commissioner determines that there is no qualified organization capable of implementing the program based on review of overall program success, financial resources of the organization, viability of the organization, or the organization's prior performance in implementing the program.~~

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 14, 2017)

H. 509

An act relating to calculating statewide education tax rates

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

First: In Sec. 1, subdivision (1), by striking out “\$10,077.00” and inserting in lieu thereof \$10,015.00, and in subdivision (2), by striking out “\$11,851.00” and inserting in lieu thereof \$11,820.00

Second: In Sec. 2, by striking out “\$1.555” and inserting in lieu thereof \$1.563

Third: By striking out the reader assistance and Secs. 3 through 5 (unfunded mandates) in their entirety and inserting in lieu thereof new Secs. 3 through 5 to read:

Sec. 3. [Deleted.]

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

Fourth: By inserting a Sec. 6a to read as follows:

Sec. 6a. CALCULATION OF TAX RATES FOR MEMBER TOWNS IN
VOLUNTARY SCHOOL GOVERNANCE MERGERS.

(a) Definitions. As used in this section:

(1) “Five percent provision” means collectively the provisions in 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No.156, and 2015 Acts and Resolves No. 46, limiting a town’s equalized homestead property tax rate increase or decrease, and related household income percentage adjustments to five percent in a single year during the years in which the corresponding tax rate reductions apply to a new union school district’s equalized unified homestead property rate.

(2) “Tax rate reductions” means collectively the equalized homestead property tax rate reductions, and related household income percentage reductions, provided for voluntary school governance mergers in 2010 Act and Resolves No. 153, 2012 Acts and Resolves No. 156, and 2015 Acts and Resolves No. 46.

(3) “Education spending in the prior fiscal year” means the total education spending of all merging districts in the year prior to merger, divided by the total number of equalized pupils of all the merging districts in the year prior to merger.

(4) “Tax rate of a member town” means collectively the equalized homestead property tax rate, and related household income percentage reductions, for the referenced town.

(b) Tax rate reduction review.

(1) In a fiscal year in which the tax rate reductions are applied to a new union school district, if the district’s education spending per equalized pupil increases by four percent or less over its education spending per equalized pupil in the prior fiscal year, then it shall be presumed to not trigger Tax Rate Reduction Review.

(2) In a fiscal year in which the tax rate reductions are applied to a new union school district, if the district’s education spending per equalized pupil increases by more than four percent over its education spending per equalized pupil in the prior fiscal year, then it shall be subject to a Tax Rate Reduction Review.

(3) Upon the request of the Secretary, a union school district shall submit its budget to Tax Rate Reduction Review to determine whether its increase in education spending per equalized pupil was beyond the school district’s control or for other good cause. In conducting the Review, the Secretary will select three business managers and three superintendents to serve in an advisory role in the Review. The Review shall consider at least the

following factors:

(A) The extent to which the increase in education spending per equalized pupil is caused by declining enrollment in the union school district.

(B) The extent to which the increase in education spending per equalized pupil is caused by unifying employee contracts in the course of the union school district formation process.

(C) The extent to which the increase in education spending per equalized pupil is caused by increases in tuition paid by the union school district.

(4) If, at the conclusion of the Review, the Secretary determines that the union school district's budget contains excessive increases in educational spending per equalized pupil that are within the district's control and are not supported by good cause, then union school district rates for the fiscal year will be determined as follows:

(A) The tax rate of a member town that would otherwise be increased by no more than five percent shall be increased by no more than five percent plus the difference between a four percent increase in education spending per equalized pupil and the actual increase in the union school district's education spending per equalized pupil.

(B) The tax rate of a member town that would otherwise be decreased by no more than five percent shall be decreased by no more than five percent minus the difference between a four percent increase in education spending per equalized pupil and the actual increase in the union school district's education spending per equalized pupil.

Fifth: By adding a new section, to be Sec. 7, with reader assistance, to read:

* * * Health Care Costs * * *

Sec. 7. HEALTH CARE COST K-12 EDUCATION WORKING GROUP

(a) Creation. There is created the Health Care Cost K-12 Education Working Group (Working Group) to consider and make recommendations on how to achieve maximum savings for negotiated teacher health care benefits in the public kindergarten through grade 12 educational system.

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

(1) the Executive Director of the Vermont-NEA or designee;

(2) the Executive Director of the School Boards' Association or designee; and

(3) the Executive Director of the Vermont Superintendents Association or designee.

(c) Report. On or before November 15, 2017, the Working Group shall submit a written report to the House and Senate Committees on Education and on Appropriations, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

Sixth: By striking out Sec. 7 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 8. EFFECTIVE DATES

This act shall take effect July 1, 2017 and apply to fiscal year 2018 and after, except Sec. 6a (calculation of rates in certain districts), which shall take effect on passage and shall apply to all budgets voted on by the electorate after the date of passage.

(For text see House Journal MARCH 28, 29, 2017)

Amendment to be offered by Rep. Turner of Milton to H. 509

That the House concur in the Senate Proposal of Amendment with further amendment by striking out Sec. 7, working group, and its reader assistance in their entirety and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. [Deleted.]

Amendment to be offered by Reps. Beck of St. Johnsbury, Greshin of Warren, Baser of Bristol, Browning of Arlington, Brumsted of Shelburne, Christensen of Weathersfield, Condon of Colchester, Conlon of Cornwall, Cupoli of Rutland City, Hooper of Brookfield, Jickling of Brookfield, Gannon of Wilmington, Juskiewicz of Cambridge, Murphy of Fairfax, Olsen of Londonderry, Scheuermann of Stowe, Shaw of Pittsford, Sibilia of Dover, Sullivan of Dorset and Wright of Burlington to H. 509

Move to substitute an amendment for the amendment offered by Representative Turner of Milton as follows:

First: In Sec. 1, subdivision (1), by striking out “\$10,015.00” and inserting in lieu thereof “\$10,077.00”, and in subdivision (2), by striking out “\$11,820.00” and inserting in lieu thereof “\$11,851.00”

Second: In Sec. 2, by striking out “\$1.563” and inserting in lieu thereof “\$1.555”

Third: By striking out Sec. 7, working group, and its reader assistance, and Sec. 8, effective date, and its reader assistance, in their entirety and inserting in lieu thereof reader assistance headings and Secs. 7–14 to read:

* * * Health Care Benefits and Coverage for School Employees * * *

Sec. 7. FINDINGS

(a) Vermont's school employees receive health coverage through the Vermont Education Health Initiative (VEHI). Actuarial analysis of current VEHI plans indicates they have among the highest actuarial values of any health insurance plan offered in the State of Vermont. Premiums for VEHI plans are up to nine percent higher than those for a BlueCross BlueShield platinum plan offered through Vermont Health Connect.

(b) In response, the VEHI is replacing existing school employee health insurance plans with plans designed to be competitive with Vermont Health Connect.

(c) This change means that, as of January 1, 2018, all school employees will be on new health care plans.

(d) The new health plans cover the same health care services and networks, but they have lower premium costs. The savings associated with lower premiums is estimated to be as high as \$75 million.

(e) The new plans also create higher out-of-pocket exposure through deductibles and co-payment requirements. However, because the premiums for these plans are markedly lower, there are opportunities to keep employees' out-of-pocket costs at current levels while also realizing up to \$26 million in savings.

(f) These new plans have made health insurance negotiations more complex. In at least 20 supervisory unions, the parties have declared impasse over the inability to negotiate the transition to new health insurance plans.

(g) The State of Vermont is uniquely positioned to bargain health care benefits and coverage with school employees in a manner that ensures fairness and equity for school employees and delivers savings for property taxpayers.

Sec. 8. 16 V.S.A. § 2004 is amended to read:

§ 2004. AGENDA

(a) The school board, through its negotiations council, shall, upon request, negotiate with representatives of the teachers' or administrators' organization negotiations council on matters of salary, related economic conditions of employment, the manner in which it will enforce an employee's obligation to pay the agency service fee, procedures for processing complaints and grievances relating to employment, and any mutually agreed upon matters not in conflict with the statutes and laws of the State of Vermont.

(b) As used in this section, the terms "salary" and "related economic

conditions of employment” shall not include health care benefits or coverage. Health care benefits and health coverage, including health reimbursement and health savings accounts, shall not be subject to collective bargaining pursuant to this section, but shall be determined on a statewide basis pursuant to section 2031 of this chapter.

Sec. 9. 16 V.S.A. chapter 57, subchapter 5 is added to read:

Subchapter 5: Negotiations for Health Care Benefits and Coverage

§ 2031. HEALTH CARE BENEFITS AND COVERAGE FOR SCHOOL EMPLOYEES; NEGOTIATION

(a)(1) The statewide labor organizations that represent teachers, administrators, and municipal school employees, as defined in 21 V.S.A. § 1722, shall jointly negotiate with the Governor or designee to determine the health care benefits and coverage, including contributions to health reimbursement and health savings accounts, the percentage of the premium to be paid by school employees and by the supervisory district, supervisory union, or school district, and other terms and conditions of health coverage that shall be available to school employees in Vermont.

(2) The labor organizations and the Governor or designee shall enter into a written agreement applicable to all teachers, administrators, and municipal school employees statewide that sets forth the health care benefits and coverage, including contributions to health reimbursement and health savings accounts, if any, the percentage of the premium to be paid by school employees and by the supervisory district, supervisory union, or school district, and all other terms and conditions of health coverage that are agreed to.

(b) Notwithstanding any provision of this chapter to the contrary, negotiations pursuant to this section shall be subject to the provisions of 3 V.S.A. chapter 27, subchapters 2 and 4 for the purposes of impasse resolution and the prevention and adjudication of unfair labor practices.

(c) An agreement pursuant to subsection (a) of this section shall be ratified by a statewide majority vote of the teachers, administrators, and municipal school employees who are represented for purposes of collective bargaining pursuant to this chapter or 21 V.S.A. chapter 22. A referendum on the agreement shall be conducted by secret ballot by each represented bargaining unit, and the results of the referendum shall be submitted to the Vermont Labor Relations Board for tabulation of the statewide results.

(d) All supervisory districts, supervisory unions, and school districts shall provide health care benefits and coverage to their teachers, administrators, and municipal school employees in accordance with the terms of the agreement

between the State and the labor organizations entered into pursuant to subsection (a) of this section.

(e) A teacher, administrator, or municipal school employee shall not be permitted to strike in relation to negotiations between the labor organizations and the Governor pursuant to this section. Nothing in this subsection shall be construed to modify a teacher's, administrator's, or municipal school employee's right to strike in relation to negotiations occurring pursuant to subchapter 3 of this chapter or 21 V.S.A. chapter 22.

Sec. 10. 21 V.S.A. § 1722 is amended to read:

§ 1722. DEFINITIONS

As used in this chapter:

* * *

(12) "Municipal employee" means any employee of a municipal employer, including a municipal school employee or a professional employee as defined in subdivision 1502(11) of this title, except:

* * *

(17) "Wages, hours, and other conditions of employment" means any condition of employment directly affecting the economic circumstances, health, safety, or convenience of employees but excluding matters of managerial prerogative as defined in this section. For collective bargaining related to municipal school employees, "wages, hours, and other conditions of employment" shall not include health care benefits or coverage.

* * *

(21) "Municipal school employee" means an employee of a supervisory district, supervisory union, or school district that is not otherwise subject to 16 V.S.A. chapter 57 (labor relations for teachers and administrators).

Sec. 11. 21 V.S.A. § 1725 is amended to read:

§ 1725. COLLECTIVE BARGAINING PROCEDURE

(a)(1) For the purpose of collective bargaining, the representatives of the municipal employer and the bargaining unit shall meet at any reasonable time and shall bargain in good faith with respect to wages, hours, and conditions of employment, and shall execute a written contract incorporating any agreement reached; provided, however, neither party shall be compelled to agree to a proposal nor to make a concession, nor to bargain over any issue of managerial prerogative.

(2) For purposes of collective bargaining related to municipal school

employees, “wages, hours, and conditions of employment” shall not include health care benefits or coverage. Health care benefits and coverage, including health reimbursement and health savings accounts, shall not be subject to collective bargaining pursuant to this section, but shall be determined on a statewide basis pursuant to 16 V.S.A. § 2031.

* * *

Sec. 12. TRANSITIONAL PROVISIONS APPLICABLE TO PLAN YEARS 2018, 2019, AND 2020

Notwithstanding any provision of 16 V.S.A. chapter 57, subchapter 5 to the contrary, for plan years 2018, 2019, and 2020, the negotiations between the Governor or designee and the statewide labor organizations that represent teachers, administrators, and municipal school employees, as defined in 21 V.S.A. § 1722, to establish the terms of health care benefits and coverage for all school employees shall be limited to:

(1) the percentage of the premium to be paid by school employees and by the supervisory district, supervisory union, or school district for one or more of the health benefit plans offered by the Vermont Education Health Initiative for plan year 2018;

(2) the amounts of the supervisory districts’, supervisory unions’, and school districts’ contributions to school employees’ health reimbursement accounts, health savings accounts, or both; and

(3) other terms and conditions of health coverage.

Sec. 13. SAVINGS FROM HEALTH CARE TRANSITION

(a) After entering into an agreement for health care benefits and coverage pursuant to 16 V.S.A. § 2031, the Governor or designee shall notify each supervisory district, supervisory union, and school district of the required employer and employee contributions for single, two-person, parent-child, and family plans and for any health reimbursement or health savings account.

(b) On or before June 30, 2017 or 30 days after the adoption of its annual budget, whichever is later, each supervisory district, supervisory union, and school district shall submit to the Secretary of Education and the Commissioner of Finance and Management a report documenting its actual health care costs for calendar years 2016 and 2017 and its budgeted health care costs for 2018. This report shall be on a form prescribed by the Commissioner of Finance and Management and shall specify the employee contribution and employer contribution totals for each calendar year.

(c) Notwithstanding any other provision of law, for fiscal year 2018 only, the State shall offset the amount of savings between budgeted and actual costs

for health care benefits and coverage against the fiscal year 2018 payment to each supervisory district, supervisory union, or school district; provided, however, the State shall withhold any such payment until it has received the report required pursuant to subsection (b) of this section. The savings offset under this subsection shall be allocated to the Education Fund.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 7–13 shall take effect on passage and shall apply to negotiations for collective bargaining agreements that are entered into after the effective date of this act.

(b) The remaining sections of this act shall take effect on July 1, 2017 and apply to fiscal year 2018 and after.

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; ~~2~~

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000; ~~2~~

(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~~ 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.

(For text see House Journal MARCH 30, 2017)

H. 519

An act relating to capital construction and State bonding

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the \$147,282,287.00 authorized in this act, no more than \$73,805,141.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the

second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services, and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and of the House Committee on Corrections and Institutions are notified before that action is taken.

(b) The following sums are appropriated in FY 2018:

(1) Statewide, planning, use, and contingency: \$500,000.00

(2) Statewide, major maintenance: \$6,000,000.00

(3) Statewide, BGS engineering and architectural project costs: \$3,537,525.00

(4) Statewide, physical security enhancements: \$270,000.00

(5) Montpelier, State House, Dome, Drum, and Ceres, design, permitting, construction, restoration, renovation, and lighting: \$300,000.00

(6) Randolph, Agencies of Agriculture, Food and Markets and of Natural Resources, collaborative laboratory, construction: \$4,500,000.00

(7) Springfield, Southern State Correctional Facility, completion of the steamline replacement: \$300,000.00

(8) Waterbury, Waterbury State Office Complex, site work for the Hanks and Weeks buildings, and renovation of the Weeks building: \$4,000,000.00

(9) Newport, Northern State Correctional Facility, door control replacement: \$1,000,000.00

(10) Newport, Northern State Correctional Facility, parking expansion: \$350,000.00

(11) Montpelier, 109 and 111 State Street, design: \$600,000.00

(12) Department of Libraries, centralized facility, renovation: \$1,500,000.00

(13) Burlington, 108 Cherry Street, parking garage, repairs:
\$5,000,000.00

(c) The following sums are appropriated in FY 2019:

(1) Statewide, planning, use, and contingency: \$500,000.00

(2) Statewide, major maintenance: \$5,799,648.00

(3) Statewide, BGS engineering and architectural project costs:
\$3,432,525.00

(4) Statewide, physical security enhancements: \$270,000.00

(5) Montpelier, State House, Dome, Drum, and Ceres, restoration, renovation, and lighting: \$1,700,000.00

(6) Montpelier, 120 State Street, life safety and infrastructure improvements: \$700,000.00

(7) Randolph, Agencies of Agriculture, Food and Markets and of Natural Resources, collaborative laboratory, construction, fit-up, and equipment: \$3,944,000.00

(8) Waterbury, Waterbury State Office Complex, Weeks building, renovation and fit-up: \$900,000.00

(9) Newport, Northern State Correctional Facility, door control replacement: \$1,000,000.00

(10) Montpelier, 109 and 111 State Street, final design and construction:
\$4,000,000.00

(11) Burlington, 108 Cherry Street, parking garage, repairs:
\$5,000,000.00

(12) Montpelier, 133 State Street, renovations of mainframe workspace to Office Space (Agency of Digital Services): \$700,000.00

(d) Waterbury State Office Complex.

(1) The Commissioner of Buildings and General Services is authorized to use any appropriated funds remaining from the construction of the Waterbury State Office Complex for the projects described in subdivisions (b)(8) and (c)(8) of this section.

(2) On or before January 15, 2018, the Commissioner of Buildings and General Services shall evaluate the potential uses of the Stanley and Wasson buildings in the Waterbury State Office Complex.

Appropriation – FY 2018 \$27,857,525.00

Appropriation – FY 2019 \$27,946,173.00

Total Appropriation – Section 2 \$55,803,698.00

Sec. 3. HUMAN SERVICES

(a) The sum of \$200,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Human Services for cameras, locks, and perimeter intrusion at correctional facilities.

(b) The sum of \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in subsection (a) of this section.

Appropriation – FY 2018 \$200,000.00

Appropriation – FY 2019 \$300,000.00

Total Appropriation – Section 3 \$500,000.00

Sec. 4. JUDICIARY

(a) The sum of \$3,050,000.00 is appropriated in FY 2018 to the Judiciary for the case management IT system.

(b) It is the intent of the General Assembly to provide funding to complete the project described in subsection (a) of this section in FY 2019, and the Judiciary is encouraged to execute contracts for this project upon enactment of this act.

Appropriation – FY 2018 \$3,050,000.00

Total Appropriation – Section 4 \$3,050,000.00

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Commerce and Community Development:

(1) Major maintenance at historic sites statewide: \$200,000.00

(2) Stannard House, upgrades: \$30,000.00

(3) Schooner Lois McClure, repairs and upgrades: \$50,000.00

(b) The following sums are appropriated in FY 2018 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers:
\$15,000.00

(3) VT Center for Geographic Information, digital orthophotographic

quadrangle mapping: \$125,000.00

(c) The sum of \$200,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide.

(d) The following sums are appropriated in FY 2019 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers:
\$15,000.00

(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping: \$125,000.00

Appropriation – FY 2018 \$450,000.00

Appropriation – FY 2019 \$370,000.00

Total Appropriation – Section 5 \$820,000.00

Sec. 6. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2018 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program:

\$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human

Services and Educational Facilities Competitive Grant Program (Education):
\$100,000.00

(7) To the Department of Buildings and General Services for the
Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the
Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance
Grants Program: \$75,000.00

(b) The following sums are appropriated in FY 2019 for Building
Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development,
Division for Historic Preservation, for the Historic Preservation Grant
Program: \$200,000.00

(2) To the Agency of Commerce and Community Development,
Division for Historic Preservation, for the Historic Barns Preservation Grant
Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant
Program, the sum of which may be used to match funds that may be made
available from the National Endowment for the Arts, provided that all capital
funds are made available to the cultural facilities grant program: \$200,000.00

(4) To the Department of Buildings and General Services for the
Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human
Services and Educational Facilities Competitive Grant Program (Human
Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human
Services and Educational Facilities Competitive Grant Program (Education):
\$100,000.00

(7) To the Department of Buildings and General Services for the
Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the
Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

Appropriation – FY 2018 \$1,475,000.00

Appropriation – FY 2019 \$1,400,000.00

Total Appropriation – Section 6 \$2,875,000.00

Sec. 7. EDUCATION

The sum of \$50,000.00 is appropriated in FY 2018 to the Agency of Education for funding emergency projects.

<u>Appropriation – FY 2018</u>	<u>\$50,000.00</u>
<u>Total Appropriation – Section 7</u>	<u>\$50,000.00</u>

Sec. 8. UNIVERSITY OF VERMONT

(a) The sum of \$1,400,000.00 is appropriated in FY 2018 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of \$1,400,000.00 is appropriated in FY 2019 to the University of Vermont for the projects described in subsection (a) of this section.

<u>Appropriation – FY 2018</u>	<u>\$1,400,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$1,400,000.00</u>
<u>Total Appropriation – Section 8</u>	<u>\$2,800,000.00</u>

Sec. 9. VERMONT STATE COLLEGES

(a) The sum of \$2,000,000.00 is appropriated in FY 2018 to the Vermont State Colleges for construction, renovation, and major maintenance.

(b) The sum of \$2,000,000.00 is appropriated in FY 2019 to the Vermont State Colleges for the projects described in subsection (a) of this section.

<u>Appropriation – FY 2018</u>	<u>\$2,000,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$2,000,000.00</u>
<u>Total Appropriation – Section 9</u>	<u>\$4,000,000.00</u>

Sec. 10. NATURAL RESOURCES

(a) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund:

\$2,300,000.00

(2) Dam safety and hydrology projects:

\$200,000.00

(3) State's share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine, Ely Mine, and Williston (Commerce Street)

\$1,719,000.00

(b) The sum of \$2,750,000.00 is appropriated in FY 2018 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small scale rehabilitation,

wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(c) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas: \$1,200,000.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure: \$30,000.00

(d) The sum of \$2,720,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Department of Fish and Wildlife for the construction of the Roxbury Hatchery.

(e) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund:
\$1,400,000.00

(2) Dam safety and hydrology projects: \$175,000.00

(3) State's share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine and Ely Mine): \$2,755,000.00

(f) The sum of \$2,750,000.00 is appropriated in FY 2019 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(g) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas: \$1,100,000.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure: \$30,000.00

Appropriation – FY 2018 \$10,919,000.00

Appropriation – FY 2019 \$8,210,000.00

Total Appropriation – Section 10 \$19,129,000.00

Sec. 11. CLEAN WATER INITIATIVES

(a) The following sums are appropriated in FY 2018 to the Agency of Agriculture, Food and Markets for the following projects described in this section:

(1) Best Management Practices and Conservation Reserve Enhancement Program: \$3,450,000.00

(2) Water quality grants and contracts: \$600,000.00

(b) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,000,000.00

(2) EcoSystem restoration and protection: \$6,000,000.00

(3) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, prior year partially funded projects: \$2,982,384.00

(4) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, new projects (Ryegate, Springfield, St. Johnsbury, and St. Albans): \$2,704,232.00

(c) The sum of \$1,400,000.00 is appropriated in FY 2018 to the Agency of Transportation for the Municipal Mitigation Program.

(d) The following sums are appropriated in FY 2018 to the Vermont Housing and Conservation Board for the following projects:

(1) Statewide water quality improvement projects or other conservation projects: \$2,800,000.00

(2) Water quality farm improvement grants or fee purchase projects that enhance water quality impacts by leveraging additional funds: \$1,000,000.00

(e) The sum of \$2,000,000.00 is appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for Best Management Practices and the Conservation Reserve Enhancement Program.

(f) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) the Water Pollution Control Fund, Clean Water State/EPA Revolving

<u>Loan Fund (CWSRF) match:</u>	<u>\$1,200,000.00</u>
<u>(2) EcoSystem restoration and protection:</u>	<u>\$5,000,000.00</u>
<u>(3) Municipal Pollution Control Grants, new projects (Colchester, Rutland City, St. Albans, Middlebury):</u>	<u>\$1,407,268.00</u>
<u>(4) Clean Water Act, implementation projects:</u>	<u>\$11,010,704.00</u>

(g) The sum of 2,750,000.00 is appropriated in FY 2019 to the Vermont Housing and Conservation Board for statewide water quality improvement projects or other conservation projects.

(h) It is the intent of the General Assembly that the Secretary of Natural Resources shall use the amount appropriated in subdivision (b)(4) of this section to fund new projects in Ryegate, Springfield, St. Johnsbury, and St. Albans; provided, however, that if the Secretary determines that one of these projects is not ready in FY 2018, the funds may be used for an eligible new project as authorized by 10 V.S.A. chapter 55 and 24 V.S.A. chapter 120.

(i) On or before November 1, 2017, the Clean Water Fund Board, established in 10 V.S.A. § 1389, shall submit a report to the House Committees on Corrections and Institutions and on Natural Resources, Fish and Wildlife, and the Senate Committees on Institutions and on Natural Resources and Energy, providing a list of all clean water initiative programs and projects receiving funding in subsections (a)–(d) of this section and the amount of the investment.

(j) On or before January 15, 2018:

(1) the Clean Water Fund Board shall review and recommend Clean Water Act implementation programs funded from subdivision (f)(4) of this section; and

(2) the Board shall submit the list of programs recommended for FY 2019 to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and to the Governor for the FY 2019 capital budget report.

(k) In FY 2018 and FY 2019, any agency that receives funding from this section shall consult with the State Treasurer to ensure that the projects are capital eligible.

<u>Appropriation – FY 2018</u>	<u>\$21,936,616.00</u>
<u>Appropriation – FY 2019</u>	<u>\$23,367,972.00</u>
<u>Total Appropriation – Section 11</u>	<u>\$45,304,588.00</u>

Sec. 12. MILITARY

(a) The sum of \$750,000.00 is appropriated in FY 2018 to the Department of Military for maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The following sums are appropriated in FY 2019 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: \$850,000.00

(2) Bennington Armory, site acquisition: \$60,000.00

Appropriation – FY 2018 \$750,000.00

Appropriation – FY 2019 \$910,000.00

Total Appropriation – Section 12 \$1,660,000.00

Sec. 13. PUBLIC SAFETY

(a) The sum of \$1,927,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for site acquisition, design, permitting, and construction documents for the Williston Public Safety Field Station.

(b) The sum of \$5,573,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for construction of the Williston Public Safety Field Station.

Appropriation – FY 2018 \$1,927,000.00

Appropriation – FY 2019 \$5,573,000.00

Total Appropriation – Section 13 \$7,500,000.00

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of \$75,000.00 is appropriated in FY 2018 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program.

(b) The sum of \$75,000.00 is appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program.

Appropriation – FY 2018 \$75,000.00

Appropriation – FY 2019 \$75,000.00

Total Appropriation – Section 14 \$150,000.00

Sec. 15. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$125,000.00 is appropriated in FY 2018 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$125,000.00 is appropriated in FY 2019 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

Appropriation – FY 2018 \$125,000.00

Appropriation – FY 2019 \$125,000.00

Total Appropriation – Section 15 \$250,000.00

Sec. 16. VERMONT VETERANS' HOME

(a) The sum of \$90,000.00 is appropriated in FY 2018 to the Vermont Veterans' Home for resident care furnishings.

(b) The sum of \$300,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Vermont Veterans' Home for kitchen renovations, and mold remediation.

(c) It is the intent of the General Assembly that the amount appropriated in subsection (a) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

Appropriation – FY 2018 \$390,000.00

Total Appropriation – Section 16 \$390,000.00

Sec. 17. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,200,000.00 is appropriated in FY 2018 to the Vermont Housing and Conservation Board for housing projects.

(b) The sum of \$1,800,000.00 is appropriated in FY 2019 to the Vermont Housing and Conservation Board for housing projects.

(c) The Vermont Housing and Conservation Board shall use funds appropriated in this section for:

(1) projects that are designed to keep residents out of institutions;

(2) the improvement of projects where there is already significant public investment and affordability or federal rental subsidies that would otherwise be lost;

(3) projects that would alleviate the burden in the most stressed rental markets and assist households into homeownership; or

(4) downtown and village center revitalization projects.

(d) The Vermont Housing and Conservation Board (VHCB) may use the amounts appropriated in this section to increase the amount it allocates to conservation grant awards pursuant to Sec. 11(d) and (g) of this act; provided, however, that VHCB increases any affordable housing investments by the same amount from funds appropriated to VHCB in the FY 2018 Appropriations Act.

<u>Appropriation – FY 2018</u>	<u>\$1,200,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$1,800,000.00</u>
<u>Total Appropriation – Section 17</u>	<u>\$3,000,000.00</u>

* * * Financing this Act * * *

Sec. 18. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

(1) of proceeds from the sale of property authorized in 2008 Acts and Resolves No. 200, Sec. 32 (1193 North Ave., Burlington): \$65,163.14

(2) of the amount appropriated in 2009 Acts and Resolves No. 43, Sec. 11 (Waterbury, Emergency Operations Center): \$0.03

(3) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2 (Brattleboro, State office building HVAC replacement and renovations): \$178,010.22

(4) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2 (statewide, major maintenance): \$28,307.00

(5) of the proceeds from the sale of property authorized in 2012 Acts and Resolves No. 104, Sec. 1(f) (43 Randall Street, Waterbury): \$101,156.39

(6) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2 (statewide, contingency): \$44,697.20

(7) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4 (Corrections, security upgrades): \$391.01

(8) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 6 (Battle of Cedar Creek, roadside markers): \$28,253.60

(9) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 5 (Judiciary, Lamoille County Courthouse): \$1,064.79

(10) of the amount appropriated in 2013 Acts and Resolves No. 15,

Sec. 17 (Veterans' Home, mold remediation): \$858,000.00

(11) of the amount appropriated in 2014 Acts and Resolves No. 178,
Sec. 1 (project management system): \$250,000.00

(12) of the amount appropriated in 2014 Acts and Resolves No. 178,
Sec. 1 (statewide, major maintenance): \$1,271,619.46

(13) of the amount appropriated in 2014 Acts and Resolves No. 178,
Sec. 1 (Vergennes, Weeks School Master Plan): \$5.00

(14) of the amount appropriated in 2014 Acts and Resolves No. 178,
Sec. 2 (Corrections, NSCF kitchen/serving line reconstruction): \$60,000.00

(15) of the amount appropriated in 2014 Acts and Resolves No. 178,
Sec. 3 (Caledonia County Courthouse, wall stabilization): \$12,867.40

(16) of the amount appropriated in 2014 Acts and Resolves No. 178,
Sec. 8 (Public Safety, Robert H. Wood): \$1,937.00

(17) of the amount appropriated in 2015 Acts and Resolves No. 26,
Sec. 2 (statewide, engineering and architectural costs): \$6,912.30

(18) of the amount appropriated in 2015 Acts and Resolves No. 26,
Sec. 2 (Burlington, 32 Cherry Street, HVAC controls upgrade): \$550.38

(19) of the amount appropriated in 2015 Acts and Resolves No. 26,
Sec. 2 (Caledonia County Courthouse, foundation): \$384,000.00

(20) of the amount appropriated in 2015 Acts and Resolves No. 26,
Sec. 2 (statewide, major maintenance): \$7,187,408.54

(21) of the amount appropriated in 2016 Acts and Resolves No. 160,
Sec. 1 (statewide, major maintenance): \$3,740,972.00

(b) The following unexpended funds appropriated to the Agency of
Education for capital construction projects are reallocated to the Department of
Buildings and General Services to defray expenditures authorized in Sec. 2 of
this act:

(1) of the amount appropriated in 2014 Acts and Resolves No. 178,
Sec. 3 (school construction): \$155,398.62

(2) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec.
8 (emergency projects): \$61,761.00

(c) The sum of \$353,529.29 in unexpended funds appropriated to the
Agency of Agriculture, Food and Markets for capital construction projects in
2013 Acts and Resolves No. 51, Sec. 14 (nonpoint source pollution grants) is
reallocated to the Department of Buildings and General Services to defray
expenditures authorized in Sec. 2 of this act.

(d) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12 (Forests, Parks and Recreation, projects): \$1,530.41

(2) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 6 (water pollution control): \$0.02

(3) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 11 (municipal pollution control grants, Pownal): \$28,751.98

Total Reallocations and Transfers – Section 18 \$14,822,286.78

Sec. 19. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

The State Treasurer is authorized to issue general obligation bonds in the amount of \$132,460,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

Total Revenues – Section 19 \$132,460,000.00

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 20. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The Commissioner of Buildings and General Services is authorized to sell the building and adjacent land located at 26 Terrace Street in Montpelier (the Redstone Building) pursuant to the requirements of 29 V.S.A. § 166(b).

(b) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects.

Sec. 21. RANDALL STREET; VILLAGE OF WATERBURY

The Commissioner of Buildings and General Services is authorized to sell a portion of State property in the Village of Waterbury that borders Randall

Street if the Commissioner determines that it serves the best interest of the State. The proceeds from the sale shall be appropriated to future capital construction projects.

Sec. 22. SALE OF 26 TERRACE STREET; MONTPELIER

Notwithstanding 29 V.S.A. § 166(d), the proceeds from the sale of 26 Terrace Street in Montpelier (the Redstone building) shall be transferred to Sec. 2(c)(2) of this act.

Sec. 23. 29 V.S.A. § 157 is amended to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The Commissioner of Buildings and General Services shall:

* * *

(2) Conduct a facilities condition analysis each year of ~~ten~~ 20 percent of the building area and infrastructure under the Commissioner's jurisdiction so that within ~~ten~~ five years all property is assessed. At the end of the ~~ten~~ five years, the process shall begin again. The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.

* * *

Sec. 24. 2 V.S.A. § 62(a) is amended to read:

(a) The Sergeant at Arms shall:

* * *

(6) ~~maintain~~ Maintain in a good state of repair and provide security for all furniture, draperies, rugs, desks, ~~paintings~~ and ~~office equipment~~ other furnishings kept in the State House;

* * *

Sec. 25. 2 V.S.A. chapter 19 is amended to read:

CHAPTER 19. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

(a) A Legislative Advisory Committee on the State House is created.

(b) The Committee shall be composed of 11 members: ~~three members of the House of Representatives appointed by the speaker; three members of the Senate appointed by the Committee on Committees; the Chair of the Board of~~

~~Trustees of the Friends of the Vermont State House; the Director of the Vermont Historical Society; the Director of the Vermont Council on the Arts; the Commissioner of Buildings and General Services; and the Sergeant-at-Arms~~

(1) three members of the House of Representatives, appointed biennially by the Speaker of the House;

(2) three members of the Senate, appointed biennially by the Committee on Committees;

(3) the Chair of the Board of Trustees of the Friends of the Vermont State House;

(4) the Director of the Vermont Historical Society;

(5) the Director of the Vermont Council on the Arts;

(6) the Commissioner of Buildings and General Services; and

(7) the Sergeant at Arms.

(c) The Committee shall biennially elect a chair from among its legislative members. A quorum shall consist of six members.

(d) The Committee shall meet at the State House ~~on the first Monday of each third month beginning in July, 1984,~~ at least one time during the months of July and December or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

* * *

§ 653. FUNCTIONS

(a) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services, in discharging responsibilities under subdivision 62(a)(6) of this title and ~~29 V.S.A. § 154(a)~~ 29 V.S.A. §§ 154(a) and 154a, respectively, shall consider the recommendations of the ~~Advisory~~ Committee. The ~~Advisory~~ Committee's recommendations shall be advisory only.

Sec. 26. 29 V.S.A. § 154 is amended to read:

§ 154. PRESERVATION OF STATE HOUSE AND HISTORIC STATE BUILDINGS

(a) ~~The commissioner of buildings and general services~~ Commissioner of

Buildings and General Services shall give special consideration to the ~~state house~~ State House as a building of first historical importance and significance. He or she shall preserve the ~~state house~~ State House structure and its unique interior and exterior architectural form and design, with particular attention to the detail of form and design, in addition to keeping the buildings, its furnishings, facilities, appurtenances, appendages, and grounds surrounding and attached to it in the best possible physical and functional condition. ~~No~~ Any permanent change, alteration, addition, or removal in form, materials, design, architectural detail, furnishing, fixed in place or otherwise, interior or exterior, of the ~~state house~~, State House may not be made without legislative mandate. Emergency and immediately necessary repairs may, however, be made without legislative mandate upon prior approval of the ~~governor~~ Governor.

~~(b) The commissioner of buildings and general services, as time and funds permit, shall prepare such records as will permit the reproduction of state-owned historic buildings should any of them be destroyed. [Repealed.]~~

Sec. 27. 29 V.S.A. § 154a is added to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, and tours; and

(3) acquisition, management and care of State collections of art and historic furnishings, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a).

Sec. 28. 32 V.S.A. § 1001a is amended to read:

§ 1001a. REPORTS

(a) The Capital Debt Affordability Advisory Committee shall prepare and submit consistent with 2 V.S.A. § 20(a) a report on:

(1) ~~General~~ general obligation debt, pursuant to subsection 1001(c) of this title; and

(2) ~~How~~ how many, if any, Transportation Infrastructure Bonds have been issued and under what conditions. ~~The provisions of 2 V.S.A. § 20(d)~~

~~(expiration of required reports) shall not apply to the report to be made under this subdivision.~~

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the reports to be made under this section.

Sec. 29. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1 and 2015 Acts and Resolves No. 58, Sec. E.113.1, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on July 1, 2017 July 1, 2018.

* * * Human Services * * *

Sec. 30. SECURE RESIDENTIAL FACILITY; LAND

On or before June 30, 2018, the Commissioner of Buildings and General Services is authorized to purchase an option on land or purchase land for a permanent, secure residential facility; provided, however, that the size and location of the land shall be consistent with the siting and design examination conducted by the Agency of Human Services, as required by 2015 Acts and Resolves No. 26, Sec. 30.

Sec. 31. AGENCY OF HUMAN SERVICES; FACILITIES

(a) It is the intent of the General Assembly that the State address the pressing facility needs for the following populations:

(1) individuals who no longer require hospitalization but who remain in need of long-term treatment in a secure residential facility setting;

(2) individuals who are not willing or able to engage in voluntary community treatment but do not require hospitalization;

(3) elders with significant psychiatric needs who meet criteria for skilled nursing facilities;

(4) elders with significant psychiatric and medical needs who do not meet criteria for skilled nursing facilities;

(5) children in need of residential treatment;

(6) juvenile delinquents in need of residential detention;

(7) offenders in correctional facilities; and

(8) any other at-risk individuals.

(b) The Secretary of Human Services, in consultation with the Commissioner of Buildings and General Services, shall evaluate and develop a plan to support the populations described in subsection (a) of this section. In

developing the plan, the Secretary and Commissioner shall take into consideration the data collected and the report submitted by the Corrections Facility Planning Committee, pursuant to 2016 Acts and Resolves No. 160, Sec. 30, and the project design and plan for the Woodside Juvenile Rehabilitation Center, prepared pursuant to 2015 Acts and Resolves No. 26, Sec. 2(b)(21). The evaluation and plan shall include the following:

(1) an evaluation and recommendation of the use, condition, and maintenance needs of existing facilities, including whether any facility should be closed, renovated, relocated, repurposed, or sold, provided that if a recommendation is made to close a facility, a plan must be developed that addresses its future use;

(2) an analysis of the historic population trends of existing facilities, and anticipated future population trends, including age, gender, court involvement, and medical, mental health, and substance abuse conditions;

(3) an evaluation of whether the design and use of existing facilities adequately serve the current population and anticipated future populations;

(4) an evaluation of whether constructing new facilities would better serve current or anticipated future populations, including whether the use of out-of-state facilities could be reduced or eliminated.

(c) On or before September 1, 2017, the Secretary shall provide an update on the status of the evaluation and plan to the Joint Legislative Committee on Justice Oversight.

(d) On or before January 15, 2018, the Secretary shall submit the plan and recommendations to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services, and the Senate Committees on Appropriations, on Health and Welfare, and on Institutions.

* * * Information Technology * * *

Sec. 32. INFORMATION TECHNOLOGY REVIEW

(a) The Executive Branch shall transfer, upon request, one vacant position for use in the Legislative Joint Fiscal Office (JFO) for a staff position, or the JFO may hire a consultant, to provide support to the General Assembly to conduct independent reviews of State information technology projects and operations.

(b) The Secretary of Administration and the Chief Information Officer shall:

(1) provide to the JFO access to the reviews conducted by Independent Verification and Validation (IVV) firms hired to evaluate the State's current and planned information technology project, as requested;

(2) ensure that IVV firms' contracts allow the JFO to make requests for information related to the projects that it is reviewing and that such requests are provided to the JFO in a confidential manner; and

(3) provide to the JFO access to all other documentation related to current and planned information technology projects and operations, as requested.

(c) The JFO shall maintain a memorandum of understanding with the Executive Branch relating to any documentation provided under subsection (b) of this section that shall protect security and confidentiality.

(d) In FY 2018 and FY 2019, the JFO is authorized to use up to \$250,000.00 of the amounts appropriated in Sec. 4 of this act to fund activities described in this section.

Sec. 33. AGENCY OF DIGITAL SERVICES; ORGANIZATION

(a) The Secretary and Chief Information Officer (CIO) of Digital Services and the Secretary of Administration shall:

(1) provide an update on the development of an organizational model and design of the new Agency that improves efficiency, data sharing, and coordination on information technology (IT) procurement;

(2) evaluate the use of this organizational model in other states, including the successes and failures in implementing the model, and any lessons learned;

(3) collaborate with State information technology staff to better utilize technology skills and resources and create efficiencies across all State agencies and departments; and

(4) examine functions of the new Agency such as budget, administrative support, and supervision, and its space requirements, to establish a more efficient delivery of services to the public.

(b) On or before January 15, 2018, the Secretary and CIO of Digital Services shall prepare and present to the House Committees on Appropriations, on Corrections and Institutions, on Energy and Technology, and on Government Operations, and to the Senate Committees on Appropriations, on Government Operations, and on Institutions:

(1) a report containing additional recommendations for restructuring the Agency;

(2) draft legislation necessary to conform existing statutes; and

(3) a report on the budgetary impacts and transitional costs of restructuring, including an update on savings related to staffing changes and

consolidation of resources.

* * * Natural Resources * * *

Sec. 34. AGENCY OF NATURAL RESOURCES PLAN FOR
IMPLEMENTING BASIN PLANNING PROJECTS WITH
REGIONAL PLANNING COMMISSIONS

On or before December 15, 2017, the Secretary of Natural Resources shall submit to the House Committees on Corrections and Institutions and on Natural Resources, Fish and Wildlife and the Senate Committees on Institutions and on Natural Resources and Energy a plan or process for how and to the extent the Secretary shall:

(1) contract with regional planning commissions and the Natural Resources Conservation Council to assist in or produce tactical basin plans under 10 V.S.A. § 1253; and

(2) assign the development, implementation, and administration of water quality projects identified in the basin planning process to municipalities, regional planning commissions, or other organizations.

Sec. 35. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
LAND TRANSACTIONS

(a) The Commissioner of Forests, Parks and Recreation is authorized to:

(1) Amend certain terms and conditions of two conservation easements, in order to define and clarify the allowed uses for sugaring and other forestry-management-related structures and facilities, and including their associated infrastructure and utilities, and related site preparation activities on the following lands:

(A) approximately 31,343 acres, designated as the Hancock Legacy Easement 1996, on the map prepared by the Department of Forests, Parks and Recreation, entitled "Hancock Forest Legacy Easement Lands Essex and Orleans Counties, Vermont," dated December 27, 2016; and

(B) approximately 207 acres, designated as the Averill Inholdings Easement 2005, on the map prepared by the Department of Forests, Parks and Recreation, entitled "Hancock Forest Legacy Easement Lands Essex and Orleans Counties, Vermont," dated December 27, 2016.

(2) Sell to the Trust for Public Land, with the goal that the Trust will subsequently convey these tracts to the U.S. Forest Service for inclusion in the Green Mountain National Forest, the following two tracts:

(A) an approximately 113-acre tract in the Town of Mendon, designated as the Bertha Tract, on the map prepared by the Trust For Public

Land, entitled “Rolston Rest Addition to Green Mountain National Forest,” dated July 6, 2016; and

(B) an approximately 58-acre tract in the Town of Killington designated as the Burch Tract, on the map prepared by the Trust For Public Land, entitled “Rolston Rest Addition to Green Mountain National Forest,” dated July 6, 2016.

(b) The sale described in subdivision (a)(2) of this section shall be pursuant to the terms of a mutually satisfactory purchase and sales agreement. The selling price shall be based on the fair market value for the Bertha Tract and Burch Tract, as determined by an appraisal. The sale of these tracts is contingent on support from the Towns of Mendon and of Killington. The proceeds of the sale shall be deposited in the Agency of Natural Resources’ Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes.

Sec. 35a. CLEAN WATER PROJECTS; SIGNS

The Commissioner of Buildings and General Services, in collaboration with the Secretaries of Natural Resources and of Transportation, shall develop a plan for signage to identify any clean water projects funded by the State. The signage shall include uniform language and a logo to identify the projects. The signage shall be displayed in a location as visible to the public as possible for the duration of the construction phase of the project. Funds appropriated for water quality projects shall be used to pay the costs associated with the signage in accordance with the plan.

* * * Public Safety * * *

Sec. 36. PUBLIC SAFETY FIELD STATION; WILLISTON

(a) The Commissioner of Buildings and General Services is authorized to purchase land for a public safety field station and an equipment storage facility. The location of the land shall be based on the results of the detailed proposal for the site location developed by the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, as required by 2016 Acts and Resolves No. 160, Sec. 34.

(b) The Commissioner of Buildings and General Services is authorized to sell the Williston Public Safety Field Station and adjacent land pursuant to the requirements of 29 V.S.A. § 166.

* * * Effective Date * * *

Sec. 37. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal APRIL 4, 5, 2017)

NEW BUSINESS

Third Reading

H. 170

An act relating to possession and cultivation of marijuana by a person 21 years of age or older

Amendment to be offered by Rep. Donahue of Northfield to H. 170

That the bill be amended in Sec. 8, 18 V.S.A. § 4230f, in subdivision (b)(1)(A) before the word "consent" by inserting the word "written"

Amendment to be offered by Rep. Donahue of Northfield to H. 170

That the bill be amended as follows:

First: In Sec. 9, 18 V.S.A. § 4230g(b) after "consume marijuana" by adding "and shall include consumption by second-hand smoke"

Second: Sec. 9a. be added to amend 33 V.S.A. 5102 to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters, unless the context otherwise requires:

* * *

(3) "Child in need of care or supervision (CHINS)" means a child who:

(A) has been abandoned or abused by the child's parent, guardian, or custodian. A person is considered to have abandoned a child if the person is: unwilling to have physical custody of the child; unable, unwilling, or has failed to make appropriate arrangements for the child's care; unable to have physical custody of the child and has not arranged or cannot arrange for the safe and appropriate care of the child; or has left the child with a care provider and the care provider is unwilling or unable to provide care or support for the child, the whereabouts of the person are unknown, and reasonable efforts to locate the person have been unsuccessful.

(B) is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being;

(C) is without or beyond the control of his or her parent, guardian, or

custodian; or

(D) is habitually and without justification truant from compulsory school attendance-; or

(E) is under the age of 16 and who has been furnished marijuana or enabled to consume marijuana by a parent or guardian.

* * *

Amendment to be offered by Rep. Donahue of Northfield to H. 170

That the bill be amended as follows:

First: In Sec. 7 by adding a subsection (c) to read as follows:

(c) Marijuana may not be possessed in a motor vehicle unless it is secured in a locked container. A person who violates this subsection shall be assessed a civil penalty as follows:

(1) not more than \$200.00 for a first offense;

(2) not more than \$300.00 for a second offense; and

(3) not more than \$500.00 for a third or subsequent offense.

Second: By inserting a Sec. 12a to read as follows:

Sec. 12a. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF

INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL

REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

* * *

(i) Evidence that the operator or a passenger of a motor vehicle consumed marijuana while the vehicle was in motion shall be admissible to prove that the operator violated subdivision (a)(3) of this section.

Amendment to be offered by Rep. Donahue of Northfield to H. 170

That the bill be amended in Sec. 7, 18 V.S.A. § 4230e in subsection (b) after the first sentence by adding “A person may consume marijuana only on property that he or she owns or on property with permission of the owner.” and in subdivision (1) of subsection (b) by striking out “\$100.00” and inserting in lieu thereof “\$400.00” and by striking out “\$200.00” and inserting in lieu thereof “\$600.00” and in subdivision (3) of subsection (b) by striking out “\$500.00” and inserting in lieu thereof “\$1,000.00”

H. 196

An act relating to paid family leave

Favorable with Amendment

H. 233

An act relating to protecting working forests and habitat

Rep. Ode of Burlington, for the Committee on Natural Resources; Fish & Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) “Development” means each of the following:

* * *

(D) The word “development” does not include:

(i) The construction of improvements for farming, logging, or forestry purposes below the elevation of 2,500 feet.

* * *

(12) “Necessary wildlife habitat” means concentrated habitat which is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life including breeding and migratory periods.

* * *

(38) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use that is mapped as an interior forest block within the 2016 interior forest block dataset created as part of resource mapping under section 127 of this title, as that dataset may be updated pursuant to procedures developed in accordance with that section. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and improvements constructed for farming, logging, or forestry purposes.

(39) “Fragmentation” means the division or conversion of a forest block or habitat connector by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land.

However, fragmentation does not include the division or conversion of a forest block or habitat connector by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(40) "Habitat" means the physical and biological environment in which a particular species of plant or animal lives.

(41) "Habitat connector" refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(42) As used in subdivisions (38), (39), and (41) of this section, "recreational trail" means a corridor that is not paved, that has a minor impact on the values of a forest block or habitat connector, and that is used for recreational purposes including hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

Sec. 2. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the District Commission shall find that the subdivision or development:

* * *

(8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

(A) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or

(iii) a reasonably acceptable alternative site is owned or controlled by the applicant which would allow the development or subdivision to fulfill its intended purpose.

(B) Forest blocks.

(i) A permit will not be granted for a development or subdivision unless the applicant demonstrates that:

(I) the development or subdivision will avoid fragmentation of a forest block through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the forest block and the design of the development or subdivision minimizes fragmentation of the forest block; or

(III) it is not feasible to avoid or minimize fragmentation of the forest block and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a forest block may include:

(I) Locating buildings and other improvements and operating the project in a manner that avoids or minimizes incursion into and disturbance of the forest block, including clustering of buildings and associated improvements.

(II) Designing roads, driveways, and utilities that serve the development or subdivision to avoid or minimize fragmentation of the forest block. Such design may be accomplished by following or sharing existing features on the land such as roads, tree lines, stone walls, and fence lines.

(C) Habitat connectors.

(i) A permit will not be granted for a development or subdivision unless the applicant demonstrates that:

(I) the development or subdivision will avoid fragmentation of a habitat connector through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the habitat connector and the design of the development or subdivision minimizes fragmentation of the connector; or

(III) it is not feasible to avoid or minimize fragmentation of the habitat connector and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a habitat connector may include:

(I) locating buildings and other improvements at the farthest feasible location from the center of the connector;

(II) designing the location of buildings and other improvements to leave the greatest contiguous portion of the area undisturbed in order to facilitate wildlife travel through the connector; or

(III) when there is no feasible site for construction of buildings and other improvements outside the connector, designing the buildings and improvements to facilitate the continued viability of the connector for use by wildlife.

* * *

Sec. 3. 10 V.S.A. § 6088 is amended to read:

§ 6088. BURDEN OF PROOF

(a) The burden shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), (8)(B) and (C), (9), and (10) of this title.

(b) ~~The~~ Except for subdivisions 6086(a)(8)(B) and (C) of this title, the burden shall be on any party opposing the applicant with respect to subdivisions 6086(a)(5) through (8) of this title to show an unreasonable or adverse effect.

Sec. 4. 10 V.S.A. § 6094 is added to read:

§ 6094. MITIGATION OF FOREST BLOCKS AND HABITAT

CONNECTORS

(a) A District Commission may consider a proposal to mitigate, through compensation, the fragmentation of a forest block or habitat connector if the applicant demonstrates that it is not feasible to avoid or minimize fragmentation of the block or connector in accordance with the respective requirements of subdivision 6086(a)(8)(B) or (C) of this title. A District Commission may approve the proposal only if it finds that the proposal will meet the requirements of the rules adopted under this section and will preserve a forest block or habitat connector of similar quality and character to the block or connector affected by the development or subdivision.

(b) The Natural Resources Board, in consultation with the Secretary of Natural Resources, shall adopt rules governing mitigation under this section.

(1) The rules shall state the acreage ratio of forest block or habitat connector to be preserved in relation to the block or connector affected by the development or subdivision.

(2) Compensation measures to be allowed under the rules shall be based

on the ratio of land developed pursuant to subdivision (1) of this subsection and shall include:

(A) Preservation of a forest block or habitat connector of similar quality and character to the block or connector that the development or subdivision will affect.

(B) Deposit of an offsite mitigation fee into the Vermont Housing and Conservation Trust Fund under section 312 of this title.

(i) This mitigation fee shall be derived as follows:

(I) Determine the number of acres of forest block or habitat connector, or both, affected by the proposed development or subdivision.

(II) Multiply this number of affected acres by the ratio set forth in the rules.

(III) Multiply the resulting product by a “price-per-acre” value, which shall be based on the amount that Commissioner of Forests, Parks and Recreation to be the recent, per-acre cost to acquire conservation easements for forest blocks and habitat connectors of similar quality and character in the same geographic region as the proposed development or subdivision.

(ii) The Vermont Housing Conservation Board shall use such a fee to preserve a forest block or habitat connector of similar quality and character to the block or connector affected by the development or subdivision.

(C) Such other compensation measures as the rules may authorize.

(c) The mitigation of impact on a forest block or a habitat connector, or both, shall be structured also to mitigate the impacts, under the criteria of subsection 6086(a) of this title other than subdivisions (8)(B) and (C), to land or resources within the block or connector.

(d) All forest blocks and habitat connectors preserved pursuant to this section shall be protected by permanent conservation easements that grant development rights and include conservation restrictions and are conveyed to a qualified holder, as defined in section 821 of this title, with the ability to monitor and enforce easements in perpetuity.

Sec. 5. RULE ADOPTION: SCHEDULE; GUIDANCE

(a) Rulemaking.

(1) On or before September 1, 2017, the Natural Resources Board (NRB) shall file proposed rules with the Secretary of State to implement Sec. 4 of this act, 10 V.S.A. § 6094.

(2) On or before March 1, 2018, the NRB shall finally adopt rules to

implement Sec. 4 of this act, 10 V.S.A. § 6094, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Guidance.

(1) On or before May 1, 2018, the NRB shall develop guidance for the District Commissions, applicants, and other affected persons with respect to:

(A) the forest block and habitat connector criteria adopted under Sec. 2 of this act, 10 V.S.A. § 6086(a)(8)(B) and (C); and

(B) designing recreational trails, subdivisions, and developments to minimize impacts in a manner that complies with those criteria.

(2) The NRB shall develop this guidance in collaboration with the Agency of Natural Resources (ANR). As part of developing this guidance, the NRB shall solicit input from affected parties and the public, including planners, developers, municipalities, environmental advocacy organizations, regional planning commissions, regional development corporations, and business advocacy organizations such as State and regional chambers of commerce.

Sec. 6. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

(a) On or before January 15, 2013, the ~~The~~ Secretary of Natural Resources (the Secretary) shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.

(b) The Secretary of Natural Resources shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Service Board under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide an opportunity for affected parties and the public to submit relevant information and recommendations.

Sec. 7. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

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

* * *

(34) As used in subdivisions 4348a(a)(2) and 4382(a)(2) of this title:

(A) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

~~(35)~~(B) “Forest fragmentation” means the division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation under subsection 4413(d) of this title.

~~(36)~~(C) “Habitat connector” means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and uses exempt from regulation under subsection 4413(d) of this title. In a plan or other document issued pursuant to this chapter, a municipality or regional plan commission may use the phrase “wildlife corridor” in lieu of “habitat connector.”

~~(37)~~(35) ~~“Recreational~~ As used in subdivision (34) of this section, “recreational trail” means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

Sec. 8. EFFECTIVE DATES

(a) This section and Sec. 5 shall take effect on passage.

(b) Sec. 6 shall take effect on July 1, 2017.

(c) Sec. 7 shall take effect on January 1, 2018 and shall supersede 2016 Acts and Resolves No. 171, Sec. 15. Sec. 7 shall apply to municipal and regional plans adopted or amended on or after January 1, 2018.

(d) Secs. 1 through 4 shall take effect on May 1, 2018, except that on passage, Secs. 1 through 4 shall apply to the rulemaking and guidance under Sec. 5.

(Committee Vote: 5-4-0)

S. 34

An act relating to cross-promoting development incentives and State policy goals

Rep. Stuart of Brattleboro, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Rural Economic Development Initiative * * *

Sec. 1. 10 V.S.A. chapter 15, subchapter 4 is added to read:

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

Subchapter 4. Rural Economic Development Initiative

(a) Definitions. As used in this subchapter:

(1) “Rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

(2) “Small town” means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created within the Vermont Housing and Conservation Board a Rural Economic Development Initiative to promote and facilitate community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, regional development corporations, and other appropriate entities to access funding and other assistance available to small towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

(1) The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

(A) identification of grant or other funding opportunities available to small towns and businesses in rural areas that facilitate business development, siting of businesses, infrastructure, or other economic development opportunities;

(B) technical assistance to small towns and businesses in rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities

funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding; and

(C) recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.

(2) In providing services under this subsection, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation. Priority shall also be given to projects identified through community visits hosted by the Vermont Council on Rural Development or other public engagement planning processes.

(3) In identifying businesses, or business types, the Rural Economic Development Initiative shall seek to identify businesses or business types in the following priority areas:

(A) milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

(B) the outdoor equipment or recreation industry;

(C) the value-added forest products industry;

(D) the value-added food industry;

(E) phosphorus removal technology; and

(F) composting facilities.

(d) Report. Beginning on January 31, 2018, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Initiative. The report shall include:

(1) a summary of activities in the preceding calendar year;

(2) an evaluation of the effectiveness of the services provided to small towns and businesses in rural areas;

(3) an accounting of the grants or other funding facilitated or provided assistance with;

(4) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and

(5) recommended changes to the program, including proposed

legislative amendments to further economic development in small towns and rural areas in the State.

Sec. 2. RURAL ECONOMIC DEVELOPMENT INITIATIVE

In fiscal year 2018, it is the intent of the General Assembly to make funding available to the Vermont Housing and Conservation Board for the purposes of implementing and administering the Rural Economic Development Initiative under 10 V.S.A. § 325m.

* * * Cross-promotion of Development Programs * * *

Sec. 3. EXECUTIVE BRANCH CROSS-PROMOTION OF LOAN, GRANT, AND INCENTIVE PROGRAMS

The General Assembly finds that it is within the authority of the Executive Branch to manage a process of continuous improvement for agency and statewide programs and operations. While undertaking these efforts, the Executive Branch shall ensure that State loan, grant, and other incentive programs cross-promote:

(1) the availability of financial and technical assistance from the State in education and outreach materials; and

(2) the State policies funded by State incentive programs, including the adoption of renewable energy, rural economic development, public access to conserved lands, and water quality improvements.

* * * Energy Efficiency * * *

Sec. 4. REPORT; ENERGY EFFICIENCY CHARGE; COMMERCIAL AND INDUSTRIAL CUSTOMERS

(a) On or before January 15, 2018, the Commissioner of Public Service (the Commissioner) shall submit a report with recommendations as described in subsection (b) of this section.

(1) In preparing the report, the Commissioner shall consult with the Secretary of Commerce and Community Development, the energy efficiency utilities (EEU) appointed under 30 V.S.A. § 209(d)(2), the regional development corporations, the Public Service Board, and other affected persons.

(2) The Commissioner shall submit the report to the Senate Committees on Finance, on Natural Resources and Energy, and on Agriculture and the House Committees on Ways and Means, on Energy and Technology, on Commerce and Economic Development, and on Agriculture and Forestry.

(b) The report shall provide the Commissioner's recommendations on:

(1) Whether and how to increase the use by commercial and industrial customers of self-administered efficiency programs under 30 V.S.A. § 209(d) and (j), including:

(A) Potential methods and incentives to increase participation in self-administration of energy efficiency, including:

(i) Potential changes to the eligibility criteria for existing programs.

(ii) Use of performance-based structures.

(iii) Self-administration of energy efficiency by a commercial and industrial customer, with payment of an energy efficiency charge (EEC) amount only for technical assistance by an EEU, if the customer demonstrates that it possesses in-house expertise that supports such self-administration and implements energy efficiency measures that the customer demonstrates are cost-effective and save energy at a benefit-cost ratio similar to the EEU.

(B) The potential inclusion of such methods and incentives in EEU demand resource plans.

(C) Periodic reporting by the EEU's of participation rates in self-administration of energy efficiency by commercial and industrial customers located in the small towns in the State's rural areas. As used in this subdivision (C):

(i) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

(ii) "Small town" means a town in a rural area of the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(2) The potential establishment of a multi-year pilot program that allows a category of commercial and industrial customers to apply the total amount of their Energy Efficiency Charge (EEC), for the period of the pilot, to investments that reduce the customer's total energy consumption.

(A) The goal of such a program would be to reduce significantly all energy costs for the customer, and to transform the energy profile of the customer such that significant savings would be generated and endure over the long term. Customers in the program would receive the full amount of their EEC contributions, for the period of the pilot, in the form of direct services and incentives provided by an EEU, which would consider how to lower customers' bills cost-effectively across electric, heating, transportation, and process fuels using energy efficiency, demand management, energy storage,

fuel switching, and on-site renewable energy.

(B) In the report, the Commissioner shall consider:

(i) the definition of eligible commercial and industrial customers;

(ii) the potential establishment and implementation of such a program in a manner similar to an economic development rate for the EEU;

(iii) the interaction of such a program with the existing programs for self-managed energy efficiency under 30 V.S.A. § 209(d), including the Energy Savings Account, Self-Managed Energy Efficiency, and Customer Credit Programs;

(iv) the benefits and costs of such a program, including:

(I) a reduction in the operating costs of participating customers;

(II) the effect on job retention and creation and on economic development;

(III) the effect on greenhouse gas emissions;

(IV) the effect on systemwide efficiency benefits that would otherwise be obtained with the EEC funds, such as avoided supply costs, avoided transmission and distribution costs, avoided regional network service charges, and lost revenues from the regional forward-capacity market;

(V) the potential impact on commercial and industrial customers that may not be eligible to participate in such a program;

(VI) the extent to which such a program may result in cost shifts or subsidization among rate classes, and methods for avoiding or mitigating these effects;

(VII) the effect on the budgets developed through the demand resource planning process;

(VIII) the costs of administration;

(IX) any other benefits and costs of the potential program; and

(v) The consistency of such a program with least-cost planning as defined in 30 V.S.A. § 218c; with State energy goals and policy set forth in 10 V.S.A. §§ 578, 580, and 581 and 30 V.S.A. §§ 202a and 218e; and with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b.

(c) The report submitted under this section shall include a proposed timeline to phase in the recommendations contained in the report. In developing this timeline, the Commissioner shall consider the impact to the established budgets of the EEUs, the regulatory requirements applicable to the

EEUs, and the value of rapid implementation of the recommendations.

Sec. 5. 30 V.S.A. § 209(d)(3) is amended to read:

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into ~~an~~ the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

* * * Environmental Permitting * * *

Sec. 6. ENVIRONMENTAL PERMITTING; AIR CONTAMINANT FEES;

ANAEROBIC DIGESTION

On or before January 15, 2018, the Secretary of Natural Resources shall report to House Committees on Agriculture and Forestry and on Natural Resources, Fish and Wildlife and the Senate Committees on Agriculture and on Natural Resources and Energy with a recommendation for reducing or eliminating the air contaminant fee paid by farmers for the emissions from the anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste. The report shall include a summary of what services the Agency of Natural Resources provides or provided to owners of anaerobic digestors in relation to fees paid.

* * * Phosphorus Removal Technology; Grants * * *

Sec. 7. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application, separation of phosphorus from manure, or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators, phosphorus separation equipment providers, and nonprofit organizations and that are located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site ~~which~~ that is located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(d) An applicant for a State grant under this section to purchase or implement phosphorus removal technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus removal technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed \$300,000.00.

* * * Forestry Equipment; Sales Tax Exemption * * *

Sec. 8. FORESTRY EQUIPMENT; SALES TAX EXEMPTION

On or before January 15, 2018, the Commissioner of Taxes shall submit to the House Committees on Agriculture and Forestry and on Ways and Means and the Senate Committees on Agriculture and on Finance recommended draft legislation for exempting from forestry harvesting and processing equipment from the sales and use tax imposed under 32 V.S.A. §§ 9741 and 9773.

* * * Workers' Compensation; High-Risk Occupations

and Industries * * *

Sec. 9. WORKERS' COMPENSATION; INDUSTRIES AND
OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND
FEW POLICYHOLDERS; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study industries and occupations in Vermont that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policyholders in the insurance pool. The industries and occupations addressed in the study shall include, among others, logging and log hauling, as well as arborists, roofers, and occupations in saw mills and wood manufacturing operations. In particular, the Commissioner shall:

(1) examine differences in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the industries and occupations identified, and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for high-risk industries and occupations, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts; creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before January 15, 2018, the Commissioner of Financial Regulation shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs for the industries identified in the study.

* * * Repeals * * *

Sec. 10. REPEALS

The following are repealed on July 1, 2023:

(1) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative); and

(2) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria).

* * * Effective Date * * *

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee vote: 9-0-2)

(For text see Senate Journal March 29, 30, 2017)

Rep. Lucke of Hartford, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 10-0-1)

Rep. Keenan of St. Albans City, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Commerce and Economic Development and when further amended as follows:

First: By striking out Sec. 2 (intent to fund Rural Economic Development Initiative) in its entirety and inserting in lieu thereof the following:

Sec. 2. [Deleted.]

Second: By striking out Sec. 8 (forestry equipment; sales tax exemption) in its entirety and inserting in lieu thereof the following:

Sec. 8. [Deleted.]

Third: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read:

* * * Repeals * * *

Sec. 10. REPEALS

(a) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative) shall be repealed on July 1, 2019; and

(b) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria) shall be repealed on July 1, 2023.

(Committee Vote: 10-0-1)

Amendment to be offered by Rep. Stuart of Brattleboro to the recommendation of proposal of amendment of the Committee on Commerce and Economic Development to S. 34

By striking Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read:

* * * Cross-promotion of Development Programs * * *

Sec. 3. EXECUTIVE BRANCH CROSS-PROMOTION OF LOAN, GRANT,
AND INCENTIVE PROGRAMS

(a) The General Assembly finds that it is within the authority of the Executive Branch to manage a process of continuous improvement for agency and statewide programs and operations. While undertaking these efforts, the Executive Branch shall ensure that State loan, grant, and other incentive programs cross-promote:

(1) the availability of financial and technical assistance from the State through education and outreach materials; and

(2) the State policies funded by State incentive programs, including the adoption of renewable energy, rural economic development, public access to conserved lands, and water quality improvements.

(b) The Secretary of Administration shall provide material or information regarding the cross-promotion of State policies on State websites and within application materials available to the public regarding State loan, grant, and other incentive programs.

Senate Proposal of Amendment

H. 506

An act relating to professions and occupations regulated by the Office of Professional Regulation

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

First: By striking out in their entirety Secs. 22–24 (regarding real estate appraisers) and inserting in lieu thereof the following:

Sec. 22. 26 V.S.A. § 3314 is amended to read:

§ 3314. BOARD; POWERS AND DUTIES

* * *

(b) In addition to its other powers and duties under this chapter, the Board shall:

* * *

~~(5) Inquire of the Vermont Crime Information Center for any information on criminal records of any and all applicants, and the Center shall provide such information to the Board. The Board, through the Vermont Crime Information Center, shall also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an applicant~~

~~has resided or been employed, and it shall also inquire of the Federal Bureau of Investigation for any information on criminal records of applicants. The Board shall obtain fingerprints of the applicant, in digital form if practicable, and any appropriate identifying information for submission to the Federal Bureau of Investigation in connection with a state and national background check. Applicants shall bear all costs associated with background screening. The Board may also make additional inquiries it deems necessary into the character, integrity, and reputation of the applicant.~~

~~(6) Perform other functions and duties as may be necessary to carry out the provisions of this chapter and to comply with the requirements of the Act, including by adopting rules defining and regulating appraisal management companies in a manner consistent with the Act.~~

Sec. 23. 26 V.S.A. § 3320a is amended to read:

§ 3320a. APPRAISAL MANAGEMENT COMPANIES

~~(a) An appraisal management company acts as a broker in acquiring finished appraisals from real estate appraisers and supplying the appraisals to third parties, but appraisal management companies are not licensed to perform real estate appraisals under this chapter. Acting as an appraisal management company includes:~~

- ~~(1) administering or assigning work to licensed real estate appraisers;~~
- ~~(2) receiving requests for real estate appraisals from clients;~~
- ~~(3) receiving a fee paid by clients for acquiring real estate appraisals; or~~
- ~~(4) entering into an agreement with one or more real estate appraisers to perform appraisals.~~

~~(b) An appraisal management company does not include:~~

- ~~(1) a government agency;~~
- ~~(2) a bank, credit union, licensed lender, or savings institution;~~
- ~~(3) a person or entity that has as its primary business the performance of appraisals in accordance with this chapter but who or which, in the normal course of business, engages the services of a licensed appraiser to perform appraisals or related services that the person or entity cannot perform because of the location or type of property in question, workload, scope of practice required by an assignment, or to otherwise maintain professional responsibility to clients.~~

~~(c) An appraisal management company shall register with the Board prior to conducting business in this State. An application shall include a registration fee and information required by the Board that is necessary to determine~~

eligibility for registration.

~~(d) When contracting for the performance of real estate appraisal services, an appraisal management company shall only engage the professional services of an appraiser licensed and in good standing to practice pursuant to this chapter.~~

~~(e) A registrant's employee reviewing finished appraisals shall be certified or licensed in good standing in one or more states and shall be certified at a level that corresponds with or is higher than the level of licensure required to perform the appraisal. [Repealed.]~~

Sec. 24. BOARD OF REAL ESTATE APPRAISERS, RULEMAKING
AUTHORITY; GENERAL ASSEMBLY, INTENT; OFFICE OF
PROFESSIONAL REGULATION, PRELIMINARY
ASSESSMENT AND REPORT

(a) Rulemaking authority. The Board of Real Estate Appraisers may adopt the rules described in Sec. 22 of this act, (26 V.S.A. § 3314(b)(6)) prior to the effective date of that section.

(b) Intent. The amendments regarding real estate appraisers set forth in Secs. 22 and 23 of this act are intended to facilitate an informed decision by the General Assembly regarding whether the State should opt in or out of appraisal management company regulation in accordance with federal law permitting such state discretion and to allow Board rulemaking in preparation for that legislative decision.

(c) Preliminary assessment. The Director of the Office of Professional Regulation shall conduct a preliminary assessment of appraisal management company regulation in accordance with 26 V.S.A. chapter 57 and report his or her findings and recommendations to the Senate and House Committees on Government Operations on or before January 1, 2018.

Second: By striking out in its entirety Sec. 35 (effective dates) and its reader assistance heading and inserting in lieu thereof the following:

* * * Professional Regulation Report * * *

Sec. 35. PROFESSIONAL REGULATION REPORT

(a) The Director of the Office of Professional Regulation (Office) and leaders of the relevant agencies and departments shall cooperate in analyzing the professional regulation reports and other information gathered as a result of the professional regulation survey required by 2016 Acts and Resolves No. 156, Secs. 20 and 21.

(b) On or before December 15, 2017, the Office shall recommend to the Senate and House Committees on Government Operations any opportunities

discovered as a result of the analysis described in subsection (a) of this section that would allow State government to operate in a more effective and efficient manner by consolidating the licensing functions or otherwise by reforming licensing practices in conformity with the policies set forth in 26 V.S.A. chapter 57 (review of regulatory laws).

* * * Effective Dates * * *

Sec. 36. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except:

(1) Sec. 23, 26 V.S.A. § 3320a (appraisal management companies), shall take effect on August 10, 2018; and

(2) this section and the following sections shall take effect on passage:

(A) Sec. 24 (Board of Real Estate Appraisers, rulemaking authority; General Assembly, intent; Office of Professional Regulation, preliminary assessment and report);

(B) Secs. 33 and 34 (regarding APRN services in nursing homes); and

(C) Sec. 35 (professional regulation report).

(For text see House Journal March 23, 2017)

H. 512

An act relating to the procedure for conducting recounts

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Primary and General Election Recounts * * *

Sec. 1. 17 V.S.A. chapter 51, subchapter 9 is amended to read:

Subchapter 9. Recounts and Contest of Elections

§ 2601. RECOUNTS RECOUNT THRESHOLD

(a)(1) In an election for statewide office, county office, or State Senator, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is ~~less than~~ two percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

(b)(2) In an election for ~~all other offices~~ State Representative, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is ~~less than~~ five percent or less of

the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

(b) In the case of a recount for a local election, the threshold and procedures for conducting the recount shall be as provided in chapter 55, subchapter 3 of this title.

§ 2602. PETITIONS FOR RECOUNTS; SETTING DATE OF RECOUNT

~~(a) In the case of recounts for local elections and recounts for the office of justice of the peace, the procedures for conducting the recount shall be as provided in subchapter 3 of chapter 55 of this title. [Repealed.]~~

(b) In the case of recounts other than specified described in subsection 2601(a) of this section subchapter, the following procedure shall apply.

(1) A petition for a recount shall be filed within seven calendar days after the election.

(2) The petition shall be filed with:

(A) the Civil Division of the Superior Court, Washington County, in the case of candidates for State or congressional office, or for a presidential election; the petition shall be filed with or

(B) the Superior Court in any county in which votes were cast for the office to be recounted, in the case of any other office.

(3) The petition shall be supported, if possible, by a certified copy of the certificate of election prepared by the canvassing committee, verifying the total number of votes cast and the number of votes cast for each candidate.

(c)(1) The Superior Court shall:

(A) set the date of the recount to be:

(i) five business days after the Court receives the petition for, in the case of a primary recount; or

(ii) 10 business days after the Court receives the petition, in the case of a general election recount; and shall

(B) notify all candidates of that the recount date no later than the next business day after the petition is received.

(2)(A) The Superior Court shall forward a copy of the petition to the county clerk.

(B) The Court shall order the town clerk or clerks having custody of the ballots to be recounted or their designees to transport them the ballots and a copy of the entrance checklist from the election to be recounted to the county

clerks of their respective counties before the day set for the recount.

~~(C) County clerks~~ The county clerk shall store all ballots, still in their sealed containers, in ~~their vaults~~ his or her vault until the day of the recount.

~~(d)-(h) [Repealed.]~~

~~(i) The Secretary of State shall bear the costs of recounts covered under this chapter. [Repealed.]~~

§ 2602a. APPOINTMENT OF RECOUNT COMMITTEE; ~~SETTING DATE OF RECOUNT~~

~~(a)(1) Upon receipt of a petition, the county clerk shall notify the chairs of the relevant county political committees that a petition has been filed requesting a recount and advising them to submit immediately a list of nominees for individuals to serve on a recount committee.~~

~~(2) In the case of a recount in a primary election, the county clerk shall notify all candidates for the office which that is the subject of the recount, advising them to each submit immediately a list of a minimum of 10 nominees for individuals to serve on a recount committee.~~

~~(3) If a candidate for an office which is the subject of a recount is from a party which does not have a county committee, the county clerk shall send a copy of the notice to the State committee of the party advising them to submit immediately a list of nominees for individuals to serve on a recount committee.~~

~~(4) If a candidate for an office which is the subject of a recount is independent, the county clerk shall send that candidate a copy of the notice and request him or her to submit immediately a similar list of nominees for individuals to serve on a recount committee.~~

~~(5)(2)(A)~~ If a list of nominees is not delivered to the county clerk within two business days, the clerk shall notify the appropriate candidates that they have 24 hours to submit lists of nominees for individuals to serve on the recount committee.

(B) If the petitioning candidate fails to submit a complete list of nominees by this deadline, the recount shall not move forward.

(C) If any other candidate fails to submit a complete list of nominees, the county clerk shall request additional nominees from the other candidates.

(b)(1) The Superior Court shall make a minimum of 12 appointments to the recount committee from among those nominated under this section, with the number of appointments based on the number of votes to be recounted and a goal of completing the recount within one day.

(2) In making these appointments, the court shall appoint an equal number of persons ~~from each party and from those persons representing an independent~~ each candidate, to the extent practicable.

§ 2602b. ASSIGNMENT OF DUTIES; RECOUNT MATERIALS

(a)(1) The county clerk, with the support of the Secretary of State, shall supervise the recount and ~~may appoint a sufficient number of impartial assistants to perform appropriate tasks which have not been assigned to recount committee members.~~ The county clerk shall recruit town clerks or their designees to serve as impartial assistants to the county clerk for operating the vote tabulators, and shall consult with the Secretary of State to identify any vote tabulators to be used.

(2) ~~The county clerk shall store all ballots, still in their sealed containers, in his or her vault until the day of the recount~~ may appoint a sufficient number of additional impartial assistants to perform tasks that have not been assigned to recount committee members.

(3) On each day of the recount, the town clerk of any town subject to the recount shall be available to the county clerk in person or by telephone to answer any questions the county clerk may have regarding that town's election.

(b)(1) The county clerk shall assign committee members to the following teams of at least four persons, consisting of one caller and one observer, representing different candidates, and one tally person and one double-check person, representing different candidates;

(A) Counting teams comprising at least four persons each, consisting of an equal number of persons representing each candidate, to the extent possible;

(B) One vote tabulator team, comprising two persons, each of whom represents a different candidate; and

(C) One clerk observer team, comprising two persons, one of whom is from the list of the petitioning candidate and one of whom, if possible, is from the list of the winning candidate who received the lowest number of votes.

(2) ~~Any additional team members shall be additional observers and double-check persons, who shall be assigned to ensure that each candidate has one person assigned as either a caller or an observer and one person assigned as either a tally person or a double-check person. One team shall be designated as the clerk observer team, which shall perform only the functions established under this subchapter for that team~~ remain unassigned and shall be used as necessary on the day of the recount.

(c) The ~~recount committee shall use~~ Secretary of State shall provide to the recount committee:

(1) fresh seals, manila tags, tally sheets, ~~double-check sheets~~, summary sheets for each ~~polling place town~~, master lists for the ~~entire election to be recounted~~, and other appropriate material provided ~~deemed appropriate~~ by the Secretary of State; and

(2) the official return of votes for each town subject to the recount.

§ 2602c. PREPARATION FOR RECOUNT; GENERAL RULES

(a) Recount area; preserving order.

(1)(A) The county clerk shall designate an area within which the recount shall take place.

(B) Persons who are not committee members or who have not been designated as impartial assistants by the county clerk shall be permitted to view the recount in progress, but shall not be permitted within the recount area.

(2) The county clerk shall preserve order. If a person, after notice, is persistently disorderly and refuses to withdraw from the premises, the county clerk may cause the person to be removed from the premises.

(b) Preliminary requirements. Before the recount begins, ~~the~~ and any containers are opened:

(1) Explaining procedures. The county clerk shall explain the recount procedures ~~which that~~ are to be followed and shall answer questions relating to such procedures. ~~The county clerk shall use volunteer town clerks to operate and instruct on the use of vote tabulators.~~

(2) Blank ballots; vote tabulator test.

(A) The county clerk shall obtain blank ballots from the town clerks of the towns subject to the recount. These blank ballots shall be used as test ballots to perform the vote tabulator test described in this subdivision (2).

(B)(i) The vote tabulator team shall perform a test of the vote tabulators that will be used by marking and feeding into each tabulator a minimum of 10 test ballots. The test ballots shall be marked with various votes for each candidate for the office subject to the recount.

(ii) If more than one memory card is to be used, such a test shall be performed for each memory card.

(C) If a vote tabulator does not tabulate these votes accurately, it shall not be used.

(D) Once the test is completed, these ballots and the tabulator tape containing the results of the test shall be sealed in an envelope that shall be dated and marked "TEST BALLOTS—DO NOT COUNT." This envelope shall then be kept separate from the rest of the containers.

(b)(c) Tables. Each team shall have a separate table and the county clerk shall have a separate table, and all of these tables shall be spaced apart.

(d) Separating containers, polling places, and towns. Each recount team shall:

(1) recount the contents of one container before opening another container at its table; ~~shall;~~

(2) recount the contents of all the containers relating to one polling place before moving to those of another polling place; ~~and shall~~

(3) complete the recount for one town before moving to material relating to another town.

(e)(e) Recording containers. For each ~~polling place~~ town, the number of containers shall be counted and recorded on the ~~master list~~ summary sheet for that town.

(d)(f) Inspecting containers and seals.

(1) Containers. Before opening, each container shall be inspected, and if no tag is present, replacement manila tags shall be affixed, specifying date of election and name of town and polling place.

(2) Seals.

(A) Likewise, each ~~Each~~ seal shall be ~~examined~~ inspected to see if it is intact, and the county clerk shall attach to any ~~bag container~~ with a defective seal a tag stating that the seal was defective and containing the information ~~which that~~ that was contained on the defective seal.

(B) If a seal number does not match the seal number reported by the town clerk on the official return of votes, the county clerk shall contact the town clerk to request an explanation for that difference. The county clerk shall record any explanation on the summary sheet for that town.

(e)(g) Uncounted containers. Uncounted containers shall be kept in one part of the room and moved to the other side as they are counted; ~~each team shall have a separate table and the county clerk shall have a separate table, all of which tables shall be spaced apart.~~

(f)(h) Checklist container. If there is more than one container from a polling place, the county clerk shall open first the container ~~which that~~ that is identified as containing the checklist, if applicable.

(i) Opening containers. Upon opening the first container in the presence of the clerk observer team, the The county clerk shall empty the contents of each container onto the clerk's his or her table in the presence of the clerk observer team.

(j) Materials not to be distributed. The county clerk shall ensure that teams are not given, and the teams shall not count:

(1) ballots marked defective or contained in a defective ballot envelope;

(2) unused ballots, early or absentee ballots which arrived after the close of polls, that were not distributed to voters; or

(3) ballots spoiled returned by voters and turned in by voters requesting fresh who requested replacement ballots, or ballots contained in a replaced ballot envelope.

(k) Recording defective ballots. In the presence of the clerk observer team, the county clerk shall mark the number of defective ballots from the official return of votes for each town on the summary sheet for that town.

§ 2602d. REVIEW OF OFFICIAL RETURN OF VOTES; EXAMINATION OF CHECKLISTS CHECKLIST

(a)(1) The county clerk shall review the official return of votes for each town, record on the summary sheet for each town the number of ballots counted and the number of voters checked off the checklist on the town's return, and if those two numbers are the same, the checklist for that town shall not be examined.

(2) If those two numbers for a town are not the same, the checklist may be examined in accordance with the following provisions of this section, if requested by one of the candidates subject to the recount.

(b) The checklist from the first bag container shall be assigned to a team. The caller and observer Two persons who represent different candidates, each acting independently, shall examine the checklist and determine how many voters voted at the polling place, repeating the process until they agree on a number or until they agree to disagree on a number.

(b)(c) Then the checklist shall be examined by the tally person and the double-check person the remaining members of the team, repeating the process until they agree on a number or they agree to disagree on the number.

(e)(d) The results obtained from the two subgroups will be compared and if they do not match, the process shall be repeated until there is agreement among all the members of the team or until team members agree to disagree.

(d)(e) The number finally determined by a majority of team members shall

be submitted to the county clerk in the presence of the clerk observer team, together with an indication of the nature and extent of ~~the~~ any disagreement.

~~(f) If one or more team members do not agree with the number submitted,~~
The county clerk shall note on the master list the fact summary sheet for the town the number finally determined, together with a note indicating that the number of people appearing as having voted on a specified the checklist was subject to dispute, if one or more team members did not agree with the number submitted.

§ 2602e. SORTING BALLOTS; BALLOT REVIEW; RECOUNT OF
REMOVED BALLOTS BY HAND

(a) Sorting ballots.

(1) While the checklist is being examined, if applicable under subsection 2602d of this subchapter, after emptying a container onto his or her table, the county clerk shall separate ballots from the container into a number of batches equal to the number of counting teams, with each batch being of approximately equal size.

(2) Each counting team shall take a batch of ballots from the county clerk's table to the counting team's table.

(3) Two persons who represent different candidates on a counting team shall sort that batch into stacks of 50 ballots, and the remaining members of the team shall recount each stack to ensure that there are 50 ballots in it.

(4)(A) The counting teams shall combine any ballots not placed into a stack of 50, and one of those counting teams shall separate those combined ballots into stacks of 50 and recount them in accordance with subdivision (3) of this subsection.

(B) For any final stack that contains fewer than 50 ballots, the county clerk shall affix to the top of that stack a note indicating how many ballots are contained in it.

(b) Ballot review and removal.

(1)(A) For each stack, a counting team shall review each ballot within the stack and remove from that stack each ballot upon which, for the office in question, the voter recorded his or her vote or votes in that race in any manner other than completely filling in the oval to the right of a preprinted candidate's name.

(B) Each counting team shall also remove any plain paper or damaged ballots.

(2) A ballot shall be removed only if at least two members of the

counting team agree to its removal.

(3) A ballot without markings for the office in question shall not be removed.

(4) A ballot that is not removed upon this first review shall not be reviewed again.

(c) Delivery of remaining ballots.

(1) Each counting team shall then attach to that stack a note indicating the number of ballots remaining in the stack.

(2) The county clerk shall deliver those remaining ballots to the vote tabulator team.

(d) Hand count of removed ballots; questionable votes.

(1) Each counting team shall then separate the removed ballots into stacks of 50 in accordance with the process set forth in subdivision (a)(3) of this section.

(2) The counting team shall then hand count the votes for the office in question on the removed ballots, and mark the results on a tally sheet for each stack of 50 removed ballots and any remaining stack with less than 50.

(3)(A) This hand count shall be in accordance with the rules for counting ballots set forth in section 2587 of this chapter, except that if two persons on the counting team do not agree on how to count a vote, the ballot shall be set aside as containing a questionable vote.

(B)(i) For any questionable vote, a copy of the ballot shall be made, and this copy shall be clearly marked on its face identifying it as a copy. Once the recount of a container is completed, any such copies shall be placed on the top of the other ballots and shall remain together with the other ballots.

(ii) Each original ballot with a questionable vote shall be attached to a note that identifies it by town, county, polling place, and container seal number. The originals of these ballots with questionable votes shall be clipped to the summary sheet for that town, along with a copy of the official return of votes, and submitted to the court for a final decision.

(iii) The county clerk shall record the number of ballots containing questionable votes to be submitted to the court on the summary sheet for the town.

(C) At the end of the hand count for a container, two persons from each counting team who represent different candidates shall deliver any tally sheets from their table to the county clerk in the presence of the clerk observer team.

(D) The county clerk, in the presence of the clerk observer team, shall record the totals from each tally sheet onto the summary sheet for the town.

(e) This process shall be completed for as many containers as there are for each town.

§ 2602f. RECOUNT OF REMAINING BALLOTS BY VOTE TABULATOR

(a) The vote tabulator team shall operate any vote tabulator used in the recount, with the assistance of the recruited town clerks or designees.

(b) The vote tabulator memory card or cards shall be programmed to read only the votes for the election that is the subject of the recount.

(c)(1) ~~Vote tabulator-readable~~ At the same time as any removed ballots are being hand counted, the vote tabulator team shall take any ballots from each container ~~shall be fed~~ delivered to them, and feed them through a vote tabulator by one team until all vote tabulator-readable ballots from the container have been entered. For ballots unable to be read by a vote tabulator, such as damaged or plain paper ballots, a second team shall collect these ballots from the pile and transfer the voter's choices on those ballots to blank ballots provided by the Secretary of State. After all of the vote tabulator-readable ballots have been fed through the vote tabulator, the first team shall feed through the vote tabulator any transfer ballots created by the second team.

(2) The recount teams shall switch roles for each subsequent container of ballots of a polling place that are to be fed through the vote tabulator, if there is more than one container per polling place. The vote tabulator team shall attempt to feed ballots into the vote tabulator in the same direction.

(3)(A) If the tabulator refuses a ballot, the vote tabulator team shall announce that occurrence and whether the ballot was counted, and may override that refusal.

(B) If the tabulator continues to refuse the ballot, the vote tabulator team shall announce that occurrence and return it to a counting team for hand counting.

(4) This process shall be used until all ballots from a polling place container have been tabulated by a vote tabulator or otherwise returned to a counting team for hand counting.

~~(b)~~(d)(1) This process shall be repeated until all ballots from a town have been fed through a vote tabulator.

(2) If there is more than one container for a town, the tabulator tape shall not be printed until ballots from all containers for that town have been tabulated.

(e)(1) After all ballots from a polling place town have been tabulated by a vote tabulator, a recount team the vote tabulator team shall print the tabulator tape containing the unofficial results and document those results on a tally sheet for that town, and deliver that tabulator tape to the county clerk in the presence of the clerk observer team.

(2) The county clerk shall then record the totals from the tabulator tape onto the summary sheet for the town in the same manner that he or she recorded the individual tally sheet totals from the hand-counted ballots. Another recount team shall then open the tabulator's ballot box and remove all ballots. The ballots shall then be divided among the recount teams to be examined to find write-in names and markings of voter intent that were not vote tabulator-readable as outlined in the Secretary of State's vote tabulator guide and most recent elections procedures manual. A caller, tally person, and double-check person shall be used to examine the ballots removed from the ballot box. If the caller and the observer or observers do not agree on how a ballot should be counted, the entire team shall review the ballot and if all members agree, it shall be counted that way.

(c) If one person does not agree, that ballot shall be set aside as a questioned ballot and a copy shall be made, which copy shall be clearly marked on its face identifying it as a copy. Any copies shall be placed on the top of the other ballots and shall remain together with the other ballots. Each original ballot deemed questionable shall be attached to a note which identifies it by town, county, polling place, and bag seal number. The originals of these questionable ballots shall be clipped to the summary sheet for that polling place and returned to the court for a final decision.

(d) After the court has rendered a final decision on a given questionable ballot, it shall be returned to the county clerk who shall keep it in a sealed container for a period of two years.

(e) Write-in votes for preprinted candidates shall be counted as votes for that candidate.

(f) If the tally persons do not agree on the number of votes for a candidate on ballots not able to be read by the vote tabulator, the ballots shall be retallied until they do agree. Then the team shall notify the clerk that it has completed its recount.

§ 2602h. COMPLETING THE TALLY

(a) The county clerk shall return all ballots to their container, seal the container, record the seal number on the summary sheet, and write "recounted" and specify the date of the recount on the tag.

(b) After In the presence of the clerk observer team, the county clerk shall

add together the hand count and vote tabulator totals for a polling place have been listed each town, as recorded on the tally sheets and vote tabulator tape submitted to him or her, the county clerk shall add them up in the presence of the clerk observer team, and record those totals on the summary sheet for that town, and affix his or her seal to that summary sheet.

(c)(1) The county clerk shall compare the number of ballots recounted for that town with the number of voters who voted at that ballots counted at the polling place, according to the number obtained from the team that examined the certified checklist town as reported on the official return of votes, and with the number of voters who voted at that town according to the checklist examination, as applicable under section 2602d of this subchapter and recorded by the county clerk on the summary sheet in accordance with that section.

(2) If these numbers differ, the county clerk shall note the amount of the difference on the summary sheets for that polling place town.

(d) If there is more than one town subject to the recount:

(1) this process shall be repeated for each town; and

(2) once all towns have been recounted, the county clerk shall add together the totals from each town and record the total for all towns on a master summary sheet and affix his or her seal to that sheet.

(b) The county clerk shall return all ballots to the container, seal it, record the seal number on the summary sheet, write "recounted" and specify the date of the recount on the tag, and move it to the other side of the room, making sure that there is never more than one bag open at any one time.

(c) This procedure shall be repeated for each container, until the results from a polling place have been recounted, and then it shall be repeated until the results from all polling places in a town have been recounted, and then until the results from all towns have been recounted.

(d) The county clerk shall add the totals on each summary sheet, affix the clerk's seal, and

(e) The county clerk shall send the summary sheets for all polling places towns together with the any master list summary sheet, the ballots marked defective or contained in a defective ballot envelope, and any questionable original ballots containing questionable votes to the court by certified mail, return and obtain a receipt requested, for that delivery or shall certify the results to the judge.

§ 2602i. COSTS

(a) Recount committee members and assistants designated by the county

clerk shall be paid by the State at the same per diem and mileage rates and according to the same procedures by which jurors are paid.

(b)(1) These and other necessary expenses, as approved by the court, shall be paid by the State through the Court Administrator's Office.

(2) The Secretary of State shall bear the costs of recounts conducted under this subchapter and shall reimburse the Court Administrator's Office.

§ 2602j. OTHER RULES FOR CONDUCTING THE RECOUNT COURT HEARING AND JUDGMENT

(a) ~~The county clerk shall preserve order. If a person, after notice, is persistently disorderly and refuses to withdraw from the premises, the county clerk may cause the person to be removed from the premises. [Repealed.]~~

(b) ~~The county clerk shall designate an area within which the recount shall take place. Persons who are not committee members shall be permitted to view a recount in progress, but persons not authorized by the county clerk shall not be permitted within the area designated by the county clerk. [Repealed.]~~

(c) Candidates and their attorneys shall be given the opportunity to present evidence to the court relating to the conduct of the recount, how to count questionable votes, and the marking of any ballot as defective in accordance with section 2547 of this title.

(d) On the day of the hearing, the town clerk of any town subject to the recount shall be available in person or by telephone to answer any questions regarding the town's election.

(e) If the court determines that any violations of recount procedures have occurred and that they may have affected the outcome of the recount, a new recount shall be ordered.

(f) After such hearings or arguments as may be indicated under the circumstances and after it has made a final decision on any questionable votes, the Superior Court, within five working days, shall:

(1) issue a judgment, which shall supersede any certificate of election previously issued;

(2) send a certified copy of the judgment to the Secretary of State; and shall

(3) return to the county clerk any ballots containing questionable ballots which votes and defective ballots that had been forwarded to the court.

§ 2602k. AFTER THE RECOUNT TIES

(a) If the recount results in a tie, the court shall order a recessed runoff

election to be held, within three weeks of the recount, on a date set by the court.

(b) The only candidates who shall appear on the ballot at the recessed runoff election shall be those who tied in the previous election.

(c) The ~~recessed~~ runoff election shall be considered a separate election for the purpose of voter registration under chapter 43 of this title.

(d) If the recount confirms a tie as to any public question, ~~no recessed a runoff~~ election shall not be held, and the question shall be certified not to have passed.

(e) Warnings for a ~~recessed~~ runoff election shall be posted as required by subchapter 5 of this chapter, except that the warnings shall be posted not less than 10 days before the ~~recessed~~ runoff election.

(f) The conduct of a ~~recessed~~ runoff election shall be as provided in this chapter for general elections.

~~(b) After the recount, the county clerk shall seal the ballots and other materials back in the containers and store them in the county clerk's vault until returned to the towns. The county clerk shall return all ballots to the respective town clerks after issuance of the court's judgment, together with a copy of the judgment. The respective town clerks or their designees shall transport the ballots to the towns from which they came.~~

~~(c) The court shall send a certified copy of the judgment to the Secretary of State.~~

§ 2602m. STORAGE AND RETURN OF ELECTION MATERIALS

(a)(1) After the recount, the county clerk shall store the sealed containers and any other recount materials in the county clerk's vault until returned to the towns.

(2) The county clerk shall release all containers to the respective town clerks after issuance of the court's judgment, together with a copy of the judgment.

(3) The respective town clerks or their designees shall transport the containers to the towns from which they came.

(b) Upon receiving from the court any ballots containing questionable votes and defective ballots, the county clerk shall keep them in a sealed container for a period of two years.

* * *

* * * Definitions * * *

Sec. 2. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a different reading:

* * *

(10) “County officer” means judge of Probate, assistant judge of the Superior Court, State’s Attorney, sheriff, and high bailiff, ~~and justice of the peace.~~

* * *

(18)(A) “Local election” means any election ~~which~~ that deals with the selection of persons to fill public office or the settling of public questions solely within a single municipality.

(B) “Local election” also means an election to settle a public question in several municipalities, in which the municipalities must unanimously concur if the question is to be approved.

(C) The election of a ~~representative~~ Representative to the General Assembly is not a “local election.”

* * *

* * * Registration of Voters * * *

Sec. 3. 17 V.S.A. § 2141 is amended to read:

§ 2141. POSTING OF CHECKLIST

(a) At least 30 days before any local, primary, or general election, the town clerk shall cause copies of the most recent checklist of the persons ~~qualified~~ registered to vote to be posted in two or more public places in the municipality in addition to being posted at the town clerk’s office; however, in a municipality having a population of less than 5,000 ~~qualified~~ registered voters, only one checklist in addition to the one posted in the town clerk’s office need be posted.

* * *

Sec. 4. 17 V.S.A. § 2154 is amended to read:

§ 2154. STATEWIDE VOTER CHECKLIST

* * *

(b) A registered voter’s month and day of birth, driver’s license or nondriver identification number, e-mail address, and the last four digits of ~~the applicant’s~~ his or her Social Security number shall be kept confidential and are

exempt from public copying and inspection under the Public Records Act.

(c) Any person wishing to obtain a copy of all of the statewide voter checklist must swear or affirm, under penalty of perjury pursuant to 13 V.S.A. chapter 65, that the person will not use the checklist for commercial purposes. The affirmation shall be filed with the Secretary of State.

* * *

(e)(d) No An elections official ~~may~~ shall not access the portion of the statewide voter checklist that is exempt from public inspection pursuant to 1 V.S.A. § 317(c)(31), except for elections purposes.

Sec. 5. 1 V.S.A. § 317(c) is amended to read:

(c) The following public records are exempt from public inspection and copying:

* * *

(31) Records of a registered voter's month and day of birth, ~~motor vehicle operator's~~ driver's license or nondriver identification number, e-mail address, and the last four digits of ~~the applicant's~~ his or her Social Security number contained in an application to the statewide voter checklist or the statewide voter checklist established under 17 V.S.A. § 2154 or the failure to register to vote under 17 V.S.A. § 2145a.

* * *

* * * Political Parties * * *

Sec. 6. 17 V.S.A. § 2303 is amended to read:

§ 2303. TOWN CHAIR TO GIVE NOTICE

(a) The town chair or, if unavailable or if the records of the Secretary of State show there is no chair, any three voters of the town shall arrange to hold a caucus on the day designated by the State chair, in some public place within the town, and shall set the hour of the caucus.

(b)(1) At least five days before the day of the caucus, the town chair shall post a notice of the date, purpose, time, and place of the caucus in the town clerk's office and in at least one other public place in town.

(2) In towns of 3,000 or more population, he or she shall also publish the notice:

(A) in a newspaper having general circulation in the town; or

(B) in a nonpartisan electronic news media website that specializes in news of the State or the community.

(c) If three voters arrange to call the caucus, the voters shall designate one ~~of their number person among them~~ to perform the duties prescribed ~~above~~ in subsection (b) of this section for the town chair.

* * * Primary Elections * * *

Sec. 7. 17 V.S.A. § 2353 is amended to read:

§ 2353. PETITIONS TO PLACE NAMES ON BALLOT

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party for any office indicated, if petitions containing the requisite number of signatures made by legal registered voters, in substantially the following form, are filed with the proper official, together with the person's written consent to having his or her name printed on the ballot:

I join in a petition to place on the primary ballot of the party the name of, whose residence is in the (city), (town) of in the county of, for the office of to be voted for on Tuesday, the day of August, 20; and I certify that I am at the present time a registered voter and am qualified to vote for a candidate for this office.

(b)(1) A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election.

(2) A person shall file a separate petition for each office for which he or she seeks to be a candidate.

Sec. 8. 17 V.S.A. § 2354 is amended to read:

§ 2354. SIGNING PETITIONS

(a) Any number of voters may sign the same petition.

(b)(1) A voter's signature shall not be valid unless at the time he or she signs, the voter is registered and qualified to vote for the candidate whose petition he or she signs.

(2) Each voter shall indicate his or her town of residence next to his or her signature.

(c) The signature of a voter on a candidate's petition does not necessarily indicate that the voter supports the candidate. A voter shall not sign more than one petition for the same office, unless more than one nomination is to be made, in which case he or she may sign as many petitions as there are nominations to be made for the same office.

(d) A petition shall contain the name of only one candidate.

Sec. 9. 17 V.S.A. § 2356 is amended to read:

§ 2356. TIME FOR FILING PETITIONS ~~AND STATEMENTS OF~~
NOMINATION

(a) Primary petitions for major party candidates ~~and statements of nomination for minor party candidates~~ shall be filed ~~no sooner~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the fourth Thursday after the first Monday in May preceding the primary election prescribed by section 2351 of this chapter, and not later than 5:00 p.m. of the 62nd day prior to the day of a special primary election.

(b) A petition or statement of nomination shall apply only to the election cycle in which the petition or statement of nomination is filed.

Sec. 10. 17 V.S.A. § 2361 is amended to read:

§ 2361. CONSENT OF CANDIDATE

(a) A candidate for whom petitions containing sufficient valid signatures have been filed shall file with the official with whom the petitions were filed a consent to the printing of the candidate's name on the ballot. The ~~secretary of state~~ Secretary of State shall prepare and furnish forms for this purpose.

(b)(1) The consent shall set forth the name of the candidate, as the candidate wishes to have it printed on the ballot, the candidate's town of residence, and correct mailing address.

(2) If a candidate wishes to use a nickname, the format on the ballot shall be the candidate's first name, the nickname set off in quotations, and the candidate's last name.

(3) Professional titles such as "Dr.," "Esq.," or "CPA" shall not be used as part of a candidate's name on the ballot.

(c) The consent shall be filed on or before the day petitions are due. Unless a consent is filed, the candidate's name shall not be printed on the primary ballot.

Sec. 11. 17 V.S.A. § 2362 is amended to read:

§ 2362. PRIMARY BALLOTS

(a) ~~The ballots shall be prepared~~ A separate ballot for each major political party shall be printed and furnished to the towns by the Secretary of State and shall contain the names of all candidates for nomination by that party at the primary. Ballots shall be printed on index stock and configured to be readable by vote tabulators. ~~A separate ballot for each major political party~~ Ballots shall be printed in substantially the following form:

OFFICIAL VERMONT PRIMARY ELECTION BALLOT

VOTE ON ONE PARTY BALLOT ONLY AND PLACE IN BALLOT

BOX OR VOTE TABULATOR

ALL OTHER PARTY BALLOTS MUST BE PLACED IN UNVOTED
BALLOT BOX

[MAJOR POLITICAL PARTY NAME]

Instructions to voters: Use black pen or pencil to fill in the oval. To vote for a candidate person whose name is printed on the ballot, fill in the oval at to the right of that person's name the name of that person. To vote for a candidate person whose name is not printed on the ballot, write the person's or stick his or her name on in the blank line in the appropriate block and space provided and fill in the oval to the right of that blank line the write-in space. Do not vote for more candidates than the "Vote for Not More Than" number for an office. If you make a mistake, tear, or deface the ballot, return it to an election official and obtain another ballot. Do not erase. When there are two or more persons to be elected to one office, you may vote for any number of candidates up to and including the maximum number.

* * *

Sec. 12. 17 V.S.A. § 2363 is amended to read:

§ 2363. ~~SEPARATE PARTY BALLOTS~~ VOTER'S CHOICE OF PARTY

(a) ~~The names of all candidates of a party shall be printed upon one ballot. Each section shall bear in print larger than any other print on the ballot the words VOTE IN ONE PARTY ONLY OR YOUR BALLOT WILL BE VOID in a prominent place on the ballot. The~~ A voter shall vote for the candidates of one party only. A person voting at the primary shall not be required to indicate his or her party choice to any election official.

(b) [Repealed.]

Sec. 13. 17 V.S.A. § 2369 is amended to read:

§ 2369. DETERMINING WINNER; TIE VOTES

(a) A person who receives a plurality of all the votes cast by a party in a primary shall be a candidate of that party for the office designated on the ballot.

(b)(1) If, after the period for requesting a recount under section 2602 of this title has expired, no candidate has requested a recount and two or more

candidates of the same party are tied for the same office, the choice among those tied shall be determined upon five days' notice and not later than 10 days following the primary election by the committee of that party, which shall meet to nominate a candidate from among the tied candidates. The committee that nominates a candidate shall be as follows:

- ~~(1)~~(A) the State committee of a party for a State or congressional office;
- ~~(2)~~(B) the senatorial district committee for State Senate;
- ~~(3)~~(C) the county committee for county office; or
- ~~(4)~~(D) the representative district committee for a Representative to the General Assembly.

~~(e)~~(2) The committee chair shall certify the candidate nomination for the general election to the Secretary of State within 48 hours of the nomination.

* * * Nominations by Party Committee * * *

Sec. 14. 17 V.S.A. § 2381 is amended to read:

§ 2381. APPLICABILITY OF SUBCHAPTER

(a) A candidate may also be nominated and have the candidate's name printed on the general election ballot in accordance with the provisions set forth in this subchapter, in the following instances:

(1) In case of a vacancy on the general election ballot occasioned by death, removal, or withdrawal of a candidate, or the failure of a major political party to nominate a candidate by primary;

(2) In case a minor political party desires to nominate a candidate for any office for which major political parties nominate candidates by primary or for the offices of President and Vice President of the United States;

(3) In case of nomination for the office of justice of the peace, in the event that such nomination has not already been made by caucus as provided in section 2413 of this chapter.

* * *

Sec. 15. 17 V.S.A. § 2382 is amended to read:

§ 2382. WHICH COMMITTEE TO NOMINATE

Nominations of party candidates pursuant to this subchapter shall be made by the following political committee of the party:

(1) By the state State committee in the case of state President and Vice President of the United States or State or congressional officers;

* * *

Sec. 16. 17 V.S.A. § 2386 is amended to read:

§ 2386. TIME FOR FILING STATEMENTS

(a) In the case of the failure of a major political party to nominate a candidate by primary, a statement shall be filed not later than 5:00 p.m. on the sixth day following the primary.

(b) In the case of the death or withdrawal of a candidate after the primary election, the party committee shall have seven days from the date of the death or withdrawal to nominate a candidate. In no event, shall a statement be filed later than 60 days prior to the general election.

(c)(1) In the case of a nomination by a minor political party, a statement shall be filed ~~as set forth in section 2356 of this chapter~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the Thursday preceding the primary election described in section 2351 of this chapter and not later than 5:00 p.m. on the third day prior to the day of a special primary election.

(2) A statement shall apply only to the election cycle in which the statement is filed.

(d) In the case of a nomination for the office of justice of the peace, a statement shall be filed as set forth in section 2413 of this chapter.

* * * Independent Candidate Nominations * * *

Sec. 17. 17 V.S.A. § 2402 is amended to read:

§ 2402. REQUISITES OF STATEMENT

(a) A statement of nomination shall contain:

(1) The name of the office for which the nomination is made.

(2) The candidate's name and residence.

(3) If desired, a name, or other identification (in not more than three words) to be printed on the ballot following the candidate's name.

(4) In the case of nomination for President or Vice President of the United States, ~~the~~ the:

(A) The name and state of residence of each candidate for such office, together with the name, town of residence, and correct mailing address of each nominee for the office of elector.

(B)(i) The original statement of nomination shall include a certification by the town clerk of each town where the signers appear to be voters that the persons whose names appear as signers of the statement are registered voters in the town and of the total number of valid signers from the town.

(ii) Only the number of signers certified as registered voters by each town clerk on the original statement of nomination forms shall count toward the required number of signatures.

(C) The statement shall also be accompanied by a consent form from each nominee for elector. The consent form shall be similar to the consent form prescribed in section 2361 of this title.

* * *

(d)(1) A statement of nomination and a completed and signed consent form shall be filed:

(A) in the case of nomination for President or Vice President of the United States, ~~no sooner~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the August 1 preceding the presidential general election;

(B) in the case of nomination for justice of the peace, ~~no~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the third day following the primary election; or

(C) in the case of any other independent candidate, ~~no sooner~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the Thursday preceding the primary election prescribed by section 2351 of this chapter, and not later than 5:00 p.m. of the third day prior to the day of a special primary election.

(2) ~~No~~ A public official receiving nominations shall not accept a petition unless a completed and signed consent form is filed at the same time.

(3) A statement of nomination shall apply only to the election cycle in which the statement of nomination is filed.

(e) The Secretary of State shall prescribe and furnish forms for a statement of nomination.

(f) In the event that an independent vice presidential candidate withdraws in accordance with section 2412 of this chapter, the presidential candidate may submit to the Secretary of State on or before the ballot printing deadline a new consent form signed by the presidential candidate and his or her new vice presidential candidate.

Sec. 18. 17 V.S.A. § 2403 is amended to read:

§ 2403. NUMBER OF CANDIDATES; PARTY NAMES

(a) A statement of nomination shall contain the name of only one candidate, except in the case of presidential and ~~vice-presidential~~ vice presidential candidates, who may be nominated by means of the same

statement of nomination. A person shall not sign more than one statement of nomination for the same office.

(b)(1) The political or other name on a statement of nomination shall be substantially different from the name of any organized political party. It shall also be substantially different from the political or other name already appearing on any other statement of nomination for the same office then on file with the same officer for the same election; ~~if~~.

(2) ~~If the secretary of state~~ Secretary of State determines that it is not substantially different, the candidate named on the statement shall select a different political or other name; ~~otherwise the secretary may reject the statement of nomination~~ Secretary shall print the word "Independent" on the ballot for that candidate.

(c)(1) Except in the case of presidential and vice presidential candidates, the word "independent" may not be used as part of a party name; ~~if~~.

(2) If no party is indicated, the word "Independent" shall be printed on the ballot; ~~and no~~.

(3) A candidate appearing on the ballot as a candidate of a political party shall not also appear on the ballot as an "Independent."

* * * Nominations; Miscellaneous * * *

Sec. 19. 17 V.S.A. § 2412 is amended to read:

§ 2412. WITHDRAWAL OF CANDIDACY

(a)(1) A candidate who has been validly nominated by one of the methods prescribed in this chapter shall have a right to withdraw his or her candidacy up until 5:00 p.m. on the ~~third~~ tenth day following the primary by filing a written notice of withdrawal with the town clerk in the case of a candidate for justice of the peace, and with the ~~secretary of state~~ Secretary of State in the case of all other offices.

(2) The name of a candidate who has withdrawn in accordance with the provisions of this subsection shall not be printed on the ballot.

(b) After ~~that the date~~ described in subdivision (a)(1) of this section, if the candidate has filed a written notice of withdrawal, the town clerk or ~~secretary of state~~ Secretary of State may still remove the candidate's name from the ballot up until the printing deadline.

* * * Election Officials * * *

Sec. 20. 17 V.S.A. § 2455 is amended to read:

§ 2455. ~~DUTIES OF ELECTION OFFICIALS;~~ DUTIES; POLITICAL

PARTY REPRESENTATION

(a) The assistant election officers, together with the presiding officer and the board of civil authority, shall constitute the election officials.

(b) Except as may be specifically provided in this title, the presiding officer shall notify each election official of the hours when he or she shall be present to work at the polls and of the duties assigned to each election official.

(c) When the provisions of this title require two or more election officials of different political parties to perform an act, that political party representation requirement shall not be required if attempts to conform to it were not successful.

* * * General Election Ballots * * *

Sec. 21. 17 V.S.A. § 2472 is amended to read:

§ 2472. CONTENTS

* * *

(b)(1) Each office to be voted upon shall be separately indicated and preceded by the word “For,” as: “For United States Senator.” Beneath the office to be voted upon shall appear the instructions: “Vote for not more than (the number of candidates to be elected).”

(2) The names of the candidates for each office shall be listed in alphabetical order by surname, followed by the candidate’s town of residence, and the party or parties by which the candidate has been nominated, or in the case of independent candidates who have not chosen some other name or identification, by the word “Independent.” The word “party” shall not be printed on the ballot following a candidate’s party name.

* * *

* * * Vote Tabulators * * *

Sec. 22. 17 V.S.A. § 2491 is amended to read:

§ 2491. POLITICAL SUBDIVISION; VOTE TABULATORS

(a) Except as provided in subsection (b) of this section, a board of civil authority may, at a meeting held not less than 60 days prior to an election and warned pursuant to 24 V.S.A. § 801, vote to require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes in subsequent local, primary, or general elections, or any combination of those.

(b) A town with 1,000 or more registered voters as of December 31 in an even-numbered years year shall use vote tabulators for the registering and

counting of votes in subsequent general elections.

(c)(1) The Office of the Secretary of State shall pay the following costs associated with this section by using federal Help America Vote Act funds, as available:

(A) full purchase and warranty cost of vote tabulators, ballot boxes, and two memory cards for each tabulator;

(B) annual maintenance costs of vote tabulators for each town; and

(C) the first \$500.00 of the first pair of a vote tabulator's memory cards' configuration costs for each primary and general election.

(2) A town shall pay the remainder of any cost not covered by subdivision (1) of this subsection.

Sec. 23. 17 V.S.A. § 2493 is amended to read:

§ 2493. RULES FOR USE OF VOTE TABULATORS; AUDITS

(a) The Secretary of State shall adopt rules governing the use and the selection of any vote tabulator in the State. These rules shall include requirements that:

* * *

(4)(A) All vote tabulators shall be set to reject a ballot that contains an overvote and ~~provide the voter~~ shall be provided the opportunity to obtain another ballot and correct the overvote, ~~have the ballot declared spoiled, and obtain another ballot.~~ If an early voter absentee ballot contains an overvote, the elections official shall override the vote tabulator and count all races except any race that contains an overvote.

* * *

(b) Each vote tabulator shall be tested using official ballots that are marked clearly as "test ballots" at least 10 days prior to an election. This test shall be open to the public.

* * *

* * * Polling Places * * *

Sec. 24. 17 V.S.A. § 2508 is amended to read:

§ 2508. CAMPAIGNING DURING POLLING HOURS; VOTER ACCESS

(a)(1) The presiding officer shall ~~insure~~ ensure during polling hours on the day of the election that:

(1)(A) Within the building containing a polling place, no campaign literature, stickers, buttons, name stamps, information on write-in candidates,

or other political materials are displayed, placed, handed out, or allowed to remain; and

(2)(B) Within the building containing a polling place, no candidate, election official, or other person distributes election materials, solicits voters regarding an item or candidate on the ballot, or otherwise campaigns; and

(3)(C) On the walks and driveways leading to a building in which a polling place is located, no candidate or other person ~~may physically interfere~~ interferes with the progress of a voter to and from the polling place.

(2) The provisions of subdivision (1) of this subsection shall apply to the town clerk's office during any period of early or absentee voting.

(b) During polling hours, the presiding officer shall control the placement of signs on the property of the polling place in a fair manner.

(c) The provisions of this section shall be posted in the notice required by section 2521 of this title.

* * * Voter Information * * *

Sec. 25. 17 V.S.A. § 2521 is amended to read:

§ 2521. WARNINGS AND NOTICES

(a) Not less than 30 days before the election, the town clerk shall cause a warning and notice to be posted informing the voters of the town about the election.

(1) The warning shall include the date and time of the election, location of the polling place or places, nature of the election, and offices or questions to be voted upon.

(2) The notice shall contain information on voter registration and early or absentee voting, on how to obtain ballots, mark them, get help marking them, and obtain new ballots ~~in place of those accidentally spoiled if an error is made~~; information about offenses relating to elections; instructions on how to get help if there is a problem on election day; instructions for registrants by mail; instructions for first-time voters; instructions on who may cast a provisional ballot; instructions on how to cast a provisional ballot; information on federal and ~~state~~ State laws prohibiting fraud and misrepresentation; instructions on how to contact the appropriate official if a person believes any of his or her rights to vote have been violated; and other appropriate information.

(3) The warning and notice shall be posted in at least two public places within each town and in or near the town clerk's office. If a town has more than one polling place, the warning and notice shall be posted in at least two

public places within each voting district and in or near the town clerk's office.

(4) The checklist shall also be posted as required in section 2141 of this title.

* * *

* * * Early or Absentee Voters * * *

Sec. 26. 17 V.S.A. § 2531 is amended to read:

§ 2531. APPLICATION FOR EARLY VOTER ABSENTEE BALLOT

(a)(1) A voter who expects to be an early or absentee voter, or an authorized person on behalf of such voter, may apply for an early voter absentee ballot until 5:00 p.m. or the closing of the town clerk's office on the day preceding the election.

(2) If a town clerk does not have regular office hours on the day before the election and his or her office will not otherwise be open on that day, an application may be filed until the closing of the clerk's office on the last day that office has hours preceding the election.

(b) All applications shall be filed with the town clerk of the town in which the early or absentee voter is registered to vote. The town clerk shall file written applications and memoranda of verbal applications in his or her office, and shall retain the applications and memoranda for 90 days following the election, at which time they may be destroyed.

(c) Voting by early voter absentee ballot shall be allowed only in elections using the Australian ballot system.

Sec. 27. 17 V.S.A. § 2532 is amended to read:

§ 2532. APPLICATIONS; FORM

(a)(1) An early or absentee voter, or an authorized family member or health care provider acting in the voter's behalf, may apply for an early voter absentee ballot by telephone, in person, or in writing. "Family member" here means a person's spouse, children, brothers, sisters, parents, spouse's parents, grandparents, and spouse's grandparents. Any other authorized person may apply in writing or in person; provided, however, that voter authorization to such a person shall not be given by response to a robotic phone call.

(2) The application shall be in substantially the following form:

REQUEST FOR EARLY VOTER ABSENTEE BALLOT

Name of early or absentee voter: _____

Voter's Town of Residence: _____

Current physical address (address where you reside): _____

Residence (if different): _____

Telephone Number: _____ E-mail Address: _____

Date: _____

I request early voter absentee ballot(s) for the election(s) checked below:

- (1) Annual Town Meeting;
- (2) All other local elections;
- (3) August Primary Election;
- (4) Presidential Primary (YOU MUST SELECT PARTY);
- (5) November General Election
- (6) All elections in this calendar year

Please deliver the ballot(s) as indicated below (check one):

(1) Mail to voter at: _____

Street or P.O. Box Town/City State Zip Code

(2) Delivery by two Justices of the Peace (this may only be selected if you are ill or if you have a physical disability).

If applicant is other than early or absentee voter:

Name of applicant: _____

Address of applicant: _____

Relationship to early or absentee voter: _____

Organization, if applicable: _____

Date: _____ Signature of applicant: _____

(3) If the application is made by telephone or in writing, the information supplied must be in substantial conformance with the information requested on this form.

* * *

(d) An application for an early voter absentee ballot shall be valid for ~~only one election, unless specific request is made by an early or absentee voter that the application be valid for both a primary election, excluding a presidential primary, and the general election next following the elections or the time frame specified by the applicant, as long as both ballots are to be mailed to the same address.~~

(e) A single application shall only be valid for any elections within the same calendar year.

* * *

Sec. 28. 17 V.S.A. § 2537 is amended to read:

§ 2537. EARLY OR ABSENTEE VOTING IN THE TOWN CLERK'S OFFICE

(a)(1) A voter may, if he or she chooses, apply in person to the town clerk for the early voter absentee ballots and envelopes rather than having them mailed as required by section 2539 of this ~~title~~ subchapter.

(2) In this case, the clerk shall furnish the early voter absentee ballots and envelopes when a valid application has been made.

(3) The voter may mark his or her ballots, ~~seal~~ place them in the envelope, sign the certificate, and return the ballots in the ~~sealed~~ envelope containing the certificate to the town clerk or an assistant town clerk, without leaving the office of the town clerk, or the voter may take the ballots and return them to the town clerk in the same manner as if the ballots had been received by mail.

(b) No person, except justices of the peace as provided in section 2538 of this ~~title~~ subchapter, may take any ballot from the town clerk on behalf of any other person.

Sec. 29. 17 V.S.A. § 2540 is amended to read:

§ 2540. INSTRUCTIONS TO BE SENT WITH BALLOTS

(a) The town clerk shall send with all early voter absentee ballots and envelopes printed instructions, which may be included on the envelope, in substantially the following form:

INSTRUCTIONS FOR EARLY OR ABSENTEE VOTERS

1. Mark the ballots.
2. ~~Seal~~ Place them in this envelope.
3. Fill out and sign the certificate on the envelope.
4. Mail or deliver the ~~sealed~~ envelope containing the ballots to the town clerk of the town where you are a registered voter in time to arrive ~~no~~ not later than election day.

Note: If these ballots have been brought to you personally by two justices of the peace because of your illness or physical disability, just return them to the justices after you have ~~sealed and~~ signed the envelope. YOU HAVE THE RIGHT TO MARK YOUR BALLOTS IN PRIVATE - but if you ask for help

in filling out the ballots, they will give it to you.

BE SURE TO FILL OUT AND SIGN THE CERTIFICATE ON THIS ENVELOPE OR YOUR VOTE WILL NOT COUNT!

* * *

Sec. 30. 17 V.S.A. § 2541 is amended to read:

§ 2541. MARKING OF BALLOTS

* * *

(c) If an early or absentee voter ~~spoils~~ makes an error in marking a ballot, the voter may return ~~the spoiled that~~ that ballot by mail or in person to the town clerk and receive another ballot, consistent with the provisions of section 2568 of this title.

Sec. 31. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

(a) After marking the ballots and signing the certificate on the envelope, the early or absentee voter to whom the same are addressed shall return the ballots to the clerk of the town in which he or she is a voter, in the manner prescribed, except that in the case of a voter to whom ballots are delivered by justices, the ballots shall be returned to the justices calling upon him or her, and they shall deliver them to the town clerk.

(b) Once an early voter absentee ballot has been returned to the clerk in the ~~sealed~~ envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason.

(c) If a ballot includes more than one page, the early or absentee voter need only return the page upon which the voter has marked his or her vote.

(d)(1) ~~All early voter absentee ballots returned to the clerk before the polls close on election day~~ as follows shall be counted:

(A) by any means, to the town clerk's office before the close of the polls on the day of the election; or

(B) by hand delivery to the presiding officer at the voter's polling place.

(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.

Sec. 32. 17 V.S.A. § 2546 is amended to read:

§ 2546. DEPOSIT OF EARLY VOTER ABSENTEE BALLOTS IN BALLOT BOX OR VOTE TABULATOR

~~(a)(1)(A) No sooner~~ Not earlier than 30 days before the opening of polls on election day, the town clerk of a municipality with at least 300 registered voters on its checklist may direct two election officials working together to do all of the following:

(1) open the outside envelope ~~in order to~~ and sort early voter absentee ballots by ward and district, ~~may data enter the return of the ballots by the voter, may~~ if necessary;

(2) determine that the certificate has been properly completed and signed;

(3) check the name of the early voter off the entrance checklist; and ~~may~~

(4) place the inside certificate envelopes ~~in various secure containers~~ into a secure container marked “checked in early voter absentee ballots” to be transported to the polling places on election day.

~~(B) No sooner than 48 hours before the opening of polls on election day, a town clerk in all other municipalities may direct two election officials working together to open the outside envelope and remove the certificate envelope in order to determine that an early voter absentee ballot certificate has been properly signed by the early voter, and that the name of the early voter appears on the checklist.~~

~~(2) The election officials shall check the name of the early voter off the entrance checklist and place the sealed envelope into a secure container marked “checked in early voter absentee ballots” to be transported to the polling place on election day.~~

~~(3) Upon opening of the polls on election day, ballots from this container shall be opened by election officials, who are not members of the same political party, and deposited either into the ballot box or into the vote tabulator.~~

(b) The town clerk or presiding officer shall deliver the unopened early voter absentee ballots to the election officials at the place where the entrance checklist is located. Upon the opening of the polls on election day:

(1) If the ballots are in a container marked “checked in early voter absentee ballots,” ~~two~~ one election officials ~~from different political parties~~ official shall open the certificate envelopes, turn the certificate side face down, and hand the envelope face down to a second election official from a different political party, who shall remove the ballots from the envelopes and deposit the ballots into them in the ballot box or ~~into the vote tabulator~~.

(2) If the ballots have not been previously checked off the entrance checklist and if an two election official ~~determines~~ officials, from different

political parties, determine that the certificate on the envelope is properly completed and signed by the early voter, the name of the early voter appears on the checklist, and the early voter is not a first-time voter in the municipality who registered by mail and is marked on the checklist as requiring additional documentation, the election official officials shall mark the checklist, open the envelope certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballot ballots in the proper ballot box or vote tabulator.

(3)(A) If the early voter is a first-time voter who registered by mail or online, the two election official officials from different political parties shall determine whether the identification required under subdivision 2563(1) of this title has been submitted by the voter. Upon ascertaining that the proper identification has been submitted by the voter, the election official officials shall mark the checklist, open the certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballot in the proper ballot box or vote tabulator.

(B) If the proper identification has not been submitted, the ballot shall be treated as a provisional ballot, as provided in subchapter 6A of this chapter.

(c) All early voter absentee ballots shall be commingled with the ballots of voters who have voted in person.

Sec. 33. 17 V.S.A. § 2546a is amended to read:

§ 2546a. DAY PRECEDING ELECTION; DEPOSIT OF EARLY VOTER
ABSENTEE BALLOTS IN VOTE TABULATOR

* * *

(d) Count and inspection.

(1) On the day preceding the election, at least one hour prior to depositing the ballots in the vote tabulator, the town clerk and the election officials shall:

(1)(A) first open the secure container marked “checked in early voter absentee ballots,” count the sealed certificate envelopes containing those ballots, and record the number counted; and

(2)(B) permit these sealed certificate envelopes to be inspected by members of the public.

(2) Any early voter absentee ballot that is returned after the expiration of the period for the count and inspection shall be processed on the day of the

election in accordance with section 2546 of this subchapter.

(e) Processing.

(1) Immediately after the expiration of the period for the count and inspection described in subsection (d) of this section, the town clerk and election officials shall open each sealed certificate envelope containing an early voter absentee ballot that was counted under subdivision (d)(1) of this section and deposit each ballot into a vote tabulator.

(2) The town clerk and the election officials shall ensure that all procedures for handling ballots are followed to the fullest extent practicable.

(3) At the end of the processing, the town clerk shall verify that the vote tabulator's memory card is locked in place and shall sign a statement verifying how many early voter absentee ballots were counted by the vote tabulator and that the memory card is so locked. The town clerk shall compare the vote tabulator's number of counted ballots to the original count of those ballots described in ~~subsection (d)~~ subdivision (d)(1) of this section.

* * *

Sec. 34. 17 V.S.A. § 2547 is amended to read:

§ 2547. DEFECTIVE BALLOTS

(a) If upon examination by the election officials it shall appear that any of the following defects is present, either the ballot or the unopened certificate envelope shall be marked "defective" and the ballot shall not be counted:

(1) the early or absentee voter is not legally qualified to vote,~~or;~~

(2) the early or absentee voter has voted in person,~~or that;~~

(3) the affidavit on any the certificate envelope is insufficient, not completed;

(4) the certificate is not signed,~~or;~~

(5) the voted ballot is not in the voted ballot certificate envelope;~~or;~~

(6) in the case of a primary vote, the early or absentee voter has failed to return the unvoted primary ballots,~~such envelope shall be marked "defective," and the ballots inside shall not be counted and.~~

(b) Each defective ballot or unopened certificate envelope shall be:

(A) affixed with a note from the presiding officer indicating the reason it was determined to be defective;

(B) placed with other such defective ballots in an envelope marked "Defective Ballots – Voter Checked Off Checklist - Do Not Count"; and

~~(C)~~ shall be returned in the ~~unopened~~ that envelope to the town clerk in the manner prescribed by section 2590 of this title.

(c) The provisions of this section shall be indicated prominently in the early or absentee voter material prepared by the Secretary of State.

Sec. 35. 17 V.S.A. § 2548 is amended to read:

§ 2548. VOTING IN PERSON

* * *

(b)(1) A person who in good faith has received early voter absentee ballots for his or her use but has not yet marked them, if he or she is able to vote in person, may cast the early voter absentee ballots as provided above, or may vote in person after returning the complete set of unmarked ballots, together with the envelope intended for their return, to the presiding officer at the time the voter appears to vote in person.

(2) If a person does not have his or her absentee ballots to return, the person shall be checked off the checklist and permitted to vote only after completing a sworn affidavit that he or she does not have his or her absentee ballots to return.

(3) The presiding officer shall return the unused early voter absentee ballots and envelope to the town clerk, who shall make a record of their return on the list of early or absentee voters and treat them as ~~spoiled or unused~~ replaced ballots, pursuant to section 2568 of this title.

* * * Provisional Voting * * *

Sec. 36. 17 V.S.A. § 2555 is amended to read:

§ 2555. PROVISIONAL BALLOT ENVELOPES

The clerk shall deliver to each polling place on the date of the election a sufficient number of provisional ballot envelopes printed with a voter attestation. The attestation shall include:

* * *

(4) A statement informing the provisional voter: ~~“Provisional balloting allows a provisional voter only to vote in federal elections. If you wish to vote in any other State or local election, you should return this form to the elections officials and file an appeal in Superior Court in the county in which you live pursuant to section 2148 of this title. If you choose to vote by provisional ballot, after the close of the polls, the town clerk will determine whether you meet all eligibility requirements. If the clerk denies your application, he or she will inform you that the application has been denied.”~~

* * * Process of Voting * * *

Sec. 37. 17 V.S.A. § 2563 is amended to read:

§ 2563. ADMITTING VOTER

Before a person may be admitted to vote, he or she shall announce his or her name and, if requested, his or her place of residence in a clear and audible tone of voice, or present his or her name in writing, or otherwise identify himself or herself by appropriate documentation. The election officials attending the entrance of the polling place shall then verify that the person's name appears on the checklist for the polling place.

(1) If the name does appear, and if no one immediately challenges the person's right to vote on grounds of identity or having previously voted in the same election, the election officials shall repeat the name of the person and:

(A)(i) If the checklist indicates that the person is a first-time voter in the municipality who registered by mail or online, whose driver's license, nondriver identification number, or last four digits of his or her Social Security number provided by the applicant have not been verified by the Secretary of State, and who has not provided required identification before the opening of the polls, require the person to present any one of the following: a valid photo identification; a copy of a current utility bill; a copy of a current bank statement; or a copy of a government check, paycheck, or any other government document that shows the current name and address of the voter.

* * *

Sec. 38. 17 V.S.A. § 2564 is amended to read:

§ 2564. CHALLENGES

(a)(1)(A) Each organized political party, each candidate on the ballot not representing an organized political party, and each committee supporting or opposing any public question on the ballot shall have the right to have not more than two representatives for each voting district, in a polling place but outside the guardrail, for the purpose of observing the voting process and challenging the right of any person to vote.

(B) In no event shall such representatives be permitted to interfere with the orderly conduct of the election, and the presiding officer shall have authority to impose reasonable rules for the preservation of order.

(C) However, in all cases the representatives shall have the right to hear or see the name of a person seeking to vote, and they shall have the right to make an immediate challenge to a person's right to vote.

(2) The grounds of challenge of a person whose name appears on the

checklist shall be only:

~~(1)(A)~~ that he or she is not, in fact, the person whose name appears on the checklist; or

~~(2)(B)~~ that he or she has previously voted in the same election.

(b) If a challenge is issued, the members of the board of civil authority present in the polling place shall immediately convene, informally hear the facts, and decide whether the challenge should be sustained.

(1) If the board overrules the challenge, the person shall immediately be admitted within the guardrail and permitted to vote.

(2) If the board sustains the challenge, the person shall not be admitted unless, before the polls close, he or she shall obtain a court order directing that he or she be permitted to vote.

Sec. 39. 17 V.S.A. § 2566 is amended to read:

§ 2566. MARKING BALLOTS

On receiving his or her ballots, the voter shall forthwith, and without leaving the polling place or going outside the guardrail, proceed to one of the booths not occupied by any other person and vote by filling in the appropriate square or oval opposite the name of the candidate of his or her choice for each office, or by filling writing in the name of the candidate of his or her choice in the blank space provided and filling in the square or oval to the right of that blank space.

Sec. 40. 17 V.S.A. § 2568 is amended to read:

§ 2568. SPOILED REMOVING BALLOTS FROM POLLING PLACE; REPLACEMENT, BLANK, AND UNUSED BALLOTS

(a) Removing ballots from polling place. A person shall not take or remove a ballot from the polling place before the close of the polls.

(b) Replacement ballots.

(1) If a voter ~~spoils~~ desires a replacement ballot, he or she may obtain ~~others another, one at a time,~~ not exceeding three in all, upon each time returning to an election official the ~~spoiled one~~ previous ballot he or she was provided.

(2) If a ballot is returned to an election official by a voter desiring a replacement ballot, the ballot returned by the voter shall be immediately delivered to the presiding officer or his or her designee, who shall tear it in half and place it in an envelope containing all ballots returned by the voters that is clearly marked "Do Not Count—Replaced Ballots." At the close of the

polls, this envelope shall be sealed and delivered to the clerk pursuant to section 2590 of this chapter. If a person fails to use a ballot, he or she shall deliver it to the presiding officer before going outside the guardrail.

(c) Spoiled and unused Unused ballots shall be immediately canceled and, together with those. Ballots originally delivered to the presiding officer which that remain undistributed to the voters, shall be preserved and returned to the town clerks, in the same manner provided for in section 2590 of this title, and the clerk shall preserve them in such condition, unless called for by some authority entitled to demand and receive them. After 90 days from the date the election is held, they may be destroyed or distributed by the town clerk for educational purposes or for any other purpose the town clerk deems appropriate.

Sec. 41. 17 V.S.A. § 2570 is amended to read:

§ 2570. DEPOSITING BALLOTS

(a) In primary elections, the voter shall first hand any unvoted primary ballots to the appropriate election official, who shall deposit those ballots in a receptacle marked for unvoted primary ballots. The voter shall then deposit the voted ballot in the ballot box or vote tabulator, unless the voter requires assistance in depositing the ballot.

* * *

* * * Count and Return of Votes * * *

Sec. 42. 17 V.S.A. § 2586 is amended to read:

§ 2586. SECRETARY OF STATE TO PREPARE FORMS TALLY SHEETS; SUMMARY SHEETS; RETURNS

The ~~secretary of state~~ Secretary of State shall design, prepare, and distribute a sufficient supply of the following forms, which shall may be used in each polling place during the counting process:

(1) Tally sheets.

(A) These sheets shall provide a place to identify the office or question for which the ballots are being counted, the name of each candidate for that office, and the signature of the pair of election officials actually counting the ballots.

(B) Votes for each candidate or question shall be recorded on the tally sheets by means of “tick” marks or some other convenient system, and the total shall then be written on the tally sheet.

(C) Blank votes (undervotes) and ~~spoiled ballots~~ overvotes shall be indicated.

(D) ~~All In towns that count~~ ballots by hand, all votes must be accounted for on the tally sheets.

* * *

Sec. 43. 17 V.S.A. § 2587 is amended to read:

§ 2587. RULES FOR COUNTING ~~BALLOTS~~ VOTES

(a)(1) In counting ~~ballots~~ votes, election officials shall attempt to ascertain the intent of the voter, as expressed by markings on the ballot ~~which and in a manner that is consistent with guidance that shall be adopted by rule by the Secretary of State. The Secretary shall adopt, by rule, guidance on determining whether a ballot is spoiled.~~

(2) If it is impossible to determine the intent of the voter for any office or public question, the ballot vote shall be counted as a blank or spoiled overvote, as the case may be, for that office or question; but that determination shall not control any other office or question appearing on the ballot for which the voter's intent can be determined.

(3) If they have any doubt about the intent of the voter or any other question about a ballot vote, the election officials counting the ballot vote shall bring it to the presiding officer, who shall present the question of how to treat the ballot vote to the assembled election officials. The decision of how to treat the ballot vote shall be made by majority vote of the election officials who are present.

(b) If the voter marks more names than there are persons to be elected to an office, or marks contradictory sides on any public question, ~~his or her ballot shall not be counted for that office or public question~~ overvotes equal to the number of candidates to be elected to the office must be recorded on the tally sheet for that office or question.

(c)(1) A write-in vote for a candidate whose name is preprinted on the ballot shall be counted as a vote for that candidate.

(2) A person who receives more than one vote for the same office on any ballot shall be entitled to one vote, and one vote only.

(d) If the board of civil authority decides by majority vote of those present that any markings on a ballot were made for the purpose of enabling it to be identified and the vote traced, so as to defeat the secrecy of the ballot,;

(1) that ballot shall be;

(A) rejected;

(B) marked defective and affixed with a note from the presiding officer as to why it was marked defective; and

(C) placed in the defective ballot envelope in accordance with subsection 2547(b) of this chapter; and

(2) the election officials may edit the vote tabulator totals reported on the vote tabulator tape, as necessary. The board shall make a record of the rejection and the reason for it, and shall preserve the record with the ballot in question.

(e)(1) In the case of “write-in” votes, the act of writing in the name of a candidate, or pasting a label containing a candidate’s name upon the ballot, without other indications of the voter’s intent, shall constitute a vote for that candidate, even though the voter did not fill in the square or oval after the name.

(2) The election officials counting ballots and tallying results shall list every person who receives a “write-in” vote and the number of votes received.

(A) On each tally sheet, the counters shall add together the names of candidates that are clearly the same person, even though a nickname or last name is used.

(B) Names of fictitious or deceased persons shall not be listed and shall be recorded on the tally sheet as a blank vote.

* * *

Sec. 44. 17 V.S.A. § 2588 is amended to read:

§ 2588. FILING RETURNS

For any primary or general election:

~~(a)(1)~~(A) In towns that count all ballots by hand, as the count of votes for each office or public question is completed, the presiding officer and at least one other election official shall collect the tally sheets, enter the totals shown on the tally sheets upon the summary sheets, add and enter the sum of the figures, and sign the summary sheets.

(B) As each summary sheet is completed, the presiding officer shall publicly announce the results.

~~(b)(2)~~(A) In towns that use vote tabulators, after the close of the polls and after all remaining absentee or transfer ballots have been fed into the vote tabulator, the presiding officer shall insert the ender card and the tabulator will print a tape of unofficial results. The presiding officer shall print at least ~~two~~ one additional ~~copies~~ copy of the tabulator tape.

(B) The unofficial results from the tape may be publicly announced, and one copy of the printed tape may be posted in the polling place upon a placard that clearly states: “Unofficial incomplete results.”

~~(e)~~ For any primary or general election:

~~(1)~~(3) The town clerk shall report as soon as practicable on the day of the election the unofficial vote counts of all candidates whose names appeared on the ballot to the Secretary of State. The report shall be made by electronically submitting the vote counts on the Secretary's online elections reporting system or, if unable to submit electronically, by submitting those vote counts to the Secretary of State by telephone, facsimile, or e-mail.

~~(2)~~(4) The Secretary shall ensure that any vote counts submitted by telephone, facsimile, or e-mail are entered into his or her online elections reporting system as soon as practicable after he or she receives them.

~~(3)~~(5) The Secretary's online elections reporting system shall cause the unofficial vote counts to be posted immediately on the Secretary's official website as soon as those vote counts are submitted.

~~(d)~~(6)(A) The presiding officer and one other election official then shall proceed either to complete the return at once, or to store the summary sheets in a safe and secure place until their retrieval for completion of the return. In any event, ~~no~~ not later than ~~24~~ 48 hours after the polls close, the presiding officer and at least one other election official shall transfer the totals from the summary sheets to the proper spaces on the return, and both shall sign the return.

(B) The town clerk shall store the summary sheets safely so that the public cannot reasonably have access to them for a period of 90 days without the town clerk's consent.

(C) The original of the return shall be delivered to the town clerk. In a manner prescribed by the Secretary of State and within 48 hours of the close of the polls, the town clerk shall deliver to the Secretary of State, the senatorial district clerk, the county clerk, and the representative district clerk one certified copy each of the return. The town clerk shall also make a copy available to the public upon request.

Sec. 45. 17 V.S.A. § 2590 is amended to read:

§ 2590. SECURING AND STORING BALLOTS, TALLY SHEETS, AND CHECKLISTS

(a)(1) The following shall not be placed in a sealed container, but shall be delivered to the town clerk along with the sealed containers:

(A) ballots that were never distributed to voters;

(B) any vote tabulator memory card; and

(C) the original entrance checklist.

(2) The presiding officer shall collect and deliver to the town clerk, securely sealed in the containers described in subsection (c) of this section, the following:

(A) packages of voted ballots;

(B) envelopes containing ballots that have been replaced;

(C) envelopes containing defective ballots;

(D) the exit checklist, if present;

(E) tally sheets; and

(F) other election material shall be collected by the presiding officer and delivered to the town clerk, securely sealed in the containers provided for in subsection (b) of this section.

(3) A copy of the entrance checklist shall be placed in the outside pocket of the sealed container or otherwise stored along with but outside the sealed container for delivery to the court in the event of a recount.

(4) If the material collected from one polling place is sealed in more than one container, the presiding officer shall ensure that there shall be attached to the container in which the exit checklist or checklists are is located, a tag stating that the checklist or checklists are is in that container.

(5) The form of the seal shall be designated and furnished by the secretary of state Secretary of State in sufficient quantities to each town clerk. The secretary of state Secretary of State shall require that all seals be safely kept and fully accounted for. The entrance checklist shall also be forwarded to the town clerk.

(b) The secretary of state Secretary of State shall furnish to all town clerks sufficient quantities of uniform-style containers. The secretary of state Secretary shall establish a method by which the outside of each container shall indicate the contents of the container, the town to which it belongs, and such other pertinent information as may be required.

(c)(1) The presiding officer shall return all sealed containers to the town clerk, who shall safely store them the sealed containers and shall not permit them to be removed from his or her custody or tampered with in any way.

(2)(A) In the event that a ballot bag or container breaks, splits, or opens through handling, or in the event the original entrance checklist or a vote tabulator memory card was inadvertently sealed in a ballot bag or container, the town clerk shall notify the secretary of state Secretary of State in writing, and the secretary of state Secretary shall order the town clerk in the presence of two other town election officials who are not members of the same political

party to open the bag to remove the entrance checklist or vote tabulator memory card or to move the entire contents to new ~~bags or~~ containers, affix new seals, and transmit the new seal numbers.

(B) ~~Ballot bags or containers~~ Containers shall not be removed or tampered with in any other way, except under court order, or by order of any authorized committee of the ~~general assembly~~ General Assembly.

(C) If necessary for safe storage of the containers, the town clerk may store them in a bank vault or other secure place, within or ~~without~~ outside the town, provided that access to them cannot reasonably be had without the town clerk's consent.

* * *

Sec. 46. 17 V.S.A. § 2592 is amended to read:

§ 2592. CANVASSING COMMITTEES; CANVASS OF VOTES IN
GENERAL OR SPECIAL ELECTIONS

(a) For all ~~state~~ State and national offices and statewide public questions, the ~~secretary of state~~ Secretary of State and the chair of the ~~state~~ State committee of each major political party (or designee) shall constitute a canvassing committee to receive and tally returns and issue certificates.

(b) For all county offices (~~except justice of the peace~~) and countywide public questions, the county clerk and the chair of the county committee of each major political party (or designee) shall constitute a canvassing committee to receive and tally returns and issue certificates.

* * *

(k)(1) In the case of the State offices of ~~governor, lieutenant governor, treasurer, secretary of state, attorney general, and auditor of accounts~~, the canvassing committee shall prepare a certificate of election but shall not sign it.

(2) The prepared certificate shall be presented to the official canvassing committee appointed by the ~~general assembly~~ General Assembly, pursuant to Chapter II, § 47 of the Constitution of the State of Vermont ~~constitution~~, for their use if they desire.

(l)(1) In the case of a tie vote, the canvassing committee shall forthwith petition the appropriate ~~superior court~~ Superior Court for a recount pursuant to section 2602 of this title.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, either of the candidates that is involved in a tie may notify the appropriate Superior Court that he or she is withdrawing, in which case the court shall

certify the other candidate as the winner.

(m) Each canvassing committee shall file a report of its findings with the ~~secretary of state~~ Secretary of State, who shall preserve the reports as permanent records.

* * * Contested Legislative Elections * * *

Sec. 47. 17 V.S.A. § 2605 is amended to read:

§ 2605. HOUSE OF REPRESENTATIVES

(a) A candidate for the office of ~~representative to the general assembly~~ Representative to the General Assembly in the general election, or any elected town officer in the representative district, or any 25 voters in the representative district may request the ~~house of representatives~~ House of Representatives to exercise its constitutional authority to judge of the elections and qualifications of its own members, by filing a written request with the ~~secretary of state~~ Secretary of State specifying the candidate or candidates whose election is being challenged. The request must be filed ~~no~~ not later than the latest of the following:

(1) 20 days after the date of the election; or

(2) 10 days after a final court judgment, if there is a recount under section 2602 of this title; or

(3) ~~10 days after a final court judgment, if there is a contest under section 2603 of this title.~~

(b)(1) The ~~secretary of state~~ Secretary of State shall notify the ~~attorney general~~ Attorney General, who shall investigate the facts, take such depositions as may be necessary, prepare an opinion on the law and facts, and send his or her report and opinion to the ~~secretary of state~~ Clerk of the House at least 10 days before the ~~general assembly~~ General Assembly convenes.

(2) If the Attorney General needs additional time to conduct the investigation or prepare the report and opinion required by this subsection, he or she shall alert the Clerk of the House of that need and the date by which he or she plans to submit the report and opinion.

Sec. 48. 17 V.S.A. § 2606 is amended to read:

§ 2606. SENATE

(a) A candidate for the office of ~~state senator~~ State Senator in the general election, or any 100 voters in the senatorial district may request the ~~senate~~ Senate to exercise its constitutional authority to judge of the elections and qualifications of its own members by filing a written request with the ~~secretary of state~~ Secretary of State specifying the candidate or candidates whose

election is being challenged. The request must be filed ~~no~~ not later than the latest of the following:

- (1) 20 days after the date of the election; or
- (2) 10 days after a final court judgment, if there is a recount under section 2602 of this title; ~~or~~
- (3) ~~10 days after a final court judgment, if there is a contest under section 2603 of this title.~~

(b)(1) ~~The secretary of state~~ Secretary of State shall notify the ~~attorney general~~ Attorney General, who shall investigate the facts, take such depositions as may be necessary, prepare an opinion on the law and facts, and send his or her report and opinion to the ~~secretary of the senate~~ Secretary of the Senate at least 10 days before the ~~general assembly~~ General Assembly convenes.

(2) If the Attorney General needs additional time to conduct the investigation or prepare the report and opinion required by this subsection, he or she shall alert the Secretary of the Senate of that need and the date by which he or she plans to submit the report and opinion.

* * * Local Elections; Generally * * *

Sec. 49. 17 V.S.A. § 2640 is amended to read:

§ 2640. ANNUAL MEETINGS

(a) A meeting of the legal voters of each town shall be held annually on the first Tuesday of March for the election of officers and the transaction of other business, and it may be adjourned to another date. When a municipality fails to hold an annual meeting, a warning for a subsequent meeting shall be issued immediately, and at that meeting all the officers required by law may be elected and its business transacted.

(b) When a town so votes, it may thereafter start its annual meeting on any of the three days immediately preceding the first Tuesday in March at such time as it elects and may transact at that time any business not involving voting by Australian ballot or voting required by law to be by ballot and to be held on the first Tuesday in March. A meeting so started shall be adjourned until the first Tuesday in March.

(c)(1) Notwithstanding section 2508 of this title, public discussion of ballot issues and all other issues appearing in the warning, other than election of candidates, shall be permitted ~~on that day~~ at the annual meeting, regardless of the location of the polling place.

(2) Notwithstanding the provisions of subdivision (1) of this subsection,

a candidate for local office nominated from the floor at the annual meeting may introduce his or her candidacy to the extent permitted by the voters at the meeting.

Sec. 50. 17 V.S.A. § 2650 is amended to read:

§ 2650. ADDITIONAL SELECTMEN AND LISTERS AND
SELECTBOARD MEMBERS

(a) Additional listers. A town may vote at a special or annual town meeting to elect ~~not more than~~ two additional listers for terms of one year each.

(b) Additional selectboard members.

(1)(A) A town may vote at a special or annual town meeting to elect ~~not more than~~ two additional ~~selectmen~~ selectboard members for terms of either one or two years each.

(B) When the terms of the additional ~~selectmen~~ selectboard members are to be for two years, the warning for the meeting shall so specify.

(2)(A) If two additional ~~selectmen~~ selectboard member positions are created, they shall be for terms of the same length, but if the terms of the new positions are to be for two years, when the additional ~~selectmen~~ selectboard members are first elected, one shall be elected for one year and the other ~~selectman~~ selectboard member for two years.

(B) Terms of these additional ~~selectmen~~ selectboard members shall end on annual meeting days. If the additional ~~selectmen~~ selectboard members are elected at a special meeting, the term of those elected for one year shall expire on the next annual meeting day and those elected for two years shall expire on the second annual meeting day following their election.

(c) Discontinuing additional listers or selectboard members.

(1) A vote establishing additional ~~selectmen or listers or~~ selectboard members shall remain in effect until the town votes to discontinue the two additional positions at an annual or special meeting duly warned for that purpose.

(2) The term of office of any lister or selectboard member in office on the date a town votes to discontinue that office shall expire on the 31st day after the vote, unless a petition for reconsideration or rescission of that vote is filed with the clerk of the municipality in accordance with section 2661 of this chapter, in which case that section shall control.

Sec. 51. 17 V.S.A. § 2652 is amended to read:

§ 2652. ROAD AND WATER COMMISSIONERS

The ~~board of selectmen~~ selectboard may and, when requested by at least five percent of the legal voters of a town at least ~~40~~ 47 days prior to the annual town meeting, ~~they~~ it shall insert in the warning for the annual town meeting an article on the question of whether ~~or not~~ the town shall elect a road commissioner or commissioners, or water commissioners, as provided in section 2651 of this ~~title~~ chapter.

Sec. 52. 17 V.S.A. § 2661 is amended to read:

§ 2661. RECONSIDERATION OR RESCISSION OF VOTE

* * *

(c) A question voted on shall not be presented for reconsideration or rescission at more than one subsequent meeting within ~~the succeeding 12 months~~ a one-year period, except with the approval of the legislative body.

(d) For a vote by Australian ballot:

(1) the form of the ballot shall be as follows: “Article 1: [cite the article to be reconsidered as lastly voted].”

(2) absentee ballots for the reconsideration or rescission vote shall be sent to any voter who requested an absentee ballot for the initial vote on the article to be reconsidered or rescinded, whether or not a separate request for an absentee ballot for the reconsideration or rescission vote is submitted by the voter.

* * *

(g) This section shall not apply to nonbinding advisory articles, which shall not be subject to reconsideration or rescission.

* * * Local Elections Using the Australian Ballot System * * *

Sec. 53. 24 V.S.A. § 1755 is amended to read:

§ 1755. SUBMISSION TO VOTERS

* * *

(b) A municipal corporation may not submit to the voters more than twice ~~in the same calendar year or any 12-month~~ any one-year period the proposition of incurring a bonded debt to pay for the same or a similar public improvement, except that a proposition voted on for the first time at an annual meeting that is reconsidered may be voted on in the subsequent annual meeting.

Sec. 54. 17 V.S.A. § 2680 is amended to read:

§ 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL

(a) Application. Unless specifically required by statute, the provisions of the Australian ballot system shall not apply to the annual or special meeting of a municipality unless that municipality, at its annual meeting or at a special meeting called for that purpose, votes to have them apply.

* * *

(c) Budgets.

(1) A vote whether to use the Australian ballot system to establish the budget shall be in substantially the following form:

“Shall (name of municipality) adopt its (name of individual budget article) or (all budget articles) by Australian ballot?”

* * *

(g) Hearing.

(1) Whenever a municipality has voted to adopt the Australian ballot system of voting on any public question or budget, except the budget revote as provided in subsection (c) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 10 days in advance of the hearing in at least two public places within the municipality and in the town clerk’s office.

(2)(A) The hearing shall be held within the 10 days preceding the meeting at which the Australian ballot system is to be used. The legislative body shall be responsible for the administration of this hearing, including the preparation of minutes.

(B) The In a town that has voted to start its annual meeting on any of the three days immediately preceding the first Tuesday in March in accordance with subsection 2640(b) of this title, the hearing under this subsection may be held in conjunction with the that meeting held under subsection 2640(c) of this title, in which case the moderator shall preside.

Sec. 55. 17 V.S.A. § 2681 is amended to read:

§ 2681. NOMINATIONS; PETITIONS; CONSENTS

(a)(1)(A) Nominations of the municipal officers shall be by petition. The petition shall be filed with the municipal clerk, together with the endorsement, if any, of any party or parties in accordance with the provisions of this title, ~~no~~ not later than 5:00 p.m. on the sixth Monday preceding the day of the election, which shall be the filing deadline.

(B) A candidate shall be registered to vote in the town he or she is seeking office at or before the time of filing the petition.

(2) The candidate shall also file a written consent to the printing of the candidate's name on the ballot on or before the filing deadline for petitions as set forth in subdivision (1) of this subsection.

(3) A petition shall contain the name of only one candidate, and the candidate's name shall appear on the petition as it does on the voter checklist. A voter shall not sign more than one petition for the same office, unless more than one nomination is to be made, in which case the voter may sign as many petitions as there are nominations to be made for the same office.

* * *

* * * Local Election Recounts * * *

Sec. 56. 17 V.S.A. § 2681a is amended to read:

§ 2681a. LOCAL ELECTION BALLOTS

* * *

(e) Public questions shall be written in the form of a question, with boxes indicating a choice of "yes" and "no" directly under or to the right side of the public question. No public question shall pass unless a majority of the votes, excluding blank and ~~spoiled~~ overvotes, is cast in favor of the proposition.

Sec. 57. 17 V.S.A. § 2683 is amended to read:

§ 2683. REQUEST FOR A RECOUNT; CANDIDATES

(a) A candidate for local office may request a recount by filing a request in writing with the municipal clerk within 10 days after the election.

(b) If the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is ~~less than~~ less than or equal to five percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

Sec. 58. 17 V.S.A. § 2685 is amended to read:

§ 2685. CONDUCT OF RECOUNT

(a)(1) Except as provided in subdivision (2) of this subsection, at the time and place specified by the clerk, the board of civil authority shall break the seal, open the ballot container, and recount the votes pursuant to the procedure set forth in section 2685a of this subchapter and otherwise in the same manner as the votes were counted on the day of the election.

(2) When the ballot for the office is printed on index stock and configured to be readable by vote tabulator, the ~~presiding officer~~ town clerk

and board of civil authority shall conduct the recount by vote tabulator, pursuant to the procedure set forth in chapter 51, subchapter 9 of this title to the greatest extent practicable, if:

(A) the candidate who petitions for a recount requests that it be conducted by vote tabulator;

(B) the board of civil authority, at a meeting held not less than 60 days prior to a local election and warned pursuant to 24 V.S.A. § 801, has voted to require the municipality for which it is elected to use vote tabulators in subsequent recounts; or

(C) the municipality has voted to use vote tabulators in subsequent recounts pursuant to a meeting warned for the purpose.

(b) The petitioner, the opposing candidates, and their designated representatives may inspect the ballots and observe the recount under the guidance of the board.

(c) The board shall certify the result to the town clerk, who shall declare the result.

(d) After the recount, the board shall seal the ballots and other materials back in the containers and the town clerk shall safely store them as provided in section 2590 of this title.

Sec. 59. 17 V.S.A. § 2685a is amended to read:

§ 2685a. PROCEDURE FOR RECOUNT

(a) Storage of ballots; assignment of duties.

(1) The town clerk shall store all ballots, still in their sealed containers, in his or her vault until the day of the recount.

(2)(A) ~~The presiding officer~~ town clerk shall supervise the recount.

(B) If the town clerk is unavailable or is a candidate for the office subject to the recount, the board of civil authority shall appoint a voter of the municipality to perform the duties of the town clerk under this section.

(3)(A) The board of civil authority shall appoint a sufficient number of impartial assistant election officers to perform appropriate tasks ~~that are not practicable for the board of civil authority to perform to conduct the recount.~~

(B) Each assistant election officer shall be appointed and sworn as set forth in section 2454 of this title.

(4) ~~The presiding officer shall assign members of the board of civil authority to teams of at least four persons, consisting of one caller and one observer, representing different candidates, and one tally person and one~~

~~double-check person, representing different candidates. Any additional team members shall be additional observers and double-check persons who shall be assigned to ensure that each candidate has one person assigned as either a caller or an observer and one person assigned as either a tally person or a double-check person. One team shall be designated as the presiding officer observer team, which shall perform only the functions established under this section for that team. [Repealed.]~~

~~(5) The board of civil authority shall use fresh seals, manila tags, tally sheets, double-check sheets, summary sheets for each polling place, master lists for the entire election to be recounted, and other appropriate material provided by the Secretary of State. [Repealed.]~~

~~(b) Preparation for recount.~~

~~(1) Before the recount begins, the presiding officer town clerk shall explain the recount procedures which that are to be followed and shall answer questions relating to such procedures.~~

~~(2) The recount teams established election officials shall recount the contents of one container before another container is opened and shall recount the contents of all the containers relating to one polling place before moving to those of another polling place.~~

~~(3) For each polling place, the number of containers shall be counted and recorded on the master list.~~

~~(4) Before opening, each container shall be inspected, and if no tag is present, replacement manila tags shall be affixed, specifying the date of election and the name of town and polling place. Likewise, each seal shall be examined to see if it is intact, and the presiding officer shall attach to any bag with a defective seal a tag stating that the seal was defective and containing the information which was contained on the defective seal.~~

~~(5) Uncounted containers shall be kept in one part of the room and moved to the other side as they are counted. Each team shall have a separate table and the presiding officer shall have a separate table, all of which tables shall be spaced apart.~~

~~(6) If there is more than one container from a polling place, the presiding officer shall open first the container which is identified as containing the checklist. Upon opening the first container in the presence of the presiding officer observer team, the presiding officer shall empty the contents onto the presiding officer's table. The presiding officer shall ensure that teams are not given unused ballots, early or absentee ballots which arrived after the close of polls, or ballots spoiled by voters and turned in by voters requesting fresh ballots.~~

~~(c) Examination of checklists.~~

~~(1) The checklist from the first bag shall be assigned to a team. The caller and observer, each acting independently, shall examine the checklist and determine how many voters voted at the polling place, repeating the process until they agree on a number or until they agree to disagree on a number.~~

~~(2) Then the checklist shall be examined by the tally person and the double-check person, repeating the process until they agree on a number or they agree to disagree on the number.~~

~~(3) The results obtained from the two subgroups will be compared and if they do not match, the process shall be repeated until there is agreement among all the members of the team or until team members agree to disagree.~~

~~(4) The number finally determined by a majority of team members shall be submitted to the presiding officer in the presence of the presiding officer observer team, together with an indication of the nature and extent of the disagreement. If one or more team members do not agree with the number submitted, the presiding officer shall note on the master list the fact that the number of people appearing as having voted on a specified checklist was subject to dispute. [Repealed.]~~

~~(d) Sorting of ballots.~~

~~(1) Ballots from the first container shall be counted by one team and placed into piles containing 50 ballots each, except where there is a final pile which contains fewer than 50, in which case, the counting team shall affix to the top of the pile a note indicating how many ballots are contained in the pile. All of these ballots then shall be transferred to another team which shall verify that they are in piles of 50 ballots each and that any remaining pile contains the designated number of ballots.~~

~~(2) The teams, except the presiding officer observer team and possibly the team which is processing the checklists, shall proceed to their tables and each team shall get from the presiding officer one pile of ballots, one tally sheet, and one double-check sheet per 50 ballots, unless there are more persons per team who serve as double-check persons, in which case, each such person shall be assigned a double-check sheet. If a team spoils a tally sheet or needs to retally, it must turn in the tally sheet in order to get another one. [Repealed.]~~

~~(e) First tally Ballot review.~~

~~(1) The caller shall call the name of the person voted for and any blank or spoiled ballots. The tally person and the double-check person or persons each shall make a suitable mark for that candidate and any blank or spoiled ballots.~~

~~(2) If the caller and the observer or observers election officials examining a particular ballot do not agree on how a the vote on that ballot should be counted, the entire team all of the board of civil authority members present shall all review the ballot vote, and if all members agree, it the vote shall be counted that way as agreed upon by a majority of those board of civil authority members.~~

~~(3) If one member of the entire team does not agree, that ballot shall be set aside as a questioned ballot and a copy shall be made, which copy shall be clearly marked on its face identifying it as a copy. Such copies shall be placed on the top of the other ballots and shall remain together with the other ballots. Each original ballot deemed questionable shall be attached to a note which identifies it by town, polling place, and bag seal number. The originals of these questionable ballots shall be clipped to the summary sheet for that polling place and returned to the board of civil authority for a final decision by majority vote.~~

~~(4) After the board of civil authority has rendered a final decision on a given questionable ballot, it shall be returned to the town clerk who shall keep it in a sealed container for a period of two years.~~

~~(5)(2) Write-in votes A write-in vote for a preprinted candidates candidate shall be counted as votes a vote for that candidate.~~

~~(6) If the tally persons do not agree on the number of votes for a candidate, the ballots shall be retallied until they do agree. Then the team shall notify the presiding officer that it has completed the first recount.~~

~~(f) Second tally.~~

~~(1) The presiding officer shall attach to the tally and double-check sheets a note which indicates which team members performed which functions in the first recount, and shall provide the team with a new tally sheet and an appropriate number of double-check sheets to match the number of people serving as double-check persons.~~

~~(2) The members of the team then shall switch roles, with callers and observers becoming tally persons and double-check persons, as designated by the presiding officer, and the team shall complete a second recount, following the procedures established for the first recount.~~

~~(3) When the results of the second recount match those of the first, a note shall be attached to the tally and double-check sheets, indicating which persons provided what functions during the second recount.~~

~~(4) Then the team shall take its tally sheets, double-check sheets, and ballots, plus a separate pile of questionable ballots, if any, to the presiding officer.~~

~~(5) Team members, in the presence of the presiding officer observer team, shall read the totals to the presiding officer who, in the view of these observers, shall record the totals on the summary sheet for that polling place.~~

~~(6) After a team has presented its pile of ballots to the presiding officer, it shall be assigned another pile of ballots, until all of the piles from a particular polling place have been recounted two times. [Repealed.]~~

(g) Completing the tally.

~~(1) After the totals for a polling place have been listed, the presiding officer shall add them up in the presence of the presiding officer observer team, and shall compare the number with the number of voters who voted at that polling place, according to the number obtained from the team that examined the certified checklist. If these numbers differ, the presiding officer shall note the amount of the difference on the summary sheets for that polling place.~~

~~(2) The presiding officer shall return all ballots to the container, seal it, record the seal number on the summary sheet, write "recounted" and specify the date of the recount on the tag, and move it to the other side of the room, making sure that there is never more than one bag open at any one time.~~

~~(3) This procedure shall be repeated for each container, until the results from a polling place have been recounted, and then it shall be repeated until the results from all polling places in a town have been recounted.~~

~~(4) The presiding officer shall add the totals on each summary sheet, affix the presiding officer's seal, and send the summary sheets for all polling places together with the master list and any questionable ballots to the board of civil authority. [Repealed.]~~

(h) Other rules for conducting the recount.

(1) The ~~presiding officer~~ town clerk shall preserve order. If a person, after notice, is persistently disorderly and refuses to withdraw from the premises, the ~~presiding officer~~ town clerk may cause the person to be removed from the premises.

(2) The ~~presiding officer~~ town clerk shall designate an area within which the recount shall take place. Persons who are not board of civil authority members or appointed impartial election officers shall be permitted to view a recount in progress, but persons not authorized by the ~~presiding officer~~ town clerk shall not be permitted within the area designated by the ~~presiding officer~~ town clerk.

~~(3) Candidates and their attorneys shall be given the opportunity to present evidence to the board of civil authority relating to the conduct of the~~

~~recount. If the board determines that any violations of recount procedures have occurred and that they may have affected the outcome of the recount, a new recount shall be ordered. After such hearings or arguments as may be indicated under the circumstances, the board, within five working days, shall issue a judgment, which shall supersede any certificate of election previously issued and shall return to the town clerk questionable ballots which had been forwarded to the board.~~

(i) After the recount.

~~(1)(A) If Except as provided in subdivision (B) of this subdivision (1), if the recount results in a tie, the board of civil authority shall order a recessed election to be held, within three weeks of the recount, on a date set by the board. The only candidates who shall appear on the ballot at the recessed election shall be those who tied in the previous election. The recessed election shall be considered a separate election for the purpose of voter registration under chapter 43 of this title a runoff election shall be conducted in accordance with section 2682b of this chapter.~~

~~(B) If the recount confirms a tie, as to any public question, no recessed a new election shall not be held, and the question shall be certified not to have passed.~~

~~(C) Warnings for a recessed election shall be posted as required by this chapter, except that the warnings shall be posted not less than 10 days before the recessed election. The conduct of a recessed election shall be as provided in this chapter for local elections.~~

~~(2) The town clerk shall send a certified copy of the judgment to the Secretary of State.~~

* * * Local Office Vacancies * * *

Sec. 60. 24 V.S.A. § 963 is amended to read:

§ 963. DUTIES OF ~~SELECTPERSONS~~ SELECTBOARD; SPECIAL MEETING

(a) When a vacancy occurs in any town office, the selectpersons selectboard forthwith by appointment in writing shall fill such vacancy until an election is had; except that in the event of vacancies in a majority of the selectboard at the same time, such vacancies shall be filled by a special town meeting called for that purpose.

(b) Such The selectboard shall file an appointment shall be filed by them made under this section in the office of the town clerk and the town clerk shall duly recorded by the town clerk record it in the book of town records.

(c) If there are no selectpersons selectboard members in office, the

Secretary of State shall call a special election to fill any vacancies and for that interim shall appoint and authorize the town clerk or another qualified person to draw orders for payment of continuing obligations and necessary expenses until the vacancies are filled.

* * * Town or Village Reports * * *

Sec. 61. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication. The clerk shall also send to the ~~State Library~~ Vermont State Archives and Records Administration one copy thereof, ~~and one copy each to the Secretary of State, Commissioner of Taxes, State Board of Health, Commissioner for Children and Families, Commissioner of Vermont Health Access, Auditor of Accounts, and Board of Education~~ in a manner prescribed by the State Archivist. Officers making these reports shall supply the clerk of the municipality with the copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

* * * Presidential Elections * * *

Sec. 62. 17 V.S.A. § 2702 is amended to read:

§ 2702. NOMINATING PETITION

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party if petitions signed by at least 1,000 voters in accordance with sections 2353, 2354, and 2358 of this title are filed with the Secretary of State, together with the written consent of the person to the printing of the person's name on the ballot.

(b) Petitions shall be filed not later than 5:00 p.m. on the ~~first Monday after the first Tuesday~~ 15th day of January ~~December~~ preceding the primary election.

(c) The petition shall be in a form prescribed by the Secretary of State.

(d) A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election.

(e) Each petition shall be accompanied by a filing fee of \$2,000.00 to be paid to the Secretary of State. However, if the petition of a candidate is accompanied by the affidavit of the candidate, which shall be available for public inspection, that the candidate and the candidate's campaign committee are without sufficient funds to pay the filing fee, the Secretary of State shall waive all but \$300.00 of the payment of the filing fee by that candidate.

Sec. 63. 17 V.S.A. § 2716 is amended to read:

§ 2716. NOTIFICATION TO SECRETARY OF STATE

Not later than 5:00 p.m. on the ~~55th~~ 65th day before the day of the general election, the chair of the State committee of each major political party shall certify in writing to the Secretary of State the names of the presidential and vice presidential nominees selected at the party's national convention.

* * * Campaign Finance * * *

Sec. 64. 17 V.S.A. § 2904 is amended to read:

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

* * *

(5) Nothing in this subsection is intended to prevent the Attorney General or a State's Attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter.

* * *

Sec. 65. 17 V.S.A. § 2944 is amended to read:

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) As used in this section, a "related campaign expenditure made on the candidate's behalf" means any expenditure intended to promote the election of a specific candidate or group of candidates or the defeat of an opposing candidate or group of candidates, if intentionally facilitated by, solicited by, or approved by the candidate or the candidate's committee.

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on

behalf of those candidates, except that the acquisition, use, or dissemination of the images of those candidates by the political party or political committee shall not be presumed to be a related expenditure made on behalf of those candidates.

(2) An expenditure made by a political party or by a political committee that recruits or endorses candidates that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion, or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf.

(d)(1) As used in this section, an expenditure by a person shall not be considered a "related expenditure made on the candidate's behalf" if all:

(1)(A) All of the following apply:

(A)(i) the expenditure was made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet a candidate;

(B)(ii) the expenditure was made for:

(i)(I) invitations and any postage for those invitations to invite voters to the event; or

(ii)(II) any food or beverages consumed at the event and any related supplies thereof; and

(C)(iii) the cumulative value of any expenditure by the person made under this subsection does not exceed \$500.00 per event.

(2)(B) For the purposes of this subsection subdivision (1):

(A)(i) if the cumulative value of any expenditure by a person made under this subsection exceeds \$500.00 per event, the amount equal to the difference between the two shall be considered a "related expenditure made on the candidate's behalf"; and

(B)(ii) any reimbursement to the person by the candidate for the costs of the expenditure shall be subtracted from the cumulative value of the expenditures.

(2) All of the following apply:

(A) the expenditure is for an electioneering communication that promotes or supports all of the candidates who are named or pictured in it and no other candidates, and those candidates named or pictured:

(i) have filed or been nominated as described in subdivision 2901(1)(B) of this chapter for a legislative, county, or local office;

(ii) are on the same ballot for the same election; and

(iii) each make an expenditure for the electioneering communication of an equal amount in order to share the cost of the electioneering communication equally; and

(B) no other person has made an expenditure for the electioneering communication.

(e)(1) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the Superior Court of the county in which either candidate resides.

(2) Within 24 hours of the filing of a petition, the ~~Court~~ court shall schedule the petition for hearing. Except as to cases the ~~Court~~ court considers of greater importance, proceedings before the Superior Court, as authorized by this section, and appeals from there take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(3) The findings and determination of the ~~Court~~ court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(f) The Secretary of State may adopt rules necessary to administer the provisions of this section.

Sec. 67. 17 V.S.A. § 2973 is amended to read:

§ 2973. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO, TELEVISION, OR INTERNET COMMUNICATIONS

(a) In addition to the identification requirements set forth in section 2972 of this subchapter, a person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication ~~which~~ that is transmitted through radio, television, or online video, in a clearly spoken manner, an audio statement of the name and title of the person who paid for the communication and that the person paid for the communication.

(b) If the person who paid for the communication is not a natural person, the audio statement required by this section shall include the name of that non-natural person and the name and title of the treasurer, in the case of a candidate's committee, political committee or political party, or the principal officer, in the case of the any other non-natural person.

* * * Effective Date * * *

Sec. 68. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to miscellaneous amendments to election law.

(For text see House Journal March 28, 2017)

Amendment to be offered by Rep. Hubert of Milton to H. 512

That the House concur in the Senate Proposal of Amendment with further amendment thereto as follows:

First: In Sec. 1, in 17 V.S.A. chapter 51, subchapter 9, in section 2602j (court hearing and judgment), in subsection (c), following “the marking of any ballot as defective in accordance with section 2547” by inserting “or subsection 2587(d)”

Second: In Sec. 1, in section 2602j (court hearing and judgment), in subsection (f), following “and after it has made a final decision on any questionable votes” by inserting “or defective ballots”

Third: In Sec. 31, 17 V.S.A. § 2543 (return of ballots), by striking out subsection (d) in its entirety and inserting in lieu thereof:

(d)(1) All early voter absentee ballots returned to the clerk before the polls close on election day as follows shall be counted:

(A) by any means, to the town clerk’s office before the close of business on the day preceding the election;

(B) by mail, to the town clerk’s office before the close of the polls on the day of the election; and

(C) by hand delivery to the presiding officer at the voter’s polling place.

(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.

Senate Proposal of Amendment to House Proposal of Amendment

S. 10

An act relating to liability for the contamination of potable water supplies

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By striking out Sec. 9 in its entirety and renumbering the remaining section of the bill to be numerically correct.

(For House Proposal of Amendment see House Journal April 20, 2017)

S. 72

An act relating to requiring telemarketers to provide accurate caller identification information

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By striking out Sec. 2 and the accompanying reader assistance (data brokers) in their entirety and by inserting in lieu thereof a new Sec. 2 and reader assistance to read as follows:

* * * AG Recommendations; Data Brokers; Privacy Rules for Internet Service Providers and Edge Providers * * *

Sec. 2. ATTORNEY GENERAL; CONSUMER PROTECTION; RECOMMENDATIONS; DATA BROKERS; INTERNET SERVICE PROVIDERS AND EDGE PROVIDERS

(a)(1) Data broker findings. The General Assembly finds that:

(A) The data broker industry brings benefits to society by:

(i) providing data necessary for the operation of both the public and private sectors;

(ii) supporting the critical flow of information for interstate and intrastate commerce; and

(iii) aiding in securing and protecting consumer identities.

(B) Despite these benefits, concerns have arisen about the data broker industry, including:

(i) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;

(ii) the use of the data broker industry by those who harass, stalk, and otherwise harm others;

(iii) whether appropriate safeguards are in place to ensure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and

(iv) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.

(2) Data broker recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a

recommendation or draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:

(A) an appropriate definition of the term “data broker”;

(B) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

(C) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and

(D) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

(b)(1) Telecommunications privacy rule recommendation. On or before December 15, 2018, the Attorney General, in consultation with the Commissioner of Public Service, and in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the Senate Committees on Finance and on Economic Development, Housing and General Affairs and the House Committees on Commerce and Economic Development and on Energy and Technology reflecting whether and to what extent the State should adopt privacy and data security rules applicable to telecommunications service providers subject to the jurisdiction of the Public Service Board under 30 V.S.A. § 203(5), including

(A) broadband Internet access service providers; and

(B) to the extent permitted by federal law, “edge providers,” which shall include any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet.

(2) In making the recommendation, the Attorney General shall consider the following:

(A) Whether any proposed rules should be modeled after the Federal Communications Commission’s 2016 Privacy Order, WC Docket No. 16-106, FCC 16-148, adopted October 27, 2016 and released November 2, 2016.

(B) Whether any rules should include:

(i) disclosure requirements pertaining to a provider’s privacy policies;

(ii) opt-in or opt-out procedures for obtaining customer approval

to use and share sensitive or nonsensitive customer proprietary information, respectively; and

(iii) data security and data breach notification requirements.

(C) Proposed courses of action that balance the benefits to society that the telecommunications industry brings with actual and potential harms the industry may pose to consumers.

(D) Such other factors and considerations the Attorney General deems relevant to making recommendations pursuant to this section.

(3) Working group coordination. The Attorney General in consultation with the Commissioner of Public Service, at their discretion, may consult with or otherwise incorporate this review into the working group process established in subsection (a) of this section.

(For House Proposal of Amendment see House Journal April 20, 2017)

NOTICE CALENDAR

Favorable with Amendment

S. 103

An act relating to the regulation of toxic substances and hazardous materials

Rep. Deen of Westminster, for the Committee on Natural Resources; Fish & Wildlife, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Toxics Use Reduction and Reporting * * *

Sec. 1. 10 V.S.A. § 6633 is added to read:

§ 6633. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL
MANAGEMENT

(a) Creation. There is created the Intergovernmental Committee on Chemical Management in the State to:

(1) evaluate chemical inventories in the State on an annual basis;

(2) identify potential risks to human health and the environment from chemical inventories in the State; and

(3) propose measures or mechanisms to address the identified risks from chemical inventories in the State.

(b) Membership. The Intergovernmental Committee on Chemical Management shall be composed of the following nine members:

(1) one member of the House of Representatives, appointed by the Speaker of the House;

(2) one member of the Senate, appointed by the Committee on Committees;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Natural Resources or designee;

(5) the Commissioner of Health or designee;

(6) the Commissioner of Labor or designee;

(7) the Commissioner of Public Safety or designee;

(8) the Secretary of Commerce and Community Development or designee;

(9) the Commissioner of Information and Innovation, or the Commissioner of the successor department, or designee.

(c) Powers and duties. The Intergovernmental Committee on Chemical Management shall:

(1) Convene a citizen advisory panel to provide input and expertise to the Committee. The citizen advisory panel shall consist of persons with expertise in;

(A) toxicology;

(B) environmental law;

(C) manufacturing products;

(D) environmental health;

(E) public health;

(F) risk analysis;

(G) maternal and child health care;

(H) occupational health;

(I) industrial hygiene;

(J) public policy;

(K) chemical management by academic institutions;

(L) retail sales; and

(M) development and administration of information reporting technology or databases.

(2) Monitor actions taken by the U.S. Environmental Protection Agency (EPA) to regulate chemicals under the Toxic Substances Control Act, 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action relevant to the jurisdiction of the agency.

(3) Annually review chemical inventories in the State in relation to emerging scientific evidence in order to identify chemicals of high concern not regulated by the State.

(d) Assistance. The Intergovernmental Committee on Chemical Management shall have the administrative, technical, and legal assistance of the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Department of Health; the Department of Public Safety; the Department of Labor; the Agency of Commerce and Community Development; and the Department of Information and Innovation. The Intergovernmental Committee on Chemical Management shall have the assistance of the Office of Legislative Council for legislative drafting and the assistance of the Joint Fiscal Office for the fiscal and economic analyses.

(e) Report. On or before January 15, and annually thereafter, the Intergovernmental Committee on Chemical Management shall report to the Senate Committees on Natural Resources and Energy; on Health and Welfare; and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife; on Human Services; and on Commerce and Economic Development regarding the actions of the Committee. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report to be made under this section. The report shall include:

(1) an estimate or summary of the known chemical inventories in the State, as determined by metrics or measures established by the Committee;

(2) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State;

(3) recommended legislative or regulatory action to address the risks posed by new or emerging chemicals of high concern; and

(4) recommended legislative or regulatory action to reduce health risks from exposure to chemicals of high concern and reduce risks of harm to the natural environment.

(f) Meetings.

(1) The Secretary of Natural Resources shall be the chair of the Intergovernmental Committee on Chemical Management.

(2) The Secretary of Natural Resources shall call the first meeting of the

Intergovernmental Committee on Chemical Management to occur on or before July 1, 2017.

(3) A majority of the membership of the Intergovernmental Committee on Chemical Management shall constitute a quorum.

(g) Authority of agencies. The establishment of the Intergovernmental Committee on Chemical Management shall not limit the independent authority of a State agency to regulate chemical use or management under existing State or applicable federal law.

Sec. 2. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL MANAGEMENT; REPORT ON TOXIC USE REDUCTION AND REPORTING

On or before February 15, 2018, after consultation with the citizen advisory panel and as part of the first report required under 10 V.S.A. § 6633(e), the Intergovernmental Committee on Chemical Management shall:

(1) Recommend how the State shall establish a centralized or unified electronic reporting system to facilitate compliance by businesses and other entities with chemical reporting and other regulatory requirements in the State. The recommendation shall:

(A) identify a State agency or department to establish and administer the reporting system;

(B) estimate the staff and funding necessary to administer the reporting system;

(C) propose how businesses and the public can access information submitted to or maintained as part of the reporting systems, including whether access to certain information or categories of information should be limited due to statutory requirements, regulatory requirements, trade secret protection, or other considerations;

(D) propose how information maintained as part of the reporting system can be accessed, including whether the information should be searchable by: chemical name, common name, brand name, product model, Global Product Classification (GPC) product brick description, standard industrial classification, chemical facility, geographic area, zip code, or address;

(E) propose how manufacturers of consumer products or subsets of consumer products shall report or notify the State of the presence of designated chemicals of concern in a consumer product and how information reported by manufacturers is made available to the public;

(F) propose a method for displaying information or filtering or refining search results so that information maintained on the reporting system can be accessed or identified in a serviceable or functional manner for all users of the system, including governmental agencies or departments, commercial and industrial businesses reporting to the system, nonprofit associations, and citizens; and

(G) estimate a timeline for establishment of the reporting system.

(2) Recommend statutory amendments and regulatory revisions to existing State recordkeeping and reporting requirements for chemicals, hazardous materials, and hazardous wastes in order to facilitate assessment of risks to human health and the environment posed by the use of chemicals in the State. The recommendations shall include:

(A) the thresholds or amounts of chemicals used, manufactured, or distributed, and hazardous materials and hazardous wastes generated or managed in the State that require recordkeeping and reporting;

(B) the persons or entities using, manufacturing, or distributing chemicals and generating or managing hazardous materials and hazardous wastes that are subject to recordkeeping and reporting requirements; and

(C) any changes required to streamline and modernize existing recordkeeping and reporting requirements to facilitate compliance by businesses and other entities.

(3) Recommend amendments to the requirements for Toxic Use Reduction and Hazardous Waste Reduction under 10 V.S.A. chapter 159, subchapter 2 that shall include:

(A) The list of chemicals or materials subject to the reporting and planning requirements. The list of chemicals or materials shall include and be in addition to the chemicals or substances listed under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986 and 18 V.S.A. § 1773 (chemicals of high concern to children).

(B) The thresholds or amounts of chemicals used or hazardous waste generated by a person that require reporting and planning.

(C) The information to be reported, including:

(i) the quantity of hazardous waste generated and the quantity of hazardous waste managed during a year;

(ii) the quantity of toxic substances, or raw material resulting in hazardous waste, used during a year;

(iii) an assessment of the effect of each hazardous waste reduction

measure and toxics use reduction measure implemented; and

(iv) a description of factors during a year that have affected toxics use, hazardous waste generation, releases into the environment, and on-site and off-site hazardous waste management.

(D) The persons or entities using chemicals or generating hazardous waste that are subject to reporting and planning;

(E) Proposed revisions to the toxic chemical or hazardous waste reduction planning requirements, including conditions or criteria that qualify a person to complete a plan.

(F) Any changes to streamline and modernize the program to improve its effectiveness.

(4) Draft legislation to implement the Committee's recommendations under subdivisions (1), (2), and (3) of this section.

* * * Testing Groundwater * * *

Sec. 3. 10 V.S.A. § 1982 is added to read:

§ 1982. TESTING OF GROUNDWATER SOURCES

(a) Definition. As used in this section, "groundwater source" means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Testing prior to new use. Prior to use of a new groundwater source as a potable water supply, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) Parameters of testing. A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) Submission of test results. Results of the testing required under subsection (b) shall be submitted, on a form provided by the Department of Health, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Secretary.

(e) Rulemaking. The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsections (b) and (c) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to sample the source;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

(f) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title or create a defect in title of a property, provided water test results required under this section are forwarded, prior to the conveyance of the property, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Agency.

Sec. 4. AGENCY OF NATURAL RESOURCES; GROUNDWATER SOURCE TESTING; RULEMAKING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2018.

Sec. 5. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The ~~commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the

certificate; or

(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

* * *

(f) A laboratory certified to conduct testing of groundwater sources or water supplies from for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), including under the requirements of 10 V.S.A. § 1982, shall submit the results of groundwater analyses to the ~~department of health and the agency of natural resources~~ Department of Health in a format required by the ~~department of health~~ Department of Health.

Sec. 6. 10 V.S.A. § 1974 is amended to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

* * *

(8) From the permit required for operation of failed supply under subdivision 1973(a)(4) of this title for the use or operation of a failed supply that consists of only one groundwater source that provides water to only one single family residence.

* * * Chemicals of High Concern to Children * * *

Sec. 7. 18 V.S.A. § 1775(b) is amended to read:

(b) Format for notice. The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the chemical, including: the brand name, the product model, and the universal

product code if the product has such a code;

(3) the amount of the chemical contained in each unit of the product or product component, reported by weight or parts per million as authorized by the Commissioner;

(4) the name and address of the manufacturer of the children's product and the name, address, and telephone number of a contact person for the manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

Sec. 8. 18 V.S.A. § 1776 is amended to read:

§ 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO
CHILDREN; PROHIBITION OF SALE

* * *

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of ~~the weight of credible independent, peer-reviewed, scientific evidence has research, determined~~ determines that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The Commissioner of Health has determined that an authoritative governmental entity or accredited research university has demonstrated that the chemical:

(A) harms the normal development of a fetus or child or causes other developmental toxicity;

(B) causes cancer, genetic damage, or reproductive harm;

(C) disrupts the endocrine system;

(D) damages the nervous system, immune system, or organs or causes other systemic toxicity; or

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air,

drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

* * *

(d) Rule to regulate sale or distribution.

(1) The Commissioner, ~~upon the recommendation of~~ after consultation with the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

(A) children ~~will~~ may be exposed to a chemical of high concern to children in the children's product; ~~and~~

~~(B) there is a probability that, due to the degree of exposure or frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.~~

(2) In determining whether children ~~will~~ may be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

(A) the market presence of the children's product in the State;

(B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;

(C) the household and workplace presence of the children's product; or

(D) the potential ~~and frequency~~ of exposure of children to the chemical of high concern to children in the children's product.

(3) A rule adopted under this section may:

(A) prohibit the children's product containing the chemical of high concern to children from sale, offer for sale, or distribution in the State; or

(B) require that the children's product containing the chemical of high concern to children be labeled prior to sale, offer for sale, or distribution in the State.

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than two years after the adoption of a rule adopted under this section unless the

Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(5) The Chemicals of High Concern to Children Working Group may, at its discretion, submit to the House Committees on Natural Resources, Fish and Wildlife and on Human Services and the Senate Committees on Natural Resources and Energy and on Health and Welfare the recommendations or information from a consultation provided to the Commissioner under subdivision (1) of this subsection.

* * *

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 (Intergovernmental Committee on Chemical Management), 2 (report on toxic use reduction and reporting), and 4 (groundwater testing rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018, except that 10 V.S.A. § 1982(e) in Sec. 3 shall take effect on passage.

(Committee vote: 5-3-1)

(For text see Senate Journal March 30, 2017)

Reps. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources; Fish & Wildlife.

(Committee Vote: 7-2-2)

Rep. Feltus of Lyndon, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Natural Resources; Fish & Wildlife and when further amended as follows:

In Sec.1, 10 V.S.A. § 6633, in subsection (f), by adding subdivision (4) to read as follows:

(4) The Intergovernmental Committee on Chemical Management shall meet no more than four times in a calendar year.

(Committee Vote: 8-3-0)

S. 131

An act relating to State's Attorneys and sheriffs

Rep. Weed of Enosburgh, for the Committee on Government Operations, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Retirement and Benefits * * *

Sec. 1. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(9) "Employee" shall mean:

(A) Any regular officer or employee of the Vermont Historical Society or in a department other than a person included under subdivision (B) of this subdivision (9), who is employed for not less than 40 calendar weeks in a year. "Employee" includes deputy State's Attorneys, victim advocates employed by a State's Attorney pursuant to 13 V.S.A. § 5306, secretaries employed by a State's Attorney pursuant to 32 V.S.A. § 1185, and other positions created within the State's Attorneys' offices that meet the eligibility requirements for membership in the Retirement System.

(B) Any regular officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2001; but, irrespective of the member's classification, shall not include any member of the General Assembly as such, any person who is covered by the Vermont Teachers' Retirement System, any person engaged under retainer or special agreement or C beneficiary employed by the Department of Public Safety for not more than 208 hours per year, or any person whose principal source of income is other than State employment. In all cases of doubt, the Retirement Board shall determine whether any person is an employee as defined in this subchapter. Also included under this subdivision are employees of the Department of Liquor Control who exercise law enforcement powers, employees of the Department of Fish and Wildlife assigned to law enforcement duties, motor vehicle inspectors, full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports, full-time members of the Capitol Police force, investigators employed by the Criminal Division of the Office of the Attorney General, Department of State's Attorneys, Department of Health, or Office of the Secretary of State, who have attained Level III law enforcement officer certification from the Vermont Criminal Justice Training Council, who are required to perform law enforcement duties as the primary function of their employment, and who may be subject to mandatory retirement permissible under 29 U.S.C. § 623(j), who are first included in membership of the system on or after July 1, 2000. Also included under this

subdivision are full-time firefighters employed by the State of Vermont and the Defender General.

* * *

Sec. 2. 3 V.S.A. § 631 is amended to read:

§ 631. GROUP INSURANCE FOR STATE EMPLOYEES; SALARY
DEDUCTIONS FOR INSURANCE, SAVINGS PLANS, AND
CREDIT UNIONS

(a)(1) The Secretary of Administration may contract on behalf of the State with any insurance company or nonprofit association doing business in this State to secure the benefits of franchise or group insurance. Beginning July 1, 1978, the terms of coverage under the policy shall be determined under section 904 of this title, but it may include:

* * *

(2)(A)(i) ~~The As used in this section, the~~ term “employees” ~~as used in this section shall include among others~~ includes any class or classes of elected or appointed officials, ~~but it~~ State’s Attorneys, sheriffs, employees of State’s Attorney’s offices whose compensation is administered through the State of Vermont payroll system, except contractual and temporary employees, and deputy sheriffs paid by the State of Vermont pursuant to 24 V.S.A. § 290(b). ~~The term “employees” shall not include members of the General Assembly as such, nor shall it include any person rendering service on a retainer or fee basis, members of boards or commissions, or persons other than employees of the Vermont Historical Society, the Vermont Film Corporation, the Vermont State Employees’ Credit Union, Vermont State Employees’ Association, and the Vermont Council on the Arts, whose compensation for service is not paid from the State Treasury, nor shall it include~~ or any elected or appointed official unless the official is actively engaged in and devoting substantially full-time to the conduct of the business of his or her public office.

(ii) For purposes of group hospital-surgical-medical expense insurance, the term “employees” shall include employees as defined in subdivision (i) of this subdivision (2)(A) and former employees as defined in this subdivision who are retired and are receiving a retirement allowance from the Vermont State Retirement System or the State Teachers’ Retirement System of Vermont and, for the purposes of group life insurance only, are retired on or after July 1, 1961, and have completed 20 creditable years of service with the State before their retirement dates and are insured for group life insurance on their retirement dates.

(iii) For purposes of group hospital-surgical-medical expense

insurance only, the term “employees” shall include employees as defined in subdivision (i) of this subdivision (2)(A) and employees who are receiving a retirement allowance based upon their employment with the Vermont State Employees’ Association, the Vermont State Employees’ Credit Union, the Vermont Council on the Arts, as long as they are covered as active employees on their retirement date, and:

(i)(I) they have at least 20 years of service with that employer; or

(ii)(II) have attained 62 years of age, and have at least 15 years of service with that employer.

* * *

* * * Collective Bargaining * * *

Sec. 3. 3 V.S.A. § 902 is amended to read:

§ 902. DEFINITIONS

As used in this chapter:

* * *

(2) “Collective bargaining,” or “bargaining collectively” means the process of negotiating terms, tenure, or conditions of employment between the State of Vermont, the Vermont State Colleges, ~~or the University of Vermont,~~ or the Department of State’s Attorneys and Sheriffs and representatives of employees with the intent to arrive at an agreement ~~which~~ that, when reached, shall be reduced to writing.

* * *

(5) “State employee” means any individual employed on a permanent or limited status basis by the State of Vermont, the Vermont State Colleges, ~~or the University of Vermont,~~ or the State’s Attorneys’ offices, including permanent part-time employees, and an individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, but excluding an individual:

(A) exempt or excluded from the State classified service under the provisions of section 311 of this title, except that the State Police in the Department of Public Safety, ~~and;~~ employees of the Defender General, excluding attorneys employed directly by the Defender General and attorneys contracted to provide legal services; deputy State’s Attorneys; and employees of State’s Attorneys’ offices are included within the meaning of “State employee”;

* * *

(7) "Employer" means the State of Vermont, excluding the Legislative and Judiciary Departments, represented by the Governor or ~~the Governor's~~ designee, the Office of the Defender General represented by the Defender General or ~~the Defender General's~~ designee, and Vermont State Colleges, represented by the Chancellor or ~~the Chancellor's~~ designee, and the University of Vermont, represented by the President or ~~the President's~~ designee. With respect to employees of State's Attorneys' offices, "employer" means the Department of State's Attorneys and Sheriffs represented by the Executive Director or designee.

* * *

(10) "Person," includes one or more individuals, the State of Vermont, Vermont State Colleges, University of Vermont, Department of State's Attorneys and Sheriffs, employee organizations, labor organizations, partnerships, corporations, legal representatives, trustees, or any other natural or legal entity whatsoever.

* * *

Sec. 4. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters ~~which that~~ are prescribed or controlled by statute. ~~Such~~ The matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include:

- (1) wages, salaries, benefits, and reimbursement practices relating to necessary expenses and the limits of reimbursable expenses;
- (2) minimum hours per week;
- (3) working conditions;
- (4) overtime compensation and related matters;
- (5) leave compensation and related matters;
- (6) reduction-in-force procedures;
- (7) grievance procedures, including whether an appeal to the Vermont Labor Relations Board or binding arbitration, or both, will constitute the final step in a grievance procedure;
- (8) terms of coverage and amount of employee financial participation in insurance programs, except that the Department of State's Attorneys and Sheriffs and the deputy State's Attorneys and other employees of the State's

Attorneys' offices shall not bargain in relation to terms of coverage;

(9) ~~rules and regulations~~ for personnel administration, except the following: ~~rules and regulations~~ relating to persons exempt from the classified service under section 311 of this title and ~~rules and regulations~~ relating to applicants for employment in State service and employees in an initial probationary status, including any extension or extensions thereof, provided such the rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex, or national origin, sexual orientation, gender identity, ancestry, place of birth, age, or physical or mental condition; and

(10) the manner in which to enforce an employee's obligation to pay the collective bargaining service fee.

(b) This chapter shall not be construed to be in derogation of, or contravene the spirit and intent of the merit system principles and the personnel laws.

Sec. 5. 3 V.S.A. § 905 is amended to read:

§ 905. MANAGEMENT RIGHTS

(a) ~~The Governor, or a person or persons designated by the Governor, designee for the State of Vermont, and the provost, Chancellor or a person or persons designated by the provost~~ designee for Vermont State Colleges and, the President, or a person or persons designated by the President designee for the University of Vermont, and the Executive Director or designee for the Department of State's Attorneys and Sheriffs shall act as the employer representatives in collective bargaining negotiations and administration. The representative shall be responsible for ~~insuring~~ ensuring consistency in the terms and conditions in various agreements throughout the State service, ~~insuring~~ and ensuring compatibility with merit system statutes and principles, and shall not agree to any terms or conditions for which there are not adequate funds available.

* * *

Sec. 6. 3 V.S.A. § 906 is added to read:

§ 906. DESIGNATION OF MANAGERIAL, SUPERVISORY, AND CONFIDENTIAL EMPLOYEES

(a) The Commissioner of Human Resources shall determine those positions in the classified service whose incumbents the Commissioner believes should be designated as managerial, supervisory, or confidential employees. Any disputes arising ~~therefrom~~ from the determination shall be finally resolved by the Board.

(b) The Executive Director of the Department of State's Attorneys and Sheriffs may determine positions in the State's Attorneys' offices whose incumbents the Executive Director believes should be designated as managerial, supervisory, or confidential employees. Any disputes arising from the determination shall be finally resolved by the Board.

Sec. 7. 3 V.S.A. § 908 is added to read:

§ 908. DESIGNATION OF STATE'S ATTORNEYS' EMPLOYEES;
STATEWIDE BARGAINING RIGHTS

Employees of the State's Attorney's offices shall be part of one or more statewide bargaining units, as determined to be appropriate by the Board pursuant to sections 927 and 941 of this title, for the purpose of bargaining collectively pursuant to this chapter.

Sec. 8. 3 V.S.A. § 925 is amended to read:

§ 925. MEDIATION; FACT FINDING

* * *

(k) In the case of the State of Vermont or the Department of State's Attorneys and Sheriffs, the decision of the Board shall be final, and the terms of the chosen agreement shall be binding on each party, subject to appropriations in accordance with subsection 982(d) of this title. In the case of the University of Vermont or the Vermont State Colleges, the decision of the Board shall be final and binding on each party.

* * *

Sec. 9. 3 V.S.A. § 982 is amended to read:

§ 982. AGREEMENTS; LIMITATIONS, RENEGOTIATION, AND
RENEWAL

* * *

(c)(1) Except in the case of the Vermont State Colleges or the University of Vermont, agreements between the State and certified bargaining units ~~which~~ that are not arrived at under the provisions of subsection 925(i) of this title shall, after ratification by the appropriate unit memberships, be submitted to the Governor who shall request sufficient funds from the General Assembly to implement the agreement. If the General Assembly appropriates sufficient funds, the agreement shall become effective at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective at the

beginning of the next fiscal year.

(2)(A) Agreements between the Department of State's Attorneys and Sheriffs and the certified bargaining units that are not arrived at under the provisions of subsection 925(i) of this title shall, after ratification by the appropriate unit memberships, be submitted to the Governor and the General Assembly.

(B) The Executive Director of the Department of State's Attorneys and Sheriffs shall request sufficient funds from the General Assembly to implement the agreement. If the General Assembly appropriates sufficient funds, the agreement shall become effective at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective at the beginning of the next fiscal year.

* * *

(g) In the event the State of Vermont, the Department of State's Attorneys and Sheriffs, the University of Vermont, and the Vermont State Colleges as employer and the collective bargaining unit are unable to arrive at an agreement and there is not an existing agreement in effect, the existing contract shall remain in force until a new contract is ratified by the parties. However, nothing in this subsection shall prohibit the parties from agreeing to a modification of certain provisions of the existing contract which, as amended, shall remain in effect until a new contract is ratified by the parties.

* * *

Sec. 10. 13 V.S.A. § 5306 is amended to read:

§ 5306. VICTIM ADVOCATES

In order to carry out the provisions of the victims assistance program, ~~state's attorneys~~ State's Attorneys are authorized to hire victim advocates who shall serve at their pleasure unless otherwise modified by a collective bargaining agreement entered into pursuant to 3 V.S.A. chapter 27. Nothing in this section shall be construed to limit the subjects for bargaining pursuant to 3 V.S.A. § 904.

Sec. 11. 32 V.S.A. § 1185 is amended to read:

§ 1185. OFFICE EXPENSES

* * *

(b)(1) Secretaries shall be hired by and shall serve at the pleasure of the

State's Attorney unless otherwise modified by a collective bargaining agreement entered into pursuant to 3 V.S.A. chapter 27. Secretaries shall be State employees paid by the State, and shall receive those benefits available to other classified State employees who are similarly situated but they shall not be subject to the rules provided for under 3 V.S.A. chapter 13. The compensation of each Secretary shall be determined by the Commissioner of Human Resources with the approval of the Governor unless otherwise determined through collective bargaining pursuant to 3 V.S.A. chapter 27. In fixing compensation, there shall be taken into consideration, among other things, the volume of work requiring the services of the Secretary and whether the services are on a full- or part-time basis.

(2) Nothing in this subsection shall be construed to limit the subjects for bargaining pursuant to 3 V.S.A. § 904.

Sec. 12. 24 V.S.A. § 363 is amended to read:

§ 363. DEPUTY STATE'S ATTORNEYS

(a) A State's Attorney may appoint as many deputy State's Attorneys as necessary for the proper and efficient performance of his or her office, ~~and with the approval of the Governor, fix their pay not to exceed that of the State's Attorney making the appointment,~~ and may remove them at pleasure.

(b) The pay for deputy State's Attorneys shall be fixed by the Executive Director of the Department of State's Attorneys and Sheriffs or through collective bargaining pursuant to 3 V.S.A. chapter 27, but it shall not exceed the pay of the State's Attorney making the appointment. Deputy State's Attorneys shall be compensated only for periods of actual performance of the duties of ~~such~~ the office. Deputy State's Attorneys shall be reimbursed for their necessary expenses incurred in connection with their official duties when approved by the State's Attorneys and the Commissioner of Finance and Management.

(c) Deputy State's Attorneys shall exercise all the powers and duties of the State's Attorneys except the power to designate someone to act in the event of their own disqualification.

(d) Deputy State's Attorneys may not enter upon the duties of the office until they have taken the oath or affirmation of allegiance to the State and the oath of office required by the Constitution, and until ~~such~~ the oath together with their appointment is filed for record with the county clerk. If appointed and under oath, a deputy State's Attorney may prosecute cases in another county if the State's Attorney in the other county files the deputy's appointment in the other county clerk's office. In case of a vacancy in the office of State's Attorney, the appointment of the deputy shall expire upon the

appointment of a new State's Attorney.

Sec. 13. 24 V.S.A. § 367 is amended to read:

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

* * *

(c)(1) The Executive Director shall prepare and submit all budgetary and financial materials and forms which are required of the head of a department of State government with respect to all State funds appropriated for all of the Vermont State's Attorneys and sheriffs. At the beginning of each fiscal year, the Executive Director, with the approval of the Executive Committee, shall establish allocations for each of the State's Attorneys' offices from the State's Attorneys' appropriation. Thereafter, the Executive Director shall exercise budgetary control over these allocations and the general appropriation for State's Attorneys. The Executive Director shall monitor the sheriff's transport budget and report to the sheriffs on a monthly basis the status of the budget. He or she shall provide centralized support services for the State's Attorneys and sheriffs with respect to budgetary planning, training, and office management, and perform such other duties as the Executive Committee directs. The Executive Director may employ clerical staff as needed to carry out the functions of the Department.

(2) The Executive Director shall prepare and submit a funding request to the Governor and the General Assembly for the purpose of securing General Fund appropriations for any increased costs related to a collective bargaining agreement and to the Department's contract bargaining and administration.

* * *

Sec. 14. ADJUSTMENT FOR INITIAL CONTRACT

For increased costs related to the initial collective bargaining agreement that the Department of State's Attorneys and Sheriffs enters into pursuant to this act, including the costs of bargaining, implementation, and contract administration, the Department may prepare and submit a funding request to the General Assembly during the budget adjustment process if the timing of the implementation of the agreement does not permit the Department to secure sufficient funding during the regular budgetary process.

Sec. 15. EXISTING BARGAINING UNITS; DECERTIFICATION

On the effective date of this act, the existing bargaining units and the related certifications of an exclusive bargaining representative for the deputy State's Attorneys, victim advocates, and secretaries employed by the Chittenden County State's Attorney and Franklin County State's Attorney shall be dissolved and the members of those bargaining units shall be eligible to

organize and bargain collectively under the provisions of the State Employees Labor Relations Act, 3 V.S.A. chapter 27.

* * * Effective Date * * *

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-3-1)

(For text see Senate Journal March 30, 2017)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations.

(Committee Vote: 6-5-0)

S. 135

An act relating to promoting economic development

Rep. Botzow of Pownal, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Employment Growth Incentive Program * * *

Sec. A.1. 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. A.2. 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 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.~~

* * *

* * * Rural Economic Development Infrastructure Districts; H.459 * * *

Sec. B.1. 24 V.S.A. chapter 138 is added to read:

CHAPTER 138. RURAL ECONOMIC DEVELOPMENT
INFRASTRUCTURE DISTRICTS

§ 5701. PURPOSE

The purpose of this chapter is to enable formation of special municipal districts to finance, own, and maintain infrastructure that provides economic development opportunities in rural and underresourced areas of the State,

including areas within one or more municipalities. Specifically, this chapter provides mechanisms for public and private partnerships, including opportunities for tax-incentivized financing and voluntary citizen engagement, to help overcome density and economic hardship.

§ 5702. ESTABLISHMENT; GENERAL PROVISIONS

(a) Establishment. Upon written application by 20 or more voters within a proposed district or upon its own motion, the legislative body of a municipality may establish a rural economic development infrastructure district. The application shall describe the infrastructure to be built or acquired; the plan for financing its acquisition; the anticipated economic benefit; the source of revenues for loan, bond, or lease payments; and plans for retention and disbursement of excess revenues, if any. The application also shall clearly state that the proposed district shall not have authority to levy taxes upon the grand list and may not levy service charges or fees upon any underlying municipality except for services used by such municipality, its own officers, and employees in the operation of municipal functions. Notice of establishment of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of establishment by the legislative body. Following 40 days from the later of the date of establishment by the legislative body of the municipality or an affirmative vote under subdivision (d)(1) or (2) of this section, the district shall be deemed to be a body politic and corporate, capable of exercising those powers and prerogatives explicitly granted by the legislative body of the municipality in accordance with this chapter and the district's establishment application.

(b) Districts involving more than one municipality. Where the limits of a proposed district include two or more municipalities, or portions of two or more municipalities, the application required by this section shall be made to and considered by the legislative body of each such municipality.

(c) Alteration of district limits. The legislative body of a municipality in which a district is located may alter the limits of a district upon application to the governing board of the district, provided the governing board gives prior written consent. A district expansion need not involve contiguous property. Notice of an alteration of the limits of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of the legislative body's decision to alter the limits of a district.

(d)(1) Contestability. If a petition signed by five percent of the voters of

the municipality objecting to the proposed establishment or alteration of limits of a district is presented to the municipal clerk within 30 days of the date of posting and publication of the notice required by subsection (a) or (c) of this section, as applicable, the legislative body of the municipality shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at a meeting called for that purpose. The district shall be established in accordance with the application or the limits altered unless a majority of the voters of the municipality present and voting votes to disapprove such establishment or alteration of limits.

(2) If a petition signed by five percent of the voters of the municipality objecting to a legislative body's decision denying the establishment or the alteration of limits of a district is presented to the municipal clerk within 30 days of the legislative body's decision, the legislative body shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at an annual or special meeting called for that purpose.

(e) Recording. A record of the establishment of a district and any alteration of district limits made by a legislative body shall be filed with the clerk of each municipality in which the district is located, and shall be recorded with the Secretary of State.

§ 5703. LIMITATIONS; TAXES; INDEBTEDNESS; EMINENT DOMAIN

Notwithstanding any grant of authority in this chapter to the contrary:

(1) A district shall not accept funds generated by the taxing or assessment power of any municipality in which it is located.

(2) A district shall not have the power to levy, assess, apportion, or collect any tax upon property within the district, nor upon any of its underlying municipalities, without specific authorization of the General Assembly.

(3) All obligations of the district, including financing leases, shall be secured by and payable only out of the assets of or revenues or monies in the district, including revenue generated by an enterprise owned or operated by the district.

(4) A district shall not have powers of eminent domain.

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except as otherwise specifically provided in this chapter.

(b) Composition. The first governing board of the district shall consist of four to eight members appointed in equal numbers by the legislative bodies of the underlying municipalities. It shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing members to the permanent governing board. The bylaws shall require that a majority of the board shall be appointed annually by the legislative bodies of the underlying municipalities. Board members shall serve staggered, three-year terms, and shall be eligible to serve successive terms. The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will. Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days from the date of submission, provided none of the legislative bodies disapprove of the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same manner on application in writing by five percent of the voters of the district. A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

§ 5705. OFFICERS

(a) Generally. The district shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

§ 5706. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent

professional accounting firm. The results of the audit shall be provided to the governing board and to the legislative bodies of the municipalities in which the district is located.

§ 5707. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members. Membership on other committees established by the board is not restricted to board members.

§ 5708. DISTRICT POWERS

A district created under this chapter has the power to:

(1) exercise independently and in concert with other municipalities any other powers which are necessary or desirable for the installation, ownership, operation, maintenance, and disposition of infrastructure promoting economic development in rural areas and matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(2) enter into municipal financing agreements as provided by sections 1789 and 1821-1828 of this title, or other provisions authorizing the pledge of district assets or net revenue, or alternative means of financing capital improvements and operations;

(3) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(4) enter into contracts for any term or duration;

(5) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of an enterprise which a municipal corporation is authorized by law to undertake;

(6) hire employees and fix the compensation and terms of employment;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof, provided that no assumed liability shall be a general obligation of a municipality in which the district is located;

(8) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(9) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(10) promote cooperative arrangements and coordinated action among

its members and other public and private entities;

(11) make recommendations for review and action to its members and other public agencies that perform functions within the region in which its members are located;

(12) sue and be sued; provided, however, that the property and assets of the district, other than such property as may be pledged as security for a district obligation, shall be subject to levy, execution, or attachment;

(13) appropriate and expend monies; provided, however, that no appropriation shall be funded or made in reliance upon any taxing authority of the district;

(14) establish sinking and reserve funds for retiring and securing its obligations;

(15) establish capital reserve funds and make deposits in them;

(16) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(17) enter into an interstate compact consistent with the purposes of this chapter, subject to the approval of the Vermont General Assembly and the United States Congress;

(18) develop a public sewer or water project, provided the legislative body and the planning commission for the municipality in which the sewer or water project is proposed to be located confirm in writing that such project conforms with any duly adopted municipal plan, and the regional planning commission confirms in writing that such project conforms with the duly adopted regional plan;

(19) exercise all powers incident to a public corporation, but only to the extent permitted in this chapter;

(20) adopt a name under which it shall be known and shall conduct business; and

(21) make, establish, alter, amend, or repeal ordinances, regulations, and bylaws relating to matters contained in this chapter and not inconsistent with law.

§ 5709. DISSOLUTION

(a) If the board by resolution approved by a two-thirds vote determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of district assets or revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or

obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of dissolution be submitted to the voters of the district at a special meeting thereof duly warned for such purpose. If a majority of the voters of the district present and voting at such special meeting shall vote to dissolve the district and approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up of them. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and to the Secretary of State and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(b) The plan of dissolution shall:

(1) identify and value all unencumbered assets;

(2) identify and value all encumbered assets;

(3) identify all creditors and the nature or amount of all liabilities and obligations;

(4) identify all obligations under long-term contracts and contracts subject to annual appropriation;

(5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction of them;

(6) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

* * * Public Retirement * * *

Sec. C.1. 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 with 50 employees or fewer and who does not offer a retirement plan to his or her employees, to be appointed by the Committee on Committees; and

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

(C) that shall, on or before January 15, 2020, and every year thereafter, report to the House and Senate Committees on Government Operations concerning the Green Mountain Secure Retirement Plan, including:

(i) the number of employers and self-employed individuals participating in the plan;

(ii) the total number of individuals participating in the plan;

(iii) the number of employers and self-employed individuals who

are eligible to participate in the plan but who do not participate;

(iv) the number of employers and self-employed individuals, and the number of employees of participating employers. who have ended their participation during the preceding twelve months;

(v) the total amount of funds contributed to the Plan during the preceding twelve months;

(vi) the total amount of funds withdrawn from the Plan during the preceding twelve months;

(vii) the total funds or assets under management by the Plan;

(viii) the average return during the preceding twelve months;

(ix) the costs of administering the Plan;

(x) the Board's assessment concerning whether the Plan is sustainable and viable;

(xi) once the marketplace is established:

(I) the number of individuals participating;

(II) the number and nature of plans offered; and

(III) the Board's process and criteria for vetting plans; and

(xii) any other information the Board considers relevant, or that the Committee requests.

(D) for attendance at meetings, members of the Board who are not employees of the State of Vermont, and who are not otherwise compensated by their employer or other organization, shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

(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. F.1 of 2016 Acts and Resolves, No. 157.

Sec. C.2. 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 Sec. C.1 of S.135 (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. C.1 of S.135 (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 private sector 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) 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~~

~~(iv) 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. D.1. 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. D.2. 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 Technical Education * * *

Sec. E.1. 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~~ nonduplication 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 when available;

(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. E.2. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT
PROGRAMS

(a) Creation. There is created a the 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~~ Development 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, in collaboration with the Agency of Education when applicable, shall grant awards from the Fund to employers and entities, including private, public, and nonprofit entities, institutions of higher education, high schools, K–12 school districts, supervisory unions, 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. In collaboration with the Agency of Education, funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

Sec. E.3. 3. V.S.A. § 2703 is added to read:

§ 2703. CAREER PATHWAYS COORDINATOR

(a) The Secretary of Administration shall have the authority to create the position of Career Pathways Coordinator within the Agency of Education.

(b) The Career Pathways Coordinator shall work under the direction of the State Director for Career Technical Education, and his or her duties shall include the following:

(1) serve as the inter-agency point person for the development of a State-approved Career Pathways System;

(2) convene stakeholders across the Department of Labor, the Agency of Commerce and Community Development, Agency of Education, Agency of Human Services, the Statewide Workforce Development Board, Career Technical Education, employers, postsecondary partners and related entities in order to create a series Career Pathways;

(3) curriculum development, stakeholder engagement, process documentation, and identification of key performance indicators, outcomes collection and reporting;

(4) engage statewide education, employer, and workforce organizations to co-develop statewide career pathways models and exemplars;

(5) identify target populations and entry points;

(6) review and develop competency models, required skill sets, and appropriate credentials at each step of a career pathway, in partnership with business and industry representatives;

(7) coordinate employer validation of competencies and pathways;

(8) develop targeted career ladders and lattices, including stackable skills and industry-recognized credentials;

(9) work with CTE Directors to design and endorse elements of Career Pathways;

(10) use labor market information and other relevant data to identify critical Career Pathways for the State; and

(11) advise the Career Technical Education Director on the funding, governance, and access to career technical education in Vermont.

* * * Heating Fuel and Service Workforce Training Pilot Project * * *

Sec. E.4. HEATING FUEL AND SERVICE WORKFORCE TRAINING PILOT PROJECT

(a) Findings and purpose.

(1) Vermont's heating fuel and heating service companies provide high-skill, high-demand jobs, many of which do not require a college degree but pay over \$20 per hour and include benefits.

(2) Vermont's heating fuel and heating service companies have a significant need for new employees. More than two-thirds of these companies report that there is a lack of qualified applicants for heating technician jobs, and more than half report a lack of qualified drivers.

(3) The purpose of this section is to create a partnership between the State and the industry to identify prospective employees, provide them with training and skills necessary for currently available jobs, and provide employers with a skilled workforce.

(b) The Department of Labor, in collaboration with the regional Career Technical Education and Training Centers and the Vermont Fuel Dealers Association, shall establish a Heating Fuel and Service Workforce Training Pilot Project, consistent with the following:

(1) The Department, CTE Centers, Adult Technical Education Providers, and the Association shall:

(A) advertise the availability of workforce training in the field of heating fuel and service;

(B) organize informational sessions, meetings, and other group and individual opportunities for prospective trainees and interested heating and fuel service companies to connect; and

(C) coordinate matches between trainees and employers.

(2) In the event of a successful match, the Department shall facilitate the

negotiation and execution of training and employment agreements, pursuant to which:

(A) a prospective trainee agrees to pursue specified training, education, or certification necessary to meet the employer's workforce need;

(B) the Department agrees to provide educational and administrative support to the trainee and 50 percent of the cost of training; and

(C) the employer agrees to provide 50 percent of the cost of training and to employ the trainee upon the successful completion of training, passage of an examination, attainment of a required certification, or a combination of these.

(3) The Association, in collaboration with the CTE Centers and subject to approval by the Department, shall provide education and training that meet the needs of trainees and employers.

(c) The Department shall have the authority to use available private, State, and federal funding to implement the provisions of this section.

(d) On or before January 15, 2018, the Department shall submit a report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development addressing the implementation of this section, the profile of trainees and employers that participated, and any recommendations for further action.

* * * CTE Dual Enrollment; H.391 * * *

Sec. E.5. CTE DUAL ENROLLMENT MEMORANDA OF UNDERSTANDING

(a) Intent. The intent of this act is to expand the recognition of academic and technical course work completed by students in CTE programs by the University of Vermont and the Vermont State Colleges.

(b) Dual enrollment.

(1) Pursuant to 16 V.S.A. § 944(e), the Agency of Education shall assist the University of Vermont and the Vermont State Colleges in developing memoranda of understanding with each regional CTE center and each comprehensive high school, as defined in 16 V.S.A. § 1522, to facilitate dual enrollment under section 944.

(2) The University of Vermont and the Vermont State Colleges shall enter into memoranda of understanding, as developed with the Agency, with each regional CTE center.

(3) On or before January 15, 2018, the Secretary of Education shall provide a progress report on the status of the memoranda of understanding to

the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. F.1. BENEFIT CLIFF; REPORT

(a) The Commissioner for Children and Families, in consultation with the Joint Fiscal Office, shall evaluate the State's public benefit structure and recommend methods for mitigating or eliminating the benefit cliffs experienced by working Vermonters receiving public assistance.

(b) On or before January 15, 2018, the Commissioner shall submit a report with the results of this evaluation to the House Committees on Human Services, on Commerce and Economic Development, and on Ways and Means and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Health and Welfare.

(c) The Commissioner may seek the assistance of the Office of Legislative Council in drafting a recommended legislative proposal arising out of the analysis conducted pursuant to this section.

* * * Financial Technology * * *

Sec. G.1. 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 the State as they may determine will be helpful to their considerations.

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

Sec. H.1. 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. H.2. 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. H.3. 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;₂

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000;₂

(ee) 25 or more, in a municipality with a population of less than 3,000;₂ and₂

(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)(I) The construction of a priority housing project in a municipality with a population of 10,000 or more.

(II) If the construction of a priority housing project in this subdivision (3)(D)(viii) 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~~ that 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~~ that 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. H.4. 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. H.5. 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 new permit amendment to change the conditions of an existing permit or existing 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 existing permit or existing permit amendment, which contains the condition or conditions proposed to be changed, or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party obtained 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 in the existing permit or permit amendment 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 to be made under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

Sec. H.6. 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. H.7. 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 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. H.8. 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. H.9. 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. H.10. 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.

* * * Repeal of Sunset on Sales and Use Tax Exemption;

Airplanes and Airplane Parts * * *

Sec. I.1. REPEALS

The following are repealed:

(1) 2007 Acts and Resolve No. 81, Secs. 7a (amendment to sales tax exemption for aircraft parts) and 7b (effective date).

(2) 2008 Acts and Resolve No. 190, Sec. 43 (effective date).

* * * Tax Increment Financing Districts * * *

Sec. J. TAX INCREMENT FINANCING; FINDINGS

The General Assembly finds that the State of Vermont has an important role to play in creating the infrastructure necessary to support downtown development and revitalization, particularly in distressed communities.

Sec. J.1. 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. J.2. 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.

(5) Prior to January 1, 2019, the Council shall not accept or approve an application for a district within a county that has five or more approved districts.

* * *

(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 not more than 80 percent 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 not more than 80 percent of 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~~ high-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.

* * *

Sec. J.3. IMPLEMENTATION

Secs. J.1 and J.2 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

* * * Climate Economy Accelerator; H.398 * * *

Sec. K.1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) Vermont needs to attract and support entrepreneurs, youths, and investors to reinvigorate its economy, today and for the future.

(2) Vermont has a tremendous opportunity to systematically advance economic activity that addresses the challenge of climate change by reducing and mitigating carbon impacts, while spurring innovation and creativity, encouraging entrepreneurship, attracting youths, and building jobs for the future.

(3) Vermont's unique environmental image, strong brand recognition nationally, quality of life, and history of entrepreneurship and invention provides an opportunity to position the State as a premier place to establish new businesses whose mission, products, and services can help society and our economy mitigate the effects of climate change.

(4) The goal of quality job creation as part of the State's economic development policy is dependent on providing support for the start-up and expansion of small businesses sectors of our economy.

(5) The Vermont Sustainable Jobs Fund, the Vermont Council on Rural Development, and a working group of business, finance, and economic development leaders, are developing the Climate Economy Business Accelerator Program to grow entrepreneurial opportunities and provide a network for businesses to promote their solutions, products, and services that can lead to collaboration and innovation.

(6) The Accelerator Program aims to accelerate the creation and growth of entrepreneurs that commercialize business solutions to address the negative

impacts of climate change and position our State as the place to come and build businesses that export solutions for a changing climate worldwide.

(7) Nationally, business accelerators have led to the growth of start-up companies, job creation, and enhanced entrepreneurial activity in a region. Most accelerators are located in major cities and throughout Canada. There are over 150 business accelerators in the United States at this time.

(8) Neither Vermont, nor other New England States, have an accelerator program to support start-up businesses and serve the needs of both rural and urban businesses.

(9) In early 2017 a climate change-related accelerator will launch in Philadelphia with a focus on technology development related to agriculture and water.

(10) The Vermont Sustainable Jobs Fund program (VSJF) was created in 1995 to accelerate the development of Vermont's green economy. Per its enabling statute, VSJF focuses its development efforts on particular economic sectors by supporting the business assistance and financing needs of businesses in these sectors.

(11) To date, VSJF has concentrated on working with early-stage and growth-stage businesses in the green economy, primarily due to a lack of sufficient funding support to work with start-up businesses. Additional funding for VSJF's Accelerator Program will enable it to fulfill its statutory mission.

(12) A State investment of seed funding would leverage additional private and philanthropic investment to carry out this work and boost economic development, innovation, and job creation.

(b) Purpose. The purpose of Sec. K.2 of this act is to create a statutory framework to authorize the creation of the Climate Economy Business Accelerator Program capable of attracting and retaining young entrepreneurs in the State and to position Vermont as a national leader in climate economy innovation.

Sec. K.2. 10 V.S.A. § 331 is added to read:

§ 331. CLIMATE ECONOMY BUSINESS ACCELERATOR PROGRAM

(a) Definition. In this section "climate economy" means the work performed by businesses whose products and services are designed to reduce, mitigate, or prepare for the negative impacts of climate change on human systems, including:

(1) clean energy development and distribution;

(2) thermal and electrical efficiencies in buildings and building construction;

(3) evolving public and private transportation systems;

(4) energy and efficiency innovations in the working lands economy;

(5) recycling, reuse, and renewal of resources; and

(6) resilience technologies, such as soil-sensing devices.

(b) Program implementation. The Vermont Sustainable Jobs Fund shall have the authority to design and implement a Climate Economy Business Accelerator Program as follows:

(1) Assemble a team of experienced program partners, mentors, investors, and business content providers to design and deliver a high quality experience to Accelerator Program cohort participants.

(2) Recruit and select a cohort of at least 10 start-up and early-stage businesses to participate together in a three-to-four-month intensive program of training, mentoring, and investment opportunities.

(3) Assist cohort members in clarifying the market for their products, evaluating the needs of their management teams, defining their business models, articulating their unique values, and securing needed investment capital.

(4) Develop an evaluation and metrics capture process compatible with Results-Based Accountability and begin tracking results.

(5) Develop a network of climate economy related businesses to work alongside the Accelerator Program in order to connect cohort members with the business community to spark business-to-business collaboration, stimulate additional job growth in the climate economy sector, and provide ongoing support as their businesses mature.

(6) Raise additional program funding as needed from sponsors, partners, private foundations, and federal agencies to leverage State general funds.

(c) Outcomes. The outcomes of the Program shall include:

(1) Increase the success rate of start-up businesses in the climate economy sector in Vermont.

(2) Create jobs in the climate economy sector.

(3) Attract and retain young entrepreneurs who develop climate economy businesses in Vermont to serve local, national, and global markets.

(4) Attract equity and venture capital to emerging climate economy start-up businesses in Vermont.

Sec. L.1. MICROBUSINESS DEVELOPMENT PROGRAM; FINDINGS;
APPROPRIATION

(a) Findings. The General Assembly finds:

(1) Since 1989, the Microbusiness Development Program has provided free business technical assistance, including training and counseling, as well as access to capital to Vermonters with low income.

(2) The Vermont Community Action Agencies work in conjunction with many partners, including other service providers, State agencies, business technical assistance providers, and both traditional and alternative lenders.

(3) Each year the Program:

(A) enables the creation or expansion of an average of 145 businesses across Vermont;

(B) supports the creation of 84 new jobs; and

(C) provides access to more than \$1,100,000.00 in capital.

(4) The average cost per job created through the Program is less than \$3,600.00.

(b) Intent. It is the intent of the General Assembly to provide additional funding, subject to available resources, for the regional Microbusiness Development Programs pursuant to 3 V.S.A. § 3722.

Sec. L.2. FINANCIAL EDUCATION, COACHING, AND

CREDIT-BUILDING SERVICES; FINDINGS; APPROPRIATION

(a) Findings. The General Assembly finds:

(1) To overcome barriers to financial security, “Financial Capability” education and coaching services empower people to stabilize their finances, set goals and work to achieve them, and sustain successful financial behaviors over time.

(2) The knowledge and skills gained by Vermonters with low income enable them better to manage scarce resources, repair or build credit, and establish or strengthen connections to financial institutions.

(3) Recent studies show that 10 hours of financial education can yield a savings of \$1,390.00 per year for participants, a substantial sum for families living in poverty.

(4) Additionally, a recent national study found that 58 percent of individuals with low-to-moderate income receiving financial coaching and

credit-building services had their credit score increase as a result.

(5) These services in Vermont can and have been customized to meet the particular needs of families participating in Reach Up.

(b) It is the intent of the General Assembly to provide funding, subject to available resources, to enable more Vermonters with low income to access these services.

* * * Funding Priorities * * *

Sec. M.1. SMALL BUSINESS DEVELOPMENT CENTER

In fiscal year 2018, it is the intent of the General Assembly to provide funding, subject to available resources, to the Vermont Small Business Development Center (SBDC) as follows:

(1) for the purpose of increasing the number of SBDC business advisors, with priority to underserved regions of the State; and

(2) for the purpose of fully funding the SBDC technology commercialization advisor position.

Sec. M.2. ECONOMIC DEVELOPMENT MARKETING

(a) The Agency of Commerce and Community Development shall have the authority, and may use available funds, to:

(1) implement the Department of Economic Development's economic development marketing plan to attract and retain residents and businesses to Vermont, highlighting the many positive features that make Vermont a great place to live, work, and do business; and

(2) prioritize marketing tactics with the potential to shift most efficiently and effectively perceptions about Vermont as a place to live and work, and that will form a set of marketing assets and strategic framework to sustain Department of Economic Development activities beyond initial implementation.

(b) Funds available to implement this section may be matched with federal funds, special funds, grants, donations, and private funds. To increase the amount and effectiveness of marketing activities conducted, the Agency shall collaborate with private sector partners to maximize State marketing resources and to enable Vermont businesses to align their own brand identities with the Vermont brand, enhancing the reputations of both the business and the State.

(c) For any economic development marketing plan implemented pursuant to this section, the Secretary of Commerce and Community Development shall establish performance measures that support strategic priorities, including strengthening the State economy, before disbursing funds.

* * * Effective Dates * * *

Sec. N.1. EFFECTIVE DATES

(a) This section, Sec. B.1 (rural economic development infrastructure districts), and Secs. J–J.3 (tax increment financing districts) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2017.

(Committee vote: 9-0-2)

(For text see Senate Journal March 30, 31, 2017)

Rep. Condon of Colchester, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Commerce and Economic Development and when further amended as follows:

First: By striking out Secs. J–J.3, Tax Increment Financing Districts, in their entirety and inserting in lieu thereof the following:

* * * Tax Increment Financing Districts * * *

Sec. J. TAX INCREMENT FINANCING; FINDINGS

The General Assembly finds that the State of Vermont has an important role to play in creating the infrastructure necessary to support downtown development and revitalization, particularly in distressed communities.

Sec. J.1. 24 V.S.A. § 1892 is amended to read:

§ 1892. CREATION OF DISTRICT

(a) Upon a finding that such action will serve the public purposes of this subchapter and subject to subsection (d) of this section, the legislative body of any municipality may create within its jurisdiction a special district to be known as a tax increment financing district. The district shall be described by its boundaries and the properties therein and the district boundary shall be shown on a plan entitled “Proposed Tax Increment Financing District (municipal name), Vermont.” The legislative body shall hold one or more public hearings, after public notice, on the proposed plan.

* * *

(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.

(e) Annually, the General Assembly may use the estimate of the maximum amount of new long-term net debt that prudently may be authorized for tax increment financing districts in the next fiscal year prepared pursuant to 32 V.S.A. § 305b to determine whether to expand the number of tax increment financing districts.

Sec. J.2. ADDITIONAL TIF DISTRICTS; FINDINGS; APPROVAL

(a) The General Assembly finds that:

(1) the City of Newport has retired its tax increment financing district and all debt incurred in the district was repaid in 2015; and

(2) the Town of Colchester voted to dissolve its tax increment financing district in November 2014.

(b) Notwithstanding 24 V.S.A. § 1892(d), and as a result of the termination of the two tax increment financing districts described in subsection (a) of this section, the Vermont Economic Progress Council is authorized to approve two additional tax increment financing districts.

Sec. J.3. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND LIFE OF DISTRICT

(a) Incurring indebtedness.

(1) A municipality approved under 32 V.S.A. § 5404a(h) may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to five years following the creation of the district. If no debt is incurred during this five-year period, the district shall terminate, unless the Vermont Economic Progress Council grants an extension to a municipality pursuant to subsection (d) of this section. However, if any

indebtedness is incurred within the first five years after the creation of the district, then the district has a total of ten years after the creation of the district to incur any additional debt.

* * *

(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~~ 100 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~~ Required share of increment. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), ~~no not~~ not more than 75 percent of the State property tax increment and ~~no not~~ not less than ~~an equal percent~~ 100 percent of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

* * *

Sec. J.4. 32 V.S.A. § 305b is added to read:

§ 305b. EDUCATION PROPERTY TAX INCREMENT; EMERGENCY
BOARD ESTIMATE

(a) Annually, at the January meeting of the Emergency Board held pursuant to section 305a of this title, the Joint Fiscal Office and the Secretary of Administration shall provide to the Emergency Board a consensus estimate of forgone revenue from the Education Fund resulting from the retention of education property tax increment by tax increment financing districts authorized pursuant to 24 V.S.A. chapter 53 and section 5404a of this title. The estimate shall be for the succeeding fiscal year. The Emergency Board shall adopt an official estimate of forgone revenue from the Education Fund at the January meeting.

(b) Annually, on or before September 30 of each year, the Emergency Board shall review the size and affordability of the net indebtedness for tax increment financing districts and submit to the Governor and to the General Assembly an estimate of the maximum amount of new long-term net debt that prudently may be authorized for tax increment financing districts in the next fiscal year. The estimate of the Board shall be advisory, and shall take into consideration:

(1) any existing or new debt incurred by authorized tax increment financing districts; and

(2) the impact of the amount of the indebtedness on the General and Education Funds.

Sec. J.5. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) ~~An~~ The Education Fund is established to comprise the following:

(1) All revenue paid to the State from the statewide education tax on nonresidential and homestead property under 32 V.S.A. chapter 135.

(2) For each fiscal year, the amount of the general funds appropriated and transferred to the Education Fund shall be \$305,900,000.00, to be increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent, plus an amount equal to one-half of the official estimate of forgone revenue from the Education Fund adopted by the Emergency Board pursuant to section 305b of this title.

* * *

Sec. J.6. 32 V.S.A. § 5404a(h) is amended to read:

(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~~ Conduct a review of each application to determine that the new real property 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 that 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, including, if applicable to the development, in the number of units of affordable housing, as defined in 24 V.S.A. § 4303, without education property tax increment financing; 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~~ 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.

* * *

(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 not more than 80 percent of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data are 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 not more than 80 percent of 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 of the following five 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) 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) 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~~ high-quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the ~~department of labor~~ Department of Labor.

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

Sec. J.7. 24 V.S.A. chapter 53, subchapter 5 is redesignated to read:

Subchapter 5. Statewide Tax Increment Financing

Sec. J.8. 24 V.S.A. chapter 53, subchapter 6 is added to read:

Subchapter 6. Municipal Tax Increment Financing

§ 1903. DEFINITIONS

As used in this subchapter:

(1) “District” or “TIF” means a tax increment financing district.

(2) “Improvements” means the installation, new construction, or reconstruction of infrastructure to benefit a municipal tax increment financing district, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation.

(3) “Legislative body” means the mayor and alderboard, the city council, the selectboard, or the president and trustees of an incorporated village, as appropriate.

(4) “Municipality” means a city, town, or incorporated village.

(5) “Original taxable value” means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district as of the creation date as set forth in section 1904 of this subchapter, provided that no parcel within the district shall be divided or bisected by the district boundary.

(6) “Related costs” means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing

improvements, that are directly related to the creation and implementation of a municipal tax increment financing district, including reimbursement of sums previously advanced by the municipality for those purposes, direct municipal expenses such as departmental or personnel costs related to creating or administering the project, and audit costs allocable to the district.

§ 1904. MUNICIPAL TAX INCREMENT FINANCING DISTRICT

(a) General authority. Notwithstanding any provision of subchapter 5 of this chapter or 32 V.S.A. § 5404a to the contrary, upon approval of the legislative body of any municipality, a municipality may create a municipal tax increment financing district, and may incur debt to provide funding for improvements and related costs for the district.

(b) Municipal approval; voter approval.

(1) The legislative body of the municipality shall hold one or more public hearings to consider a municipal tax increment financing plan. Following public notice, hearing, and opportunity to comment, the legislative body of the municipality may grant approval of the plan.

(2) When adopted by the act of the legislative body of that municipality, the plan shall be recorded with the municipal clerk and lister or assessor, and the creation of the district shall occur at 12:01 a.m. on April 1 of the calendar year so voted by the municipal legislative body.

(3) The municipality may only incur debt for the project if the voters of the municipality approve the debt obligation by a majority vote at a regular or special meeting for which voting upon the debt obligation was properly warned.

(4) Following final voter approval, the municipality has up to five years to incur debt pursuant to the financing plan.

(c) Life of district.

(1) A municipality may incur indebtedness against revenues of the municipal tax increment financing district over any period authorized by the legislative body of the municipality.

(2) Any indebtedness incurred under subdivision (1) of this subsection may be retired over any period authorized by the legislative body of the municipality.

(3) The district shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, after the period authorized by the legislative body of the municipality to incur indebtedness.

(d) Financing. During the life of an active district, the following apply,

notwithstanding any provision of law to the contrary:

(1) Valuation.

(A) Within 30 days of voter approval pursuant to subsection (b) of this section, the lister or assessor for a municipality shall certify to the legislative body of the municipality the original taxable value of a tax increment financing district as of the date the voters approved the debt obligation.

(B) On or before June 30 following voter approval and annually thereafter, the lister or assessor shall assess and certify to the legislative body the current value of a project parcel.

(2) Tax rate.

(A) The lister or assessor shall use the original taxable value of a project parcel when computing the municipal tax rate.

(B) When calculating the amount of tax due on a project parcel, the treasurer shall apply the municipal tax rate to the current assessed value, rather than the original taxable value.

(3) Tax increment.

(A) The “tax increment” is the amount of tax paid on a project parcel, as calculated pursuant to subdivision (2)(B) of this subsection (d) using the current assessed value, that exceeds the amount of tax that would have been due if the tax rate were applied to the original taxable value.

(B) The municipality may retain any share of the municipal tax increment to service the debt, beginning the first year in which debt is incurred.

(C) A municipal tax increment financing district created pursuant to this subchapter is not authorized to retain any education property tax increment.

(D) A municipality shall segregate the tax increment in a special account and in its official books and records.

(4) Use of tax increment.

(A) As of each date the municipality receives a tax payment and retains a portion of the tax increment pursuant to this section, the municipality shall use the portion of the municipal tax increment that is necessary to pay costs actually incurred as of that date for debt service and related costs.

(B) If, after paying for improvements and related costs, there remains any excess portion of the tax increment, the municipality may retain the

increment to prepay principal and interest on the financing, use for future financing payments, or use for defeasance of the financing.

(e) Annual audit.

(1) The municipality shall ensure that the segregated account for the tax increment financing district required by this section is subject to the annual audit requirements prescribed in sections 1681 and 1690 of this title.

(2) Any audit procedures shall include verification of the original taxable value and current assessed value, expenditures for project debt service and related costs, annual and total tax increment funds generated, and allocation of tax increment funds.

Sec. J.9. IMPLEMENTATION

Secs. J.1– J.3 and J.6 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

Second: In Sec. A.1, 32 V.S.A. chapter 105, by striking out section 3341 in its entirety.

Third: By redesignating Secs. H.9–H.10 as Secs. H.10–H.11 and inserting a new Sec. H.9 to read:

Sec. H.9. 32 V.S.A. § 5930bb(a) is amended to read:

(a) Qualified applicants may apply to the State Board to obtain the tax credits provided by this subchapter for a qualified project at any time before ~~one year after~~ the completion of the qualified project.

Fourth: By inserting a Sec. M.3 to read:

Sec. M.3. 2014 Acts and Resolves No. 179, Sec. G.100(b), as amended by 2015 Acts and Resolves No. 51, Sec. G.9, and 2016 Acts and Resolves No. 172, Sec. E.801, is further amended to read:

(b) Sec. E.100.6 (wood products manufacture incentive) shall take effect retroactively on January 1, 2014 and apply to tax years 2014, 2015, ~~and~~ 2016, 2017, and 2018.

Fifth: In Sec. N.1, Effective Dates, in subsection (a), by striking out “J–J.3” and inserting in lieu thereof “J–J.9”

(Committee Vote: 9-2-0)

Rep. Trieber of Rockingham, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposals of amendment as recommended by the Committees on Commerce and Economic Development and Ways and Means.

(Committee Vote: 7-4-0)

Senate Proposal of Amendment

H. 22

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council

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

First: In Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), by striking out section 2355 (Council powers and duties) in its entirety and inserting in lieu thereof the following:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

* * *

(10) a definition of criminal justice personnel and criminal justice training for purposes of this title; and

(11) ~~decertification of persons who have been convicted of a felony subsequent to their certification as law enforcement officers;~~ [Repealed.]

(12) ~~decertification of persons who have not complied with in-service training requirements, provided that the Council, through permitting its Executive Director, may to grant up to a 60-day waiver to a law enforcement officer who has failed to meet his or her annual in-service training requirements but who is able to complete those training requirements within that 60-day period~~ the time period permitted by the Executive Director.

(b) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council may also offer the basic officer's course for pre-service students and educational outreach courses for the public, including firearms safety and use of force.

* * *

(f) The Council shall charge participants or employers of participants in law enforcement training programs as follows:

* * *

(2) The tuition fees for training not required under section 2358 of this chapter shall be set to reflect the actual costs for operation of the particular programs offered, with an additional \$30.00 entrance exam fee assessed on all training, except educational outreach courses for the public.

* * *

Second: In Sec. 1, in 20 V.S.A. § 2362a (potential hiring agency; duty to contact former agency), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1)(A) If that former agency is a law enforcement agency in this State, the executive officer of that former agency or designee shall disclose to the potential hiring agency in writing the reason the officer is no longer employed by the former agency.

(B) The executive officer or designee shall send a copy of the disclosure to the officer at the same time he or she sends it to the potential hiring agency.

(2) Such a former agency shall be immune from liability for its disclosure described in subdivision (1) of this subsection, unless such disclosure would constitute intentional misrepresentation or gross negligence.

Third: In Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in section 2401 (definitions), in subdivision (2) (“Category B conduct”), after the following: “amounting to actions on duty or under color of authority, or both, that involve” by inserting the following: willful failure to comply with a State-required policy or

Fourth: In Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), by striking out section 2406 (permitted Council sanctions) in its entirety and inserting in lieu thereof the following:

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer’s certification upon its finding that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the

Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after an evidentiary hearing, the Council intends to revoke a law enforcement officer's certification due to its finding that the officer committed unprofessional conduct, the Council shall issue a decision to that effect.

(B) Within 10 business days from the date of that decision, such an officer may voluntarily surrender his or her certification if there is a pending labor proceeding related to the Council's unprofessional conduct findings.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's final sanction hearing on the matter. At that hearing, the Council may modify its findings and decision on the basis of additional evidence.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original findings and decision shall take effect.

Fifth: In Sec. 2 (transitional provisions to implement this act), by adding a new subsection to be letter subsection (g) to read as follows:

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sixth: In Sec. 2 (transitional provisions to implement this act), in subsection (a) (effective internal affairs programs), in subdivision (1) (law enforcement agencies), following the words "On or before" by striking out the following: "January 1, 2018" and inserting in lieu thereof the following: July 1, 2018

Seventh: In Sec. 2 (transitional provisions to implement this act), in subsection (a) (effective internal affairs programs), in subdivision (2) (Vermont Criminal Justice Training Council), following the words "On or before" by striking out the following: "October 1, 2017" and inserting in lieu thereof the following: April 1, 2018

Eighth: In Sec. 2 (transitional provisions to implement this act), in

subsection (f) (annual report of Executive Director), following “Annually, on or before January 15, beginning in the year” by striking out the following: “2018 and ending in the year 2021” and inserting in lieu thereof the following: 2019 and ending in the year 2022

Ninth: By striking out in Sec. 6 (effective dates) its entirety and inserting in lieu thereof after the reader assistance the following:

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on July 1, 2018;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

(For text see House Journal March 21, 22, 2017)

H. 130

An act relating to approval of amendments to the charter of the Town of Hartford

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

In Sec. 2, 24 App. V.S.A. chapter 123A, by striking out in its entirety section 201 (town meeting).

(For text see House Journal March 24, 2017)

H. 238

An act relating to modernizing and reorganizing Title 7

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Modernization and Reorganization of Title 7 * * *

Sec. 1. 7 V.S.A. § 1 is amended to read:

§ 1. CONSTRUCTION

This title is based on the taxing power and the police power of the state ~~State~~, and is for the protection of the public welfare, good order, health, peace, safety, and morals of the people of the state, ~~and all of its State.~~ The provisions of this title shall be liberally construed ~~for the accomplishment of the to accomplish its purposes set forth herein.~~

Sec. 2. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

~~The following words as As used in this title, unless a contrary meaning is required by the context, shall have the following meaning:~~

(1) “Alcohol”~~∴ means~~ the product of distillation ~~of spirits or any fermented malt or vinous beverage, fermentation, or chemical synthesis, including alcoholic beverages, ethyl alcohol, and nonpotable alcohol.~~

(2) “Alcoholic beverages” means malt beverages, vinous beverages, spirits, and fortified wines.

(3) “Board of Liquor and Lottery” means the Board of Control appointed under the provisions of chapter 5 of this title.

(4) “Boat”~~∴ means~~ a vessel suitably equipped and operated for the transportation of passengers in interstate commerce.

(3) “Bottler”~~∴ any person that bottles malt beverages, vinous beverages, spirits, or fortified wines for sale or for distribution in this State.~~

(4) “Bottler’s license”~~∴ the license granted by the Liquor Control Board permitting a bottler to bottle for sale and to distribute and sell at wholesale malt or vinous beverages.~~

(6)(5) “Caterer’s license”~~∴ means~~ a license issued by the Liquor Control Board of Liquor and Lottery authorizing the holder of a first-class license or first- and third-class licenses ~~for a restaurant or hotel premises to serve malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages at a function located on premises other than those occupied by a first-, first- and third-, or second-class licensee to sell alcoholic beverages.

(6) “Certificate of approval” means a license granted by the Board of Liquor and Lottery to a manufacturer or distributor of malt beverages or vinous beverages, or both, that is not licensed under the provisions of this title, that permits the licensee to sell those beverages to holders of a packager’s or wholesale dealer’s license.

(7) “Club” means an unincorporated association or a corporation authorized to do business in this State, that has been in existence for at least two consecutive years prior to the date of application for a license under this title and owns, hires, or leases a building or space in a building that is suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and contains suitable and adequate kitchen and dining room space and equipment implements and facilities. A club may be used or leased by a nonmember as a location for a social event as if it were any other licensed commercial establishment. Such club shall file with the Liquor Control Board, before May 1 of each year, a list of the names and residences of its members and a list of its officers. Its affairs and management shall be conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting, and no member or any officer, agent, or employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquors to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or other governing body, and as reported by the club to the Liquor Control Board. An auxiliary member of a club may invite one guest at any one time. An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages. An officer, member, or director of a club may volunteer to perform services at the club other than serving alcoholic beverages, including seating patrons and checking identification, without receiving payment for those services. An officer, member, or director of a club who volunteers his or her services shall not be considered to be an employee of the club. A bona fide unincorporated association or corporation whose officers and members consist solely of veterans of the U.S. Armed Forces or a subordinate lodge or local chapter of any national fraternal order, and which fulfills all requirements of this subdivision section 229 of this title, except that it has not been in existence for at least two years, shall come within the terms of this definition six months after the completion of its organization. A club located on and integrally associated with at least a regulation nine-hole golf course need only be in existence for six months prior to the date of application for license under this title.

(8) “Commercial catering license” means a license granted by the Board of Liquor and Lottery permitting a business licensed by the Department of Health as a commercial caterer and having a commercial kitchen facility in the home or place of business to sell alcoholic beverages at a function previously approved by the local control commissioners.

(9) “Commissioner of Liquor and Lottery” or “Commissioner” means the executive officer of the Board of Liquor and Lottery appointed under the provisions of chapter 5 of this title.

(8)(10) “Control commissioners” means the commissioners of a municipality appointed under section 166 of this title.

(11) “Department” means the Department of Liquor and Lottery.

(12) “Destination resort master license” means a license granted by the Board of Liquor and Lottery pursuant to section 242 of this title permitting a destination resort to designate licensed caterers and commercial caterers that will be permitted to cater individual events within the boundaries of the resort without being required to obtain a request to cater permit for each individual event. For purposes of a destination resort master license, a “destination resort” is a resort that contains at least 100 acres of land, offers at least 50 units of sleeping accommodations, offers meal and beverage service to the public for consideration, and has related sports and recreational facilities for the convenience or enjoyment of its guests. “Destination resort” does not include the University of Vermont, the Vermont State Colleges, or any other university, college, or postsecondary school.

(9)(13) “Dining car” means a railroad car on which meals are prepared and served.

(14) “Division” means the Division of Liquor Control within the Department of Liquor and Lottery.

(15) “Festival permit” means a permit granted by the Division of Liquor Control permitting a person to conduct an event at which malt or vinous beverages, or both, are sold by the glass to the public, provided the event is approved by the local control commissioners.

(40)(16) “First-class license” means a license granted by the control commissioners permitting the licensee to sell malt or vinous beverages to the public for consumption only on the premises for which the license is granted.

(17) “Fortified wine permit” means a permit granted to a second-class licensee that permits the licensee to export and sell fortified wines to the public for consumption off the licensed premises.

(18) “Fortified wines” mean vinous beverages, including those to which

spirits have been added during manufacture, containing at least 16 percent alcohol but no more than 23 percent alcohol by volume at 60 degrees Fahrenheit, and all vermouths containing no more than 23 percent alcohol by volume at 60 degrees Fahrenheit.

(19) “Fourth-class license” means a license permitting a licensed manufacturer or rectifier to sell by the unopened container and distribute by the glass, with or without charge, beverages manufactured by the licensee.

(20) “Home-fermented beverages” means malt or vinous beverages produced at home and not for sale.

~~(11)~~(21) “Hotel” has the same meaning as in 32 V.S.A. § 9202(3) and as determined by the Liquor Control Board of Liquor and Lottery. A hotel that places a minibar in any room of a registered guest shall assure that the minibar is locked and that access to the minibar is restricted to guests of legal drinking age.

~~(12) “Commissioner of Liquor Control”: the executive officer of the Liquor Control Board appointed under the provisions of this title.~~

(22) “Industrial alcohol distributor’s license” means a license granted by the Board of Liquor and Lottery that allows holders to sell pure ethyl or grain alcohol of at least 190 proof in quantities of five gallons or more directly to manufacturers, industrial users, hospitals, druggists, and institutions of learning.

(23) “Keg” means a reusable container capable of holding at least five gallons of malt beverage or at least two and a half gallons of vinous beverage.

(24) “Legal age” means 21 years of age or older.

~~(13) “Liquor Control Board”: the Board of Control appointed under the provisions of this title.~~

~~(14)~~(25) “Malt beverages”: means all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any substitute therefor, known as, among other things, beer, porter, ale, and stout or lager, containing not less than one percent nor more than 16 percent of alcohol by volume at 60 degrees Fahrenheit. However, if such a beverage has an alcohol content of more than six percent and has a terminal specific gravity of less than 1.009, it shall be deemed to be a spirit and not a malt beverage. The holder of the certificate of approval or the manufacturer shall certify to the Liquor Control Board the terminal specific gravity of the beverage when the alcohol content is more than six percent.

~~(15)~~(26) “Manufacturer’s or rectifier’s license”: means a license granted by the Liquor Control Board of Liquor and Lottery that permits the holder to

~~manufacture or rectify malt beverages, or vinous beverages and fortified wines, or spirits and fortified wines. Spirits and fortified wines may be manufactured or rectified by a license holder for export and sale to the Liquor Control Board, and malt beverages and vinous beverages may be manufactured or rectified by a license holder for export and sale to bottlers or wholesale dealers. This license permits a manufacturer of vinous beverages or fortified wines to receive from another manufacturer licensed in or outside this State bulk shipments of vinous beverages to rectify with the licensee's own product, provided that the vinous beverages or fortified wines produced by a Vermont manufacturer may contain no more than 25 percent imported vinous beverage. The Liquor Control Board may grant to a licensed manufacturer or rectifier of spirits, fortified wines, vinous beverages, or malt beverages a first-class license or a first- and a third-class license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's premises which for the purposes of a manufacturer of malt beverages, includes up to two licensed establishments that are located on the contiguous real estate of the holder of the manufacturer's license, provided the manufacturer or rectifier owns or has direct control over those establishments. The Liquor Control Board may grant to a licensed manufacturer or a rectifier of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer's or rectifier's premises. A licensed manufacturer or rectifier may serve, with or without charge, at an event held on the premises of the licensee or at a location on the contiguous real estate of the licensee, spirits, fortified wines, vinous beverages, and malt beverages, provided the licensee gives the Department written notice of the event, including details required by the Department, at least five days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Liquor Control Board.~~

(27) "Minor" means an individual who has not attained 21 years of age.

(28) "Outside consumption permit" means a permit granted by the Division of Liquor Control allowing the holder of a first-class, first- and third-class, or fourth-class license to allow for consumption of alcoholic beverages in a delineated outside area.

(29) "Packager's license" means a license granted by the Board of Liquor and Lottery permitting a person to bottle or otherwise package alcoholic beverages for sale and to distribute and sell alcoholic beverages at wholesale in this State.

(16)(30) "Person"; as applied to licensees, means an individual who is a citizen or a lawful permanent resident of the United States; a partnership composed of individuals, a majority of whom are citizens or lawful permanent

residents of the United States; a corporation organized under the laws of this State or another state in which a majority of the directors are citizens or lawful permanent residents of the United States; or a limited liability company organized under the laws of this State or another state in which a majority of the members or managers are citizens or lawful permanent residents of the United States.

(31) “Request to cater permit” means a permit granted by the Division of Liquor Control authorizing a licensed caterer or commercial caterer to cater individual events.

~~(17) “Restaurant”: a space in a suitable building, approved by the Liquor Control Board, occupied, used, maintained, advertised, or held out to the public to be a place where food is served at all times when open for business and there are no sleeping accommodations. The space shall have adequate and sanitary kitchen and dining room capacity and the number and kinds of employees for preparing, cooking, and serving suitable food for guests and patrons as required by the Liquor Control Board.~~

~~(18)~~(32) “Retail dealer”: means any person who sells or distributes furnishes malt or vinous beverages to the public.

(33) “Retail delivery permit” means a permit granted by the Division of Liquor Control that permits a second-class licensee to deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age at a physical address in Vermont.

(34) “Sampler flight” means a flight, ski, paddle, or any similar device by design or name intended to hold alcoholic beverage samples for the purpose of comparison.

~~(19)~~(35) “Second-class license”: means a license ~~granted by the control commissioners permitting the licensee to export malt beverages or vinous beverages and to sell malt beverages or vinous beverages to the public for consumption off the premises for which the license is granted. The Liquor Control Board may grant a second-class licensee a fortified wine permit that permits the licensee to export and to sell fortified wines to the public for consumption off the licensed premises.~~

(36) “Special event permit” means a permit granted by the Division of Liquor Control permitting a licensed manufacturer or rectifier to sell, by the glass or by the unopened bottle, alcoholic beverages manufactured or rectified by the license holder at an event open to the public that has been approved by the local control commissioners.

(37) “Special venue serving permit” means a permit granted by the

Division of Liquor Control permitting an art gallery, bookstore, public library, or museum to conduct an event at which malt or vinous beverages or both are served by the glass to the public. As used in this section, “art gallery” means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; “bookstore” means a fixed establishment whose primary purpose is to offer books for sale; “public library” has the same meaning as in 22 V.S.A. § 101; and “museum” has the same meaning as in 27 V.S.A. § 1151.

(38) “Specialty beer” means a malt beverage that contains more than eight percent alcohol and not more than 16 percent alcohol by volume at 60 degrees Fahrenheit.

(20)(39) “Spirits” or “spirituous liquors”: means beverages that contain more than one percent of alcohol obtained by distillation, by chemical synthesis, or through concentration by freezing; vinous beverages containing more than 23 percent of alcohol; and malt beverages containing more than 16 percent of alcohol ~~or more than six percent of alcohol if the terminal specific gravity thereof is less than 1.009; in each case measured by volume at 60 degrees Fahrenheit.~~

~~(21) “Specialty beer”: a malt beverage that contains more than eight percent alcohol and not more than 16 percent alcohol by volume at 60 degrees Fahrenheit.~~

(22)(40) “Third-class license”: means a license granted by the Liquor Control Board of Liquor and Lottery permitting the licensee to sell spirits and fortified wines for consumption only on the premises for which the license is granted.

(23)(41) “Vinous beverages”: means all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits or other agricultural product, containing sugar, the alcoholic content of which is not less than one percent nor more than 16 percent by volume at 60 degrees Fahrenheit.

~~(24) “Wholesale dealer”: any person other than a bottler who buys malt or vinous beverages for distribution to or resale to retail dealers or to agencies of the United States.~~

(25)(42) “Wholesale dealer’s license”:~~the~~ means a license granted by the Liquor Control Board of Liquor and Lottery permitting the wholesale dealer holder to sell or distribute malt or vinous beverages ~~as a wholesale dealer to first- and second-class licensees, to educational sampling event permit holders, and to agencies of the United States.~~

~~(26) “Minor”: a person who has not attained the age of 21.~~

~~(27) “Special events permit”: a permit granted by the Liquor Control~~

~~Board permitting a licensed manufacturer or rectifier to sell by the glass or by unopened bottle spirits, fortified wines, malt beverages, or vinous beverages manufactured or rectified by the license holder at an event open to the public that has been approved by the local licensing authority. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder by the glass no more than two ounces per product and eight ounces total of malt beverages or vinous beverages and no more than one ounce in total of spirits or fortified wines to each individual. No more than 104 special events permits may be issued to a licensed manufacturer or rectifier during a year. A special events permit shall be valid for the duration of each public event or four days, whichever is shorter. Requests for a special events permit, accompanied by the fee as required by subdivision 231(13) of this title, shall be submitted to the Department of Liquor Control at least five days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer's or rectifier's annual limit of 104 special events permits.~~

~~(28) "Fourth-class license" or "farmers' market license": the license granted by the Liquor Control Board permitting a licensed manufacturer or rectifier to sell by the unopened container and distribute by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth-class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth-class license location, a licensed manufacturer or rectifier may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, fortified wines, or spirits produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier may sell its product to no more than five additional manufacturers or rectifiers. A fourth-class licensee may distribute by the glass no more than two ounces of malt beverages or vinous beverages with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits or fortified wine with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A fourth-class licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the manufacturer's premises. A farmers' market license is valid for all dates of operation for a specific farmers' market location.~~

~~(29) "Festival permit": a permit granted by the Liquor Control Board permitting a person to conduct an event at which malt or vinous beverages, or both, are sold by the glass to the public, provided the event is approved by the~~

~~local licensing authority. A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or bottler, provided the manufacturer or bottler either holds a federal Basic Permit or a Brewers Notice or evidence of licensure in a foreign country, satisfactory to the Board, whichever applies. The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event. A festival permit holder shall be subject to the provisions of this chapter, including section 240 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous beverages as required by section 421 of this title. A person shall not be granted a festival permit more than four times in one year, and each permit shall be valid for no more than four consecutive days. A request for a festival permit shall be submitted to the Department in a form required by the Department at least 15 days prior to the festival and shall be accompanied by a permit fee as required by subdivision 231(a)(14) of this title to be paid to the Department.~~

~~(30) “Home-fermented beverages”: malt or vinous beverages produced at home and not for sale.~~

~~(31) “Legal age”: 21 years of age or older.~~

~~(32) “Art gallery or bookstore permit”: a permit granted by the Liquor Control Board permitting an art gallery or bookstore to conduct an event at which malt or vinous beverages or both are served by the glass to the public, provided that the event is approved by the local licensing authority. A permit holder may purchase malt or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the Board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the Department in a form required by the Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(22) of this title. As used in this section, “art gallery” means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and “bookstore” means a fixed establishment whose primary purpose is to offer books for sale.~~

~~(33) “Commercial catering license”: A license granted by the Board permitting a business licensed by the Department of Health as a commercial caterer and having a commercial kitchen facility in the home or place of business to sell malt beverages, vinous beverages, spirits, or fortified wines at a function previously approved by the local licensing authority.~~

~~(34) “Request to cater permit”: a permit granted by the Liquor Control Board authorizing a first or first and third-class licensed caterer or~~

commercial caterer to cater individual events.

~~(35) “Industrial alcohol distributors license”: a license granted by the Liquor Control Board that allows holders to sell pure ethyl or grain alcohol of at least 190 proof in quantities of five gallons or more directly to manufacturers, industrial users, hospitals, druggists, and institutions of learning. Alcohol sold under the industrial alcohol distributors license may only be used for manufacturing, mechanical, medicinal, and scientific purposes.~~

~~(36) “Outside consumption permit”: a permit granted by the Liquor Control Board allowing the holder of a first-class, first- and third-class, or fourth-class license to allow for consumption of alcohol in a delineated outside area.~~

~~(37) “Sampler flight”: a flight, ski, paddle, or any similar device by design or name intended to hold alcoholic beverage samples for the purpose of comparison.~~

~~(38) “Fortified wines”: vinous beverages, including those to which spirits have been added during manufacture, containing at least 16 percent alcohol but no more than 23 percent alcohol by volume at 60 degrees Fahrenheit, and all vermouths containing no more than 23 percent alcohol by volume at 60 degrees Fahrenheit.~~

~~(39) “Public library or museum permit”: a permit granted by the Liquor Control Board permitting a public library or museum to serve malt beverages or vinous beverages, or both, by the glass to the public for a period of not more than six hours during an event held for a charitable or educational purpose, provided that the event is approved by the local licensing authority. A permit holder may purchase malt beverages or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the Board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the Department in a form required by the Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(24) of this title. As used in this section, “public library” has the same meaning as in 22 V.S.A. § 101 and “museum” has the same meaning as in 27 V.S.A. § 1151.~~

~~(40) “Retail delivery permit”: a permit granted by the Liquor Control Board that permits a second-class licensee to deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age at a physical address in Vermont.~~

~~(41) “Destination resort master license”: a license granted by the Liquor Control Board pursuant to section 472 of this title permitting a destination~~

~~resort to designate licensed caterers and commercial caterers that will be permitted to cater individual events within the boundaries of the resort without being required to obtain a request to cater permit for each individual event. For purposes of a destination resort master license, a “destination resort” is a resort that contains at least 100 acres of land, offers at least 50 units of sleeping accommodations, offers food and beverage service to the public for consideration, and has related sports and recreational facilities for the convenience or enjoyment of its guests. “Destination resort” does not include the University of Vermont, the Vermont State Colleges, or any other university, college, or postsecondary school.~~

Sec. 3. 7 V.S.A. § 3 is amended to read:

§ 3. CULINARY ARTS STUDENTS; EXEMPTIONS FROM PROVISIONS OF TITLE

A student aged 18 years of age or older who is enrolled in a postsecondary education culinary arts program, accredited by a commission recognized by the U.S. Department of Education, shall be exempt from the provisions of this title while attending classes that require the possession or consumption of alcoholic beverages.

Sec. 4. 7 V.S.A. § 4 is amended to read:

§ 4. NONPROFIT ORGANIZATIONS; WINE AND BEER AUCTIONS; FUNDRAISING

(a) A nonprofit organization qualified for tax exempt status pursuant to Section 501(c) of the federal Internal Revenue Code, as amended, in the discretion of the ~~commissioner~~ Commissioner, may auction ~~vinous or malt beverages, or both,~~ alcoholic beverages to the public without a license, provided that:

(1) Prior to the auction, the organization provides written notification of the auction accompanied by documentation of its nonprofit status satisfactory to the ~~commissioner~~ Commissioner.

(2) The ~~commissioner~~ Commissioner approves the organization's nonprofit qualifications and the organization's ~~right proposal~~ proposal to auction ~~vinous or malt~~ alcoholic beverages.

(3) The profits from the ~~auction sale of~~ auctioned beverages are used solely for the expenses of the nonprofit organization related to ~~conduct~~ conducting the sale auction or for the nonprofit purposes of the organization.

(b) A person who donates ~~vinous or malt~~ alcoholic beverages to a nonprofit organization for an auction under this section is not required to be licensed under this ~~chapter~~ title.

(c) A licensee under this title may donate alcoholic beverages to a nonprofit organization pursuant to this section, provided the licensee pays to the ~~state~~ State all the taxes that would be due as if the alcoholic beverages had been sold in the course of the licensee's business.

* * *

Sec. 5. 7 V.S.A. chapter 3 is redesignated to read:

CHAPTER 3. RESTRICTIONS AND PROHIBITED ACTS

Sec. 6. 7 V.S.A. § 61 is amended to read:

§ 61. RESTRICTIONS; EXCEPTIONS

(a) A person, ~~partnership, association, or corporation~~ shall not furnish or sell, or expose or keep with intent to sell, any ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages, or manufacture, sell, barter, transport, import, export, deliver, prescribe, furnish, or possess any alcohol, except as authorized by this title.

(b) ~~However~~ Notwithstanding subsection (a) of this section, this chapter shall not apply to:

(1) the furnishing of such alcoholic beverages or spirits by a person an individual in his or her private dwelling unless such the dwelling becomes a place of public resort, ~~nor to the sale of fermented cider by the barrel or cask of not less than 32 liquid gallons capacity, provided the same is delivered and removed from the vendor's premises in such barrel or cask at the time of such sale, nor to;~~

(2) the use of sacramental wine, ~~nor to; or~~

(3) the furnishing, purchase, sale, barter, transportation, importation, exportation, delivery, prescription, or possession of alcohol for manufacturing, mechanical, medicinal, and scientific purposes, provided ~~the same that it is done under and~~ in accordance with the rules and regulations made of the Board of Liquor and Lottery and licenses and permits issued by the Liquor Control Board or Division of Liquor Control as hereinafter provided in this title.

Sec. 7. 7 V.S.A. § 62 is amended to read:

§ 62. HOURS OF SALE

(a) ~~Holders of first- or first- and third-class licenses~~ First- or first- and third-class licensees, or festival, special event, or educational sampling event permit holders may sell ~~malt and vinous beverages or spirits and fortified wines~~ alcoholic beverages between the hours of 8:00 a.m. and 2:00 a.m. the next morning.

~~(b)(1) Holders of second-class licenses~~ Second-class licensees may sell malt and vinous beverages between the hours of 6:00 a.m. and 12:00 a.m. ~~the next morning~~ midnight.

(2) Fourth-class licensees may sell or furnish alcoholic beverages between the hours of 6:00 a.m. and 12:00 midnight.

* * *

Sec. 8. 7 V.S.A. § 63 is amended to read:

§ 63. IMPORTATION OR TRANSPORTATION OF LIQUORS ALCOHOL;
PROHIBITIONS; PERSONAL IMPORT LIMIT; PENALTY

(a)(1) All spirits and fortified wines imported or transported into this State shall be imported or transported by and through the ~~Liquor Control Board of~~ Liquor and Lottery. A person importing or transporting or causing to be imported or transported into this State any spirits ~~and~~ or fortified wines, or both, in violation of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, a person may import or transport not more than eight quarts of spirits ~~and~~ or fortified wines, or both, into this State in his or her own private vehicle or in his or her actual possession at the time of importation without a license or permit, provided the beverages are not for resale.

(b)(1) Except as provided in sections ~~66 and 68~~ 277, 278, and 283 of this title, all malt or vinous beverages, or both, imported or transported into this State shall be imported or transported by and through ~~a wholesale dealer holding the holder of a wholesale dealer's license issued by the Liquor Control Board of~~ Liquor and Lottery. A person importing or transporting or causing to be imported or transported into this State any malt or vinous beverages, or both, in violation of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(2) ~~Provided, however~~ Notwithstanding subdivision (1) of this subsection, a person may import or transport not more than six gallons of malt or vinous beverages, or both, into this State in his or her own private vehicle or in his or her actual possession at the time of importation without a license or permit, provided it is provided the beverages are not for resale.

Sec. 9. 7 V.S.A. § 64 is amended to read:

§ 64. SALE OF MALT BEVERAGES AND VINOUS BEVERAGES IN
KEGS

(a) ~~As used in this section, "keg" means a reusable container capable of holding at least five gallons of malt beverage.~~

(b) A keg shall be sold by a ~~second-class~~ second-class or fourth-class licensee only under the following conditions:

(1) The keg shall be tagged in a manner and with a label approved by the ~~board~~ Board of Liquor and Lottery. The label shall be supplied and securely affixed to the keg by the wholesale dealer, or in the case of a second-class license issued for the premises of a licensed manufacturer or a fourth-class licensee, by the manufacturer.

(2) ~~A person~~ A purchaser shall exhibit ~~proper proof~~ a valid authorized form of identification upon demand of a licensee or an agent of a licensee. If the ~~person~~ purchaser fails to provide ~~such proof~~ a valid authorized form of identification, the licensee shall be entitled to refuse to sell the keg to the ~~person~~ individual. As used in this subsection, “~~proper proof~~ a valid authorized form of identification” ~~means a photographic motor vehicle operator’s license, a liquor control photographic identification card, a valid passport, a United States military identification card or a photographic nondriver motor vehicle identification card obtained from the department of motor vehicles~~ has the same meaning as in section 589 of this title.

(3) The purchaser shall complete a form, provided by the ~~board~~ Board, ~~which that~~ which includes at least the name, address, and date of birth of the purchaser as they appear on the purchaser’s ~~proper proof~~ valid authorized form of identification and the identification number of the keg. The form shall also include the provisions of this section and the penalties for a violation of these provisions this section. The licensee shall retain the form for 90 days after return of the keg.

(4) The licensee shall collect a deposit of at least \$25.00 which shall be returned to the purchaser upon return of the keg with the label intact.

~~(e)~~(b) A licensee shall not:

(1) sell a keg without a legible label attached; or

(2) return a deposit on a keg ~~which~~ that is returned without the label intact.

~~(d)~~(c) Any person, other than ~~the wholesaler~~ a wholesale dealer or manufacturer, who intentionally removes or defaces the label attached to a keg shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

Sec. 10. 7 V.S.A. § 65 is redesignated and amended to read:

§ 65 66. HOME-FERMENTED MALT AND VINOUS BEVERAGES;
TASTING EVENT

(a) ~~A person~~ An individual of legal age may, without obtaining a license

under this title or paying ~~state~~ State taxes or fees, produce malt or vinous beverages, or both, at home provided that the amount of home-fermented beverages produced by that ~~person~~ individual does not exceed the quantities limitation in 26 U.S.C. §§ 5053 and 5042.

* * *

Sec. 11. REPEALS

7 V.S.A. §§ 66 (malt and vinous beverage shipping licenses) and 67 (alcoholic beverage tastings) are repealed.

Sec. 12. 7 V.S.A. § 69 is redesignated and amended to read:

§ ~~69~~ 67. POWDERED ALCOHOL PRODUCTS

(a) It shall be unlawful for a person to knowingly possess or sell a powdered alcohol product.

(b) A person that knowingly ~~and unlawfully possessing~~ possesses a powdered alcohol product shall be fined not more than \$500.00.

~~(b)(c)~~ A person that knowingly ~~and unlawfully selling~~ sells a powdered alcohol product shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

~~(e)(d)~~ As used in this section, “powdered alcohol product” means any alcoholic powder that can be added to water or food.

Sec. 13. 7 V.S.A. chapter 5 is amended to read:

CHAPTER 5. DEPARTMENT OF LIQUOR ~~CONTROL~~ AND LOTTERY

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF
LIQUOR ~~CONTROL~~ AND LOTTERY; ~~LIQUOR CONTROL~~
BOARD OF LIQUOR AND LOTTERY

(a)(1) The Department of Liquor ~~Control~~ and Lottery, created by 3 V.S.A. § 212, shall administer the laws relating to alcoholic beverages, tobacco, and the State Lottery. It shall include the Commissioner of Liquor ~~Control~~ and Lottery and the ~~Liquor Control~~ Board of Liquor and Lottery.

(2) The Board of Liquor and Lottery shall supervise and manage the sales of spirits and fortified wines pursuant to this title and the establishment and management of the State Lottery pursuant to 31 V.S.A. chapter 14.

(3)(A) The Department of Liquor and Lottery shall be under the immediate supervision and direction of the Commissioner of Liquor and Lottery.

(B) The Division of Liquor Control is created within the Department to administer and carry out the laws relating to alcohol and tobacco set forth in

this title.

(C) The Division of Lottery is created within the Department to administer and carry out the laws relating to the State Lottery set forth in 31 V.S.A. chapter 14.

(D) The Commissioner, with the approval of the Governor, may appoint a Deputy Commissioner of Liquor Control to supervise and direct the Division of Liquor Control and a Deputy Commissioner of the State Lottery to supervise and direct the Division of Lottery. Both Deputy Commissioners shall be exempt from the classified service and shall serve at the pleasure of the Commissioner.

(b)(1) ~~The Liquor Control Board~~ of Liquor and Lottery shall consist of five persons, ~~not the Chair and four regular members.~~ Not more than three members of ~~which~~ the Board shall belong to the same political party.

(2)(A) With the advice and consent of the Senate, the Governor shall appoint the members of the Board for staggered ~~five~~ three-year terms.

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which the member is appointed.

(3) A member of the Board may serve for no more than two consecutive full terms. A member who is appointed to fill a vacancy occurring during a term may serve two consecutive full terms in addition to the unexpired portion of the term during which the member is first appointed.

(4) The Governor shall biennially designate a member of the Board to be its Chair. The Chair shall have general charge of the offices and employees of the Board.

(c) No member of the Board shall have a financial interest in any licensee under this title or 31 V.S.A. chapter 14, nor shall any member of the Board have a financial interest in any contract awarded by the Board or the Department of Liquor and Lottery.

(d) The Governor shall annually submit a budget for the Department to the General Assembly.

§ 102. REMOVAL

Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary, after notice and hearing, the Governor may remove a member of the ~~Liquor Control Board~~ of Liquor and Lottery for incompetency, failure to discharge his or her

duties, malfeasance, immorality, or other cause inimical to the general good of the State. In case of such removal, the Governor shall appoint a person to fill the unexpired term.

§ 103. MEETINGS

The Board shall ~~hold such meetings~~ meet as may be required for the performance of its duties. ~~The times and places for such meetings~~ time and place for each meeting shall be designated by the Chair of the Board. ~~Such~~ The Chair shall call a meeting upon the written request of any two members ~~and or~~ upon the written request of the Governor.

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall ~~have supervision and management of~~ supervise and manage the sale of spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor Control ~~and Lottery~~ shall:

(1)(A) See that the laws relating to ~~intoxicating liquor alcohol and to the manufacture, sale, transportation, barter, furnishing, importation, exportation, delivery, prescription, and possession of malt and vinous beverages, spirits, fortified wines, and alcohol by licensees and others~~ alcoholic beverages are enforced, using for that purpose ~~such as much~~ as much of the monies annually available to the ~~Liquor Control Board~~ of Liquor and Lottery as may be necessary.

(B) ~~However, the~~ The ~~Liquor Control Board~~ of Liquor and Lottery and its agents and ~~inspectors~~ investigators shall act in this respect in collaboration with sheriffs, deputy sheriffs, constables, ~~officers~~ law enforcement officers certified as Level II or Level III pursuant to 20 V.S.A. chapter 151, and members of village and city police forces, control commissioners, the Attorney General, State's Attorneys, and town and city grand jurors.

(C) When the Board acts to enforce any section of this title or any administrative rule ~~or regulation~~ relating to sale to minors, its investigation on the alleged violation shall be forwarded to the Attorney General or the appropriate State's Attorney whether or not there is an administrative finding of wrongdoing. Nothing in this section shall be deemed to affect the responsibility or duties of ~~such~~ law enforcement officers or agencies with respect to the enforcement of ~~such laws~~ the provisions of this title.

(D) The Commissioner or ~~his or her~~ designee is authorized to prosecute administrative matters under this section and shall have the authority to enter into direct negotiations with a licensee to reach a proposed resolution or settlement of an alleged violation, subject to Board approval, or dismissal with or without prejudice.

(2) Supervise the opening and operation of local agencies for the sale and distribution of spirits and fortified wines.

(3) ~~Locate and, establish, and supervise the operation of a central liquor agency warehouse and office~~ for the purpose of supplying spirits and fortified wines to local agencies established in accordance with this title and for the purpose of selling spirits and fortified wines to licensees of the third-class and druggists, ~~and supervise the operation of such central liquor agency fortified wine permit holders.~~

(4) Supervise the financial transactions of ~~such the~~ central liquor agency warehouse and office, and the local agencies established in accordance with this title.

(5) Adopt rules necessary for the execution of its powers and duties and of the powers and duties of all persons under its supervision and control.

(6) Employ ~~such~~ assistants, ~~inspectors~~ investigators, and other officers as it deems necessary, subject to the approval of the Governor.

(7) Fix bonds or other security to be given by licensees.

(8) ~~Make~~ Adopt rules and regulations concerning, and issue licenses and permits under ~~such~~ whatever terms and conditions as it may impose for the furnishing, purchasing, selling, bartering, transporting, importing, exporting, delivering, and possessing of alcohol, including denatured alcohol, for manufacturing, mechanical, medicinal, and scientific purposes.

(9) Adopt rules regarding labeling and advertising of ~~malt or vinous beverages, spirits, and fortified wines~~ alcoholic beverages by adoption of federal regulations or otherwise, and collaborate with federal agencies in respect ~~thereto~~ to the adoption and the enforcement ~~thereof~~ of the rules.

(10) Adopt rules relating to extension of credit by and to licensees or permittees.

(11) Adopt rules regarding intrastate transportation of malt and vinous beverages.

§ 105. DUTIES OF ATTORNEY GENERAL

The ~~attorney-general~~ Attorney General shall collaborate with the ~~liquor control board~~ Board of Liquor and Lottery for the enforcement of the provisions of subdivision ~~(1)~~ of section 104(1) of this title.

§ 106. COMMISSIONER OF LIQUOR ~~CONTROL~~ AND LOTTERY; REPORTS; RECOMMENDATIONS

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the ~~Liquor~~

~~Control~~ Board of Liquor and Lottery a Commissioner of Liquor Control and Lottery for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and Lottery and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages and administering the State Lottery.

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL AND LOTTERY

(a) The Commissioner of Liquor Control and Lottery shall direct and supervise the Department of Liquor and Lottery and, subject to the direction of the Board, shall see that the laws relating to alcohol and tobacco under this title and the State Lottery under 31 V.S.A. chapter 14 are carried out. The Commissioner shall annually prepare a budget for the Department and submit it to the Board.

(b) With respect to the laws relating to alcohol, the Commissioner shall:

(1) In towns that vote to permit the sale of spirits and fortified wines, establish local agencies as the Board of Liquor and Lottery shall determine. However, the ~~Liquor Control~~ Board shall not be obligated to establish an agency in every town that votes to permit the sale of spirits and fortified wines.

* * *

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and recommend rules subject to approval and adoption by the Board regarding the filling of requisitions therefor for spirits and fortified wines on the Commissioner of Liquor Control and Lottery.

(5) ~~Purchase through the Commissioner of Buildings and General Services~~ spirits and fortified wines for and in behalf of the ~~Liquor Control~~ Board of Liquor and Lottery; supervise their storage and distribution to local agencies, ~~druggists,~~ third-class licensees, and holders of fortified wine permits; and recommend rules subject to approval and adoption by the Board regarding the sale and delivery from the central storage ~~plant~~ liquor warehouse.

* * *

§ 108. ENFORCEMENT BY BOARD; REGULATIONS; FORMS AND REPORTS

~~The liquor control board~~ Board of Liquor and Lottery shall administer and enforce the provisions of this title, and is authorized and empowered to ~~prescribe such adopt~~ rules and regulations, ~~including the issuing of~~ issue the necessary blanks, forms, and reports, except reports to the ~~commissioner of taxes~~ Commissioner of Taxes and to the ~~commissioner of public safety~~ Commissioner of Public Safety, as may be necessary to carry out the provisions of this title.

§ 109. AUDIT OF ACCOUNTS OF ~~LIQUOR CONTROL BOARD OF~~ LIQUOR AND LOTTERY

All accounts of the ~~liquor control board~~ Board of Liquor and Lottery related to its activities pursuant to this title shall be audited annually by the ~~auditor of accounts~~ Auditor of Accounts and the annual report of ~~such the~~ audit shall accompany the annual reports of ~~such liquor control board~~ the Board of Liquor and Lottery.

§ 110. SPECIAL BRANDS; PURCHASE BY COMMISSIONER OF ~~LIQUOR CONTROL AND~~ LOTTERY

If ~~any a~~ a person ~~shall desire~~ desires to purchase any class, variety, or brand of spirits or fortified wine ~~which any that a~~ local agency or fortified wine permit holder does not have in stock, the Commissioner of Liquor ~~Control and Lottery~~ shall order the ~~same through the Commissioner of Buildings and General Services~~ product upon the payment of a reasonable deposit by the purchaser in ~~such a~~ proportion of the approximate cost of the order as ~~shall be~~ prescribed by the ~~regulations~~ rules of the ~~Liquor Control Board of Liquor and Lottery~~.

§ 111. ~~VINOUS BEVERAGES MANUFACTURED IN VERMONT~~ TRANSFER OF LOCAL AGENCY STORE IN CONJUNCTION WITH SALE OF REAL PROPERTY OR BUSINESS

~~Vinous beverages manufactured in Vermont and bearing the Vermont seal of quality:~~

~~(1) shall be sold in State-operated stores;~~

~~(2) may be sold in contract agency stores and may be displayed with the spirits and fortified wines or with the vinous beverages, or both.~~

(a) If a proposed sale of real estate or a business in which a local agency store is located is contingent on the transfer of the agency store's contract with the Board to the buyer, the seller and buyer may, prior to completing the sale, submit to the Department a request to approve the transfer of the agency

store's contract to the buyer. The request shall be accompanied by any information required by the Department.

(b) The Department shall review the request and evaluate the buyer based on the standards for evaluating an applicant for a new agency store contract.

(c) Within 30 days after receiving the request and all necessary information, the Department shall complete the evaluation of the proposed transfer and notify the parties of whether the agency store's contract may be transferred to the buyer.

(d)(1) If the transfer is approved, the contract shall transfer to the buyer upon completion of the sale.

(2) If the transfer is denied, the seller may continue to operate the agency store pursuant to the existing contract with the Department.

§ 112. LIQUOR CONTROL ENTERPRISE FUND

The Liquor Control Enterprise Fund is hereby established. It shall consist of all receipts from the sale of spirits, fortified wines, and other items by the Board of Liquor and Lottery and Division of Liquor Control; fees paid to the Department Division of Liquor Control for the benefit of the Department Division; all other amounts received by the Department Division of Liquor Control for its benefit; and all amounts that are from time to time appropriated to the Department Division of Liquor Control.

§ 113. ADMINISTRATION OF DEPARTMENT; APPORTIONMENT OF COSTS

The administrative and operating costs of the Department of Liquor and Lottery that are not specific to either the Division of Liquor Control or the Division of Lottery and the cost of any functions that are shared in common by the two Divisions shall be allocated to and paid from the Liquor Control Enterprise Fund and the State Lottery Fund based on Generally Accepted Accounting Principles.

Sec. 13a. USE OF DEPARTMENTAL ADMINISTRATIVE RESOURCES; APPORTIONMENT OF COSTS; REPORT

On or before January 15, 2018, the Commissioner of Liquor and Lottery shall submit a written report regarding the allocation of costs to the Liquor Control Enterprise Fund and the State Lottery Fund pursuant to 7 V.S.A. § 113 and the method used for allocating those costs to the House and Senate Committees on Appropriations.

Sec. 14. 7 V.S.A. chapter 7 is amended to read:

CHAPTER 7. MUNICIPAL CONTROL

§ 161. LICENSES VOTED BY TOWN; TOWN MEETINGS; WARNING

(a) Upon petition of not less than five percent of the legal voters of any town, filed with the town clerk in conformance with 17 V.S.A. § 2642, the warning of the annual or special meeting shall contain an article providing for a vote upon the following questions:

Shall licenses for the sale of malt and vinous beverages be granted in this town?

Shall spirits and fortified wines be sold in this town?

The vote under ~~such~~ the article shall be by ballot in the following form:

Shall licenses for the sale of malt and vinous beverages be granted in this town?

Yes _____ No _____

Shall spirits and fortified wines be sold in this town?

Yes _____ No _____

(b) Licenses and permits for the sale of malt and vinous beverages and ~~spirit~~ spirits and fortified wines shall be issued according to the vote at the annual town meeting held in March 1969 until a town votes otherwise.

§ 162. REPORT

After any annual town meeting ~~wherein the~~ in which a town votes on the questions set forth in section 161 of this title, the town clerk ~~of the town~~ shall report promptly the results of the vote to the ~~liquor control board~~ Board of Liquor and Lottery, upon forms furnished by the ~~board~~ Board.

§ 163. BALLOTS; COLOR

(a) Whenever a petition is filed under section 161 of this title, the town clerk shall print, at least two weeks before the annual or special meeting, ~~cause blank ballots for the votes provided for in section 161 of this title to be printed in any color except yellow, in such manner that each ballot can be easily detached, to the number of.~~ The ballots shall be printed in a quantity equal to not less than one and one-tenth times the number of registered voters ~~qualified to vote~~ at the last preceding general election, as shown by the checklist.

(b) Upon each ~~such~~ ballot shall be endorsed the words: "OFFICIAL BALLOT" followed by the name of the town in which it is to be used and the date of the election. The town clerk is authorized to use regular ballots for the requisite number of sample ballots by adding in type or print on the front ~~thereof~~ of each ballot, the words: "SAMPLE BALLOT."

§ 164. DUTIES OF BALLOT CLERKS AND TOWN CLERKS

The board of civil authority, or the ballot clerks if directed by ~~them~~ the board of civil authority, shall have charge of the ballots and perform the duties imposed upon ballot clerks and assisting clerks and be subject to the penalties imposed upon such officials by law. The town clerk shall perform the same duties in respect to ~~such~~ the ballots as are imposed upon him or her by the provisions of law governing general elections, except as otherwise provided.

§ 165. HOURS OF OPENING

The box for the reception of ~~such~~ the ballots shall be opened at the hour the meeting is called, and be closed when general voting ceases.

§ 166. CONTROL COMMISSIONERS

There shall be control commissioners in each town and city. ~~Such~~ The control commissioners shall be the selectboard members in each town and the city council members in each city. The town and city clerks shall be recording officers and clerks of the commissioners and be paid as ~~hereinafter~~ provided in 24 V.S.A. §§ 932 and 933.

§ 167. DUTIES OF LOCAL CONTROL COMMISSIONERS

(a) The local control commissioners shall administer ~~such~~ the rules and regulations, ~~which shall be furnished to them by the liquor control board~~ Board of Liquor and Lottery, as ~~shall be~~ necessary to carry out the purposes of this title. Except as provided in subsection (b) of this section, all applications for and forms of licenses and permits, and applications therefor and all rules and regulations shall be prescribed by the ~~liquor control board~~ Board of Liquor and Lottery, which shall prepare and issue ~~such~~ the applications, forms, and rules and regulations.

(b) If the municipality so votes at a meeting duly warned for that purpose, the local control commissioners may, in the exercise of their authority under ~~subdivision 222(1)~~ of this title, condition the issuance of licenses and permits upon compliance, during the term of the license or permit, with any ordinance regulating entertainment or public nuisances that has been duly adopted by the municipality; ~~and at a meeting duly warned for that purpose.~~

(c) The local control commissioners may, in the exercise of their authority under section ~~236~~ 210 of this title, suspend or revoke a ~~liquor~~ license or permit for a violation of any condition placed upon the issuance of a the license or permit under subsection (b) of this section. ~~The local control commissioners shall give reasons for the suspension or revocation in writing and shall also state the duration of any suspension in writing.~~

§ 168. UNORGANIZED PLACES, CONTROL COMMISSIONERS

In an unorganized town or gore, the supervisor shall be the control

commissioner for the administration of the ~~liquor control laws~~ rules necessary to carry out the applicable provisions of this title. He or she may in his or her discretion issue and approve the issuance of licenses and permits as he or she finds will best serve the interests of the inhabitants ~~best served~~. The provisions of sections 161–165, ~~221 and 224~~ and 201 of this title, insofar as they relate to voting, shall not apply to unorganized towns and gores.

Sec. 15. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 1, which shall include sections 201–214, is added to read:

Subchapter 1. General Provisions

Sec. 16. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 2, which shall include sections 221–229, is added to read:

Subchapter 2. Retail Licenses and Permits

Sec. 17. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 3, which shall include sections 241–243, is added to read:

Subchapter 3. Catering Licenses and Permits

Sec. 18. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 4, which shall include sections 251–259, is added to read:

Subchapter 4. Tasting and Event Permits

Sec. 19. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 5, which shall include sections 271–283, is added to read:

Subchapter 5. Manufacturing and Distribution of Alcohol

Sec. 20. 7 V.S.A. § 221 is redesignated and amended to read:

§ ~~224~~ 201. LICENSES CONTINGENT ON TOWN VOTE; ~~RESTRICTIONS~~
AS TO DANCING PAVILIONS

Licenses of the first or second class shall not be granted by the control commissioners or the ~~Liquor Control Board~~ of Liquor and Lottery to be exercised in any city or town, the voters of which vote “No” ~~to the question: “Shall license be granted for the sale of malt and vinous beverages?”~~ on the question of whether to permit the sale of malt beverages and vinous beverages pursuant to section 161 of this title. Licenses of the third class shall not be

granted by the ~~Liquor Control Board~~ Board of Liquor and Lottery to be exercised in any city or town, the voters of which vote "No" to the question: "Shall spirits and fortified wines be sold in this town?" on the question of whether to sell fortified wines and spirits pursuant to section 161 of this title. ~~Licenses of the third class shall not be granted to any open air or wayside dancing pavilions.~~

Sec. 21. 7 V.S.A. § 223 is redesignated and amended to read:

§ ~~223~~ 202. LICENSES TO ENFORCEMENT OFFICER OR CONTROL BOARD MEMBER COMMISSIONER; EXCEPTIONS

(a) No license of any class shall be granted to any enforcement officer or to any person acting in the officer's behalf.

(b) A member of a local control board commission to whom or in behalf of whom a ~~first or second class~~ first- or second-class license was issued by that board commission shall not participate in any control board commission action regarding any ~~first or second class~~ first- or second-class license. If a majority of the members of a local control board commission is unable to participate in a control board commission action regarding any ~~first or second class~~ first- or second-class license, that action shall be referred to the state liquor control board Board of Liquor and Lottery for investigation and action.

(c) An application for a ~~first or second class~~ first- or second-class license by or in behalf of a member of the local control board commission or a complaint or disciplinary action regarding a ~~first or second class~~ first- or second-class license issued by a board commission on which any member is a licensee shall be referred to the state liquor control board Board of Liquor and Lottery for investigation and action.

Sec. 22. 7 V.S.A. § 230 is redesignated and amended to read:

§ ~~230~~ 203. RESTRICTIONS; FINANCIAL INTERESTS; ~~DISPLAY OF LICENSE~~; EMPLOYEES

(a)(1) Except as provided in ~~subdivision 2(15)~~ section 271 of this title, a ~~bottler packager~~, manufacturer, or rectifier licensed in Vermont or in another state, a certificate of approval holder, or a wholesale dealer shall not have any financial interest in the business of a first-, second-, or third-class ~~licensee~~ licensee, and a first-, second-, or third-class licensee may not have any financial interest in the business of a ~~bottler packager~~, manufacturer, or rectifier licensed in Vermont or in another state, a certificate of approval holder, or a wholesale dealer.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection and except as otherwise provided in section 271 of this title, a manufacturer of malt beverages may have a financial interest in the business of a first- or second-class license, and a first- or second-class licensee may have a financial

interest in the business of a manufacturer of malt beverages, provided a the first- or second-class licensee does not purchase, possess, or sell the malt beverages produced by a manufacturer with which there is any financial interest. ~~All licenses or permits granted under this title shall be conspicuously displayed on the premises for which the license or permit is granted.~~ Any manufacturer of malt beverages that has a financial interest in a first- or second-class licensee and any first- or second-class licensee that has a financial interest in a manufacturer of malt beverages, as permitted under this section subdivision, shall provide to the ~~Department~~ Division of Liquor Control and the applicable wholesale dealer written notification of that financial interest and the licensees involved. A wholesale dealer shall not be in violation of this section for delivering malt beverages to a first- or second-class licensee that is prohibited from purchasing, possessing, or selling those malt beverages under this section.

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's license may also be employed by a first- or second-class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the first- or second-class licensee's business or business decisions, and that ~~either~~ neither employment relationship ~~does not result~~ results in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Sec. 23. 7 V.S.A. § 231 is redesignated and amended to read:

§ ~~231~~ 204. APPLICATION AND RENEWAL FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid when applying for a new license or permit or to renew a license or permit:

(1) For a manufacturer's or rectifier's license to manufacture or rectify malt beverages, or vinous beverages and fortified wines, or spirits and fortified wines, \$285.00 for each license.

(2) For a ~~bottler's~~ packager's license, \$1,865.00.

(3) For a wholesale dealer's license, \$1,245.00 for each location.

(4) For a first-class license, \$230.00.

(5) For a second-class license, \$140.00.

(6) For a third-class license, \$1,095.00 for an annual license and \$550.00 for a six-month license.

(7) For a shipping license for malt beverages or vinous beverages:

- (A) In-state consumer shipping license, ~~initial and renewal~~, \$330.00.
- (B) Out-of-state consumer shipping license, ~~initial and renewal~~, \$330.00.
- (C) ~~Retail~~ Vinous beverages retail shipping license, \$250.00.
- (8)(A) For a caterer's license, \$250.00.
- (B) For a commercial catering license, \$220.00.
- (C) For a request to cater permit, \$20.00.
- (9) ~~[Repealed.]~~
- (10) ~~[Repealed.]~~
- (11) For up to ten fourth-class licenses, \$70.00.
- (12)(10) For an industrial alcohol ~~distributors~~ distributor's license, \$220.00.
- (13)(11) For a special events permit, \$35.00.
- (14)(12) For a festival permit, \$125.00.
- (15)(13) For ~~a wine~~ an alcoholic beverages tasting permit, \$25.00.
- (16)(14) For an educational sampling event permit, \$250.00.
- (17)(15) For an outside consumption permit, \$20.00.
- (18)(16) For a certificate of approval:
 - (A) For malt beverages, \$2,485.00.
 - (B) For vinous beverages, \$985.00.
- (19)(17) For a solicitor's license, \$70.00.
- (20)(18) For a vinous beverages storage license, \$235.00.
- (21)(19) For a promotional railroad tasting permit ~~for a railroad~~, \$20.00.
- (22)(20) For an ~~art gallery or bookstore~~ special venue serving permit, \$20.00.
- (23)(21) For a fortified wine permit, \$100.00.
- (24) ~~For a public library or museum permit, \$20.00.~~
- (25)(22) For a retail delivery permit, \$100.00.
- (26)(23) For a destination resort master license, \$1,000.00.

(b) Except for fees collected for first-, second-, and third-class licenses, the fees collected pursuant to subsection (a) of this section shall be deposited in

the Liquor Control Enterprise Fund. The other fees shall be distributed as follows:

(1) Third-class license fees: 55 percent shall go to the Liquor Control Enterprise Fund, and 45 percent shall go to the General Fund and shall fund alcohol abuse prevention and treatment programs.

(2) First- and second-class license fees: At least 50 percent of first-class and second-class license fees shall go to the respective municipalities in which the licensed premises are located, and the remaining percentage of those fees shall go to the Liquor Control Enterprise Fund. A municipality may retain more than 50 percent of the fees that the municipality collected for first- and second-class licenses to the extent that the municipality has assumed responsibility for enforcement of those licenses pursuant to a contract with the Department. The ~~Department~~ Board of Liquor and Lottery shall adopt rules regarding contracts entered into pursuant to this subdivision.

Sec. 24. 7 V.S.A. § 232 is redesignated and amended to read:

§ 232 205. TERMS OF PERMITS AND, LICENSES, AND CERTIFICATES

(a) All permits and, licenses, and certificates shall expire midnight, April 30, of each year and, upon the payment of a new fee,.

(b) A permit, license, or certificate may be renewed as follows:

(1) A first-class or second-class license, and an outside consumption permit associated with a first-class license, may be renewed by:

(A) payment of the fee provided in section 204 of this title;

(B) submission to the local control commissioners with the of an application demonstrating that the licensee satisfies all applicable rules and requirements; and

(C) approval of the liquor control board Board of Liquor and Lottery as provided in section 221, 222, or 227 of this title, provided the licensee is entitled thereto.

(2) All other permits, licenses, and certificates may be renewed by:

(A) payment of the fee provided in section 204 of this title; and

(B) submission to the Board of Liquor and Lottery or the Division, as appropriate, of an application demonstrating that the holder satisfies all applicable rules and requirements.

Sec 25. 7 V.S.A. § 233 is redesignated and amended to read:

§ 233 206. DISPOSAL OF FEES

The control commissioners shall collect all fees for retailers' licenses of the

~~first first- and second-class~~ second-class licenses and shall pay ~~such the~~ fees to ~~the Division and~~ the city and town treasurers of the respective cities and towns where ~~such the~~ fees are collected ~~to be as provided in subsection 204(b) of this chapter.~~ The portion of each fee paid to the city or town may be used as ~~such cities and towns~~ it may direct, less a fee of \$5.00 to be retained by the city or town clerk as a fee for issuing ~~such and recording the license and recording the same.~~ Fees Except as otherwise provided in section 274 and 275 of this title, ~~fees~~ for all other licenses shall be paid to the ~~liquor control board~~ Board of Liquor and Lottery.

Sec. 26. 7 V.S.A. § 234 is redesignated and amended to read:

§ 234 207. CHANGE OF LOCATION

~~In case any~~ If a licensee desires to change the location of ~~his~~ its business before the expiration of ~~his~~ its license, ~~upon proper~~ the licensee may submit an application, to the liquor control board Board of Liquor and Lottery, which may amend ~~his the~~ license to cover the new premises without the payment of any additional fee.

Sec. 27. 7 V.S.A. § 208 is added to read:

§ 208. DISPLAY OF LICENSE

All licenses or permits granted under this title shall be conspicuously displayed on the premises for which the license or permit is granted.

Sec. 28. 7 V.S.A. § 235 is redesignated and amended to read:

§ 235 209. BANKRUPTCY, DEATH, AND REVOCATION

(a) If a licensee or permittee becomes bankrupt or dies before the expiration of ~~his or her~~ its license or permit, ~~his or her the licensee's or permittee's trustee, executor, or administrator may sell the intoxicating liquors alcohol which that~~ came into ~~his or her~~ its possession to a holder of a license or permit of the same class.

(b) If a license or permit is revoked under the provisions of this title, after such the revocation, the licensee or permittee may sell the intoxicating liquors in his or her alcohol in its possession at the time of such the revocation to a holder of a license or permit of the same class.

(c)(1) All sales under this section shall be accompanied by immediate and actual delivery and shall be made within 30 days after such the bankruptcy, death, or revocation and shall include immediate and actual delivery of the alcohol.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, upon application of the executor or administrator of a deceased licensee or

~~permittee~~, the ~~board~~ Board may transfer the license or permit of the decedent to ~~such the~~ executor or administrator without payment of any additional fee, and the executor or administrator may then carry on the business of the decedent under the license or permit until ~~the its~~ expiration ~~thereof~~.

(d)(1) The holder of a manufacturer's or rectifier's license may pledge or mortgage ~~intoxicating liquor~~ alcoholic beverages manufactured or rectified by ~~such the~~ licensee and ~~such the~~ pledgee or mortgagee may retain possession of ~~such liquor the alcoholic beverages~~ and after condition broken, ~~if the licensee defaults~~, may sell and dispose of the alcoholic beverages to persons to whom the licensee might lawfully sell ~~such liquors~~ the alcoholic beverages, subject to the same restrictions and regulations as ~~such the~~ licensee, and to ~~such any~~ further restriction and regulation as may be ~~or rules~~ prescribed by the ~~liquor control board~~ Board of Liquor and Lottery with respect to ~~notice to it in~~ advance notice to it of ~~such the~~ sale and determination by it of the persons entitled to buy and the manner of ~~such the~~ sale.

(2) Any sale ~~under such~~ pursuant to a default on a pledge or mortgage shall not be at public auction as required with respect to like similar sales of other property, but shall be upon not less than ten days' notice to the pledgor or mortgagor and for the highest amount which may be offered ~~under the regulations of such liquor control board as aforesaid~~ pursuant to the rules of the Board of Liquor and Lottery.

Sec. 29. 7 V.S.A. § 236 is redesignated and amended to read:

§ 236 210. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT;
ADMINISTRATIVE PENALTY

(a)(1) The control commissioners or the ~~liquor control board~~ Board of Liquor and Lottery shall have power to suspend or revoke any permit or license granted pursuant to this title in the event the person holding ~~such the~~ permit or license shall at any time during the term ~~thereof so of the permit or~~ license conduct ~~his or her~~ its business as to be in violation of this title, the conditions pursuant to which ~~such the~~ permit or license was granted, or of any rule ~~or regulation~~ prescribed by the ~~liquor control board~~ Board of Liquor and Lottery.

(2) No revocation shall be made until the permittee or licensee ~~shall be~~ has been notified and be given a hearing before the ~~liquor control board~~ Board of Liquor and Lottery, unless ~~such the~~ permittee or licensee ~~shall have~~ has been convicted by a court of competent jurisdiction of violating the provisions of this title.

(3) In the case of a suspension, the permittee or licensee shall be notified and given a hearing before the ~~liquor control board~~ Board of Liquor

and Lottery or the local governing body control commissioners, whichever applies.

(4) Any decision to suspend or revoke a license shall be issued in writing and set forth the reasons for the suspension or revocation and, if applicable, the duration of the suspension.

(5) A tobacco license may not be suspended or revoked for a first-time violation. Suspension or revocation of a tobacco license shall not affect any liquor license held by the licensee.

(b)(1) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the ~~liquor control board~~ Board of Liquor and Lottery shall also have the power to impose an administrative penalty of up to \$2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a ~~first first-, second second-, or third-class~~ third-class license for a violation of the conditions ~~under which~~ of the license ~~was issued~~ or of this title or of any rule ~~or regulation~~ adopted by the ~~board~~ Board.

(2) The administrative penalty may be imposed after a hearing before the ~~board~~ Board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title.

(3) The ~~board~~ Board may also impose an administrative penalty under this subsection against a holder of a tobacco license for up to \$100.00 for a first violation and up to \$1,000.00 for subsequent violations.

(4) For the first violation during a tobacco or alcohol compliance check during any three-year period, a licensee or permittee shall receive a warning and be required to attend a ~~department~~ Division server training class.

(c) For suspension or revocation proceedings involving a tobacco license or the imposition of an administrative penalty against a tobacco licensee under this section, the ~~commissioner~~ Commissioner, a ~~board~~ Board member designated by the ~~chair~~ Chair, or a hearing officer designated by the ~~chair~~ Chair pursuant to section ~~236a~~ 211 of this title may conduct the hearing and render a decision.

(d)(1) The ~~board~~ Board shall subpoena any person in this ~~state~~ State to appear for a hearing or for a deposition in the same manner as prescribed for judicial procedures.

(2) Sheriffs and witnesses shall receive the same fees for the service of process and attendance before the ~~board~~ Board as are paid in ~~superior court~~ Superior Court.

Sec. 30. 7 V.S.A. § 236a is redesignated and amended to read:

§ ~~236a~~ 211. HEARING OFFICER

(a) The ~~chair~~ Chair of the ~~board~~ Board of Liquor and Lottery may appoint a hearing officer to conduct hearings pursuant to section ~~236~~ 210 of this title. A hearing officer may be a member of the ~~board~~ Board appointed under section ~~236~~ 210 of this title.

(b) The hearing officer may administer oaths in all cases, so far as the exercise of that power is properly incidental to the performance of the hearing officer's duty or that of the ~~board~~ Board. A hearing officer may hold any hearing in any matter within the jurisdiction of the ~~board~~ Board.

(c) The hearing officer shall make findings of fact in writing to the ~~board~~ Board in the form of a proposal for decision. A copy of the proposal for decision shall be served upon the parties pursuant to 3 V.S.A. § ~~811~~ 812. Judgment on the hearing officer's proposal for decision shall be rendered by a majority of the ~~board~~ Board.

(d) At least 10 days prior to a hearing ~~before the board~~, the hearing officer shall give written notice of the time and place of the hearing to all parties in the case and shall indicate either that the hearing will be before the Board or the name and title of the person designated to conduct the hearing.

(e) The ~~chair~~ Chair may appoint a hearing officer to hear and finally determine any complaint involving a tobacco license. In such a case, the hearing officer may impose administrative penalties as provided in subsection ~~236(b)~~ 210(b) of this title.

Sec. 31. 7 V.S.A. § 237 is redesignated and amended to read:

§ ~~237~~ 212. COMPLAINTS AND PROSECUTIONS

The ~~commissioner of liquor control~~ Commissioner of Liquor and Lottery or the local control commissioners shall make complaint to the ~~state's attorney~~ State's Attorney or town grand juror of any unlawful furnishing, selling, or keeping for sale of alcohol, ~~spirituous liquor, or malt or vinous beverages or~~ alcoholic beverages, and ~~furnish the evidence thereof to such state's attorney~~ provide evidence in support of the complaint to the State's Attorney or town grand juror, who shall prosecute for such the alleged violation.

Sec. 32. 7 V.S.A. § 239 is redesignated and amended to read:

§ ~~239~~ 213. LICENSEE EDUCATION

(a) A new first-class, second-class, third-class, fourth-class, ~~or farmers' market license~~, or manufacturer's or rectifier's license, or common carrier certificate shall not be granted until the applicant has attended a ~~Department~~ Division of Liquor Control in-person seminar or completed the appropriate ~~Department~~ Division of Liquor Control online training program for the purpose of being informed of the Vermont ~~liquor laws, and rules, and~~

regulations pertaining to the purchase, storage, and sale of ~~aleohol~~ alcoholic beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b)(1) Every holder of a first-class, second-class, third-class, fourth-class, or farmers' market licensee, and every holder of a manufacturer's or rectifier's license, or common carrier certificate shall complete the Department Division of Liquor Control in-person licensee training seminar or the appropriate Department Division of Liquor Control online training program at least once every two years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(2) A first-class, second-class, third-class, fourth-class, ~~or farmers' market license~~, or manufacturer's or rectifier's license shall not be renewed unless the Division's records of the ~~Department of Liquor Control~~ show that the licensee has complied with the terms of this subsection.

(c)(1) Each licensee, permittee, or common carrier certificate holder shall ensure that every employee who is involved in the delivery, sale, or serving of alcohol alcoholic beverages completes a training program approved by the Department Division of Liquor Control before the employee begins serving or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted.

(2) A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or approved by the Department Division of Liquor Control. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of the license issued under this title for no less than one day ~~of the license issued under this title~~.

(d) The following fees for Department Division of Liquor Control in-person or online seminars will be paid:

(1) For a first-class or first- and third-class licensee seminar either ~~in person~~ in-person or online, \$25.00 per person.

(2) For a second-class licensee seminar either ~~in person~~ in-person or online, \$25.00 per person.

(3) For a combination first-class, first- and third-class, and second-class licensee seminar either ~~in person~~ in-person or online, \$25.00 per person.

(4) For a manufacturer's or rectifier's, or fourth-class, or farmers' market licensee seminar either ~~in person~~ in-person or online, \$10.00 per

person.

(5) For common carrier seminars either ~~in-person~~ in-person or online, \$10.00 per person.

(6) For all special event, festival, educational sampling, ~~art gallery, bookstore, museum and library~~ and special venue serving permit holders for either an in-person or online seminar, \$10.00 per person.

(e) Fees for all seminars listed in this section and under other sections of this title with regards to in-person or online training shall be deposited directly in the Liquor Control Enterprise Fund.

Sec. 33. 7 V.S.A. § 240 is redesignated and amended to read:

§ ~~240~~ 214. PROOF OF FINANCIAL RESPONSIBILITY

(a) Any ~~first, second or third class liquor~~ first-, second-, or third-class licensee whose license is suspended by the local control commissioners or suspended or revoked by the ~~liquor control board~~ Board of Liquor and Lottery for selling or furnishing ~~intoxicating liquor~~ alcoholic beverages to a minor, to a person apparently under the influence of ~~intoxicating liquor~~ alcohol, to a person after legal serving hours, or to a person ~~whom~~ who it would be reasonable to expect would be intoxicated as a result of the amount of ~~liquor~~ alcoholic beverages served to that person, shall be required to furnish to the ~~liquor control department~~ Commissioner a certificate of financial responsibility within 60 days of the commencement of the suspension or revocation or at the time of reinstatement of the license, whichever is later. Financial responsibility may be established by any one or a combination of the following: insurance, surety bond, or letter of credit. Coverage shall be maintained at not less than \$25,000.00 per occurrence and \$50,000.00 aggregate per occurrence. Proof of financial responsibility shall be required for license renewal for the three years following the suspension or revocation.

(b)(1) Proof of financial responsibility and completion of the licensee education program established in section ~~239~~ 213 of this title shall be conditions for a licensee to be permitted to resume operation after a suspension or revocation for any of the reasons in subsection (a) of this section; ~~however,~~

(2) However, at the discretion of the suspending or revoking authority, the licensee may receive a provisional license prior to the time these conditions are met in order to allow for compliance with the education requirement or to obtain the certificate of financial responsibility. A provisional license may not be issued for a period exceeding 60 days.

Sec. 34. 7 V.S.A. § 221 is added to read:

§ 221. FIRST-CLASS LICENSES

(a)(1) With the approval of the Board of Liquor and Lottery, the control commissioners may grant a first-class license to a retail dealer for the premises where the dealer carries on business if the retail dealer submits an application and pays the fee provided in section 204 of this title, and satisfies the Board that the premises:

(A) are leased, rented, or owned by the retail dealer;

(B) are devoted primarily to dispensing meals to the public, except in the case of clubs; and

(C) have adequate and sanitary space and equipment for preparing and serving meals.

(2) The Board of Liquor and Lottery may grant a first-class license to a boat or railroad dining car if the person that operates it submits an application and pays the fee provided in section 204 of this title.

(3) The Division shall post notice of pending applications on its website.

(b)(1) A first-class license permits the holder to sell malt and vinous beverages for consumption only on those premises.

(2) Except as otherwise provided pursuant to sections 271 and 278 of this title, a first-class license holder shall purchase all malt beverages and vinous beverages sold pursuant to the license from Vermont wholesale dealers or packagers.

(c) A retail dealer carrying on business in more than one place shall acquire a first-class license for each place where the retail dealer sells malt or vinous beverages for consumption on the premises.

(d) Partially consumed bottles of vinous beverages or specialty beers that were purchased with a meal may be removed from first-class licensed premises provided the beverages are recapped or resealed.

(e) No person under 18 years of age shall be employed by a first-class licensee as:

(1) a bartender for the purpose of preparing, mixing, or dispensing alcoholic beverages; or

(2) a waitress or waiter for the purpose of serving alcoholic beverages.

(f)(1) A holder of a first-class license may contract with another person to prepare and dispense food on the licensed premises.

(2) The first-class license holder shall provide to the Division written notification five business days prior to the start of the contract the following information:

- (A) the name and address of the license holder;
- (B) a signed copy of the contract;
- (C) the name and address of the person contracted to provide the food;
- (D) a copy of the person's license from the Department of Health for the facility in which food is served; and
- (E) the person's rooms and meals tax certificate from the Department of Taxes.

(3) The holder of the first-class license shall notify the Division within five business days of the termination of the contract to prepare and dispense food. The first-class licensee shall be responsible for controlling all conduct on the premises at all times, including the area in which the food is prepared and stored.

(g) A hotel that holds a first-class license and places a minibar in any room of a registered guest shall ensure that the minibar is locked and that access to the minibar is restricted to guests of legal drinking age.

(h) The holder of a first-class license may permit a customer to:

(1) possess or carry no more than two open containers of alcoholic beverages; and

(2) maintain control over his or her open container of alcoholic beverages at all times while on the licensed premises.

Sec. 35. 7 V.S.A. § 222 is amended to read:

§ 222. ~~FIRST- AND SECOND-CLASS LICENSES; GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE~~

(a)(1) With the approval of the ~~Liquor Control Board of Liquor and Lottery~~, the control commissioners may grant ~~the following licenses~~ a second-class license to a retail dealer for the premises where the dealer carries on business ~~if the retail dealer submits an application and pays the fee provided in section 204 of this title and satisfies the Board that the premises:~~

(1) ~~Upon making application and paying the license fee provided in section 231 of this title, a first-class license which authorizes the dealer to sell malt and vinous beverages for consumption only on those premises, and upon satisfying the Liquor Control Board that the premises are leased, rented, or owned by the retail dealer and are devoted primarily to dispensing meals to the public, except clubs, and that the premises have adequate and sanitary space and equipment for preparing and serving meals. The term "public" includes patrons of hotels, boarding houses, restaurants, dining cars, and similar places~~

~~where meals are served. A retail dealer carrying on business in more than one place shall acquire a first-class license for each place where the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a first-class licensee to a minor. Partially consumed bottles of vinous beverages or specialty beers that were purchased with a meal may be removed from first-class licensed premises provided the beverages are recapped or resealed.~~

~~(2) Upon making application, paying the license fee provided in section 231 of this title, and upon satisfying the Board that such~~

~~(A) premises are leased, rented, or owned by the retail dealer; and~~

~~(B) are a safe, sanitary, and proper place from which to sell malt and vinous beverages, a second-class license, which shall authorize such dealer.~~

~~(2) The Division shall post notice of pending applications on its website.~~

~~(b)(1) A second-class license permits the holder to export malt and vinous beverages, and to sell malt and vinous beverages to the public from such the licensed premises for consumption off the premises.~~

~~(2) The Division of Liquor Control may grant a second-class licensee a fortified wine permit pursuant to section 225 of this chapter or a retail delivery permit pursuant to section 226 of this chapter.~~

~~(3) Except as otherwise provided pursuant to sections 225, 271, and 278 of this title, a second-class license holder shall purchase all malt beverages and vinous beverages sold pursuant to its license from Vermont wholesale dealers or packagers.~~

~~(c) A retail dealer carrying on business in more than one place shall be required to acquire a second-class license for each place where the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a second-class licensee to a minor.~~

~~(3) No person under the age of 18 shall be employed by a first- or third-class licensee as a bartender for the purpose of preparing, mixing, or dispensing alcoholic beverages. No person under the age of 18 shall be employed by a first- or third-class licensee as a waitress or waiter for the purpose of serving alcoholic beverages.~~

~~(4)(A) A holder of a first-class license may contract with another person to prepare and dispense food on the license holder's premises.~~

~~(B) The first-class license holder shall provide to the Department written notification five business days prior to start of the contract the following information:~~

- ~~(i) the name and address of the license holder;~~
- ~~(ii) a signed copy of the contract;~~
- ~~(iii) the name and address of the person contracted to provide the food;~~
- ~~(iv) a copy of the person's license from the Department of Health for the facility in which food is served; and~~
- ~~(v) the person's rooms and meals tax certificate from the Department of Taxes.~~

~~(C) The holder of the first-class license shall notify the Department within five business days of the termination of the contract to prepare and dispense food. It is the responsibility of the first-class licensee to control all conduct on the premises at all times, including the area in which the food is prepared and stored.~~

~~(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.~~

~~(B) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time.~~

~~(C) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of spirits or fortified wines to a single customer at one time.~~

~~(6) The Liquor Control Board may grant a fortified wine permit to a second-class licensee if the licensee files an application accompanied by the license fee as provided in section 231 of this title. The holder of a fortified wine permit may sell fortified wines to the public from the licensed premises for consumption off the premises. The Liquor Control Board shall issue no more than 150 fortified wine permits in any single year. The holder of a fortified wine permit shall purchase all fortified wines to be offered for sale to the public pursuant to the permit through the Liquor Control Board at a price equal to no more than 75 percent of the current retail price for the fortified wine established by the Commissioner pursuant to subdivision 107(3)(B) of this title.~~

~~(7)(A)(i) The Liquor Control Board may grant a retail delivery permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 231 of this title.~~

~~(ii) Notwithstanding subdivision (i) of this subdivision (7)(A), the Liquor Control Board shall not grant a retail delivery permit in relation to a~~

~~second-class license issued to a licensed manufacturer or rectifier for the manufacturer's or rectifier's premises.~~

~~(B) A retail delivery permit holder may deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age subject to the following requirements:~~

~~(i) Deliveries shall only be made by the permit holder or an employee of the permit holder.~~

~~(ii) Deliveries shall only occur between the hours of 9:00 a.m. and 5:00 p.m.~~

~~(iii) Deliveries shall only be made to a physical address located in Vermont.~~

~~(iv) An employee of a retail delivery permit holder shall not be permitted to make deliveries of malt beverages or vinous beverages pursuant to the permit unless he or she has completed a training program approved by the Department as required pursuant to section 239 of this chapter.~~

~~(v) Malt beverages and vinous beverages delivered pursuant to a retail delivery permit shall be for personal use and not for resale.~~

Sec. 36. 7 V.S.A. § 224 is redesignated and amended to read:

§ 224 ~~223~~. THIRD-CLASS LICENSES; OPEN CONTAINERS

~~(a)(1) The Liquor Control Board of Liquor and Lottery may grant to a person who operates a hotel, restaurant, or club, boat, or railroad dining car, or who holds a manufacturer's or rectifier's license, a license of the third class third-class license if the person files an application accompanied by the license fee as provided in section 231 204 of this title for the premises in which the business of the hotel, restaurant, or club is carried on or for the boat or railroad dining car.~~

~~(2) The applicant shall satisfy the Board that the applicant is the bona fide owner or lessee of the premises, boat, or railroad dining car and that it is operated for the purpose covered by the license.~~

~~(b) The holder of a A third-class license holder may sell spirits and fortified wines for consumption only on the licensed premises covered by the license. The applicant for a third-class license shall satisfy the Liquor Control Board that the applicant is the bona fide owner or lessee of the premises and that the premises are operated for the purpose covered by the license, boat, or railroad dining car.~~

~~(b)(c) The holder of a first- or first- and third-class license may permit a~~

~~consumer~~ customer to:

(1) ~~Possess~~ possess or carry no more than two open containers of alcoholic beverages; and

(2) ~~Maintain~~ maintain control over his or her open container of alcoholic beverages at all times while on the licensed premises, boat, or railroad dining car.

~~(e)(d)(1)~~ A Except as otherwise provided in subdivision (2) of this subsection and section 271 of this title, a person who holds a third-class license shall purchase from the Liquor Control Board of Liquor and Lottery all spirits and fortified wines dispensed in accordance with the provisions of the third-class license and this title.

(2) For a third-class license issued for a dining car or boat, the licensee may procure outside the State of Vermont spirits and fortified wines that are sold pursuant to the license.

(e) No person under 18 years of age shall be employed by a third-class licensee as:

(1) a bartender for the purpose of preparing, mixing, or dispensing alcoholic beverages; or

(2) a waitress or waiter for the purpose of serving alcoholic beverages.

Sec. 37. 7 V.S.A. § 241 is redesignated and amended to read:

§ ~~241~~ 224. ~~FOURTH CLASS LICENSE; RULES:~~

ADVERTISING FOURTH-CLASS LICENSES

(a) The Board of Liquor and Lottery may grant up to a combined total of ten fourth-class licenses to a manufacturer or rectifier that submits an application and the fee provided in section 204 of this title.

(b) At each licensed location, a fourth-class licensee may sell by the unopened container or distribute by the glass, with or without charge, alcoholic beverages manufactured by the licensee.

(1) A licensee may, for consumption at the licensed premises or location, distribute the following amounts of alcoholic beverages to a retail customer:

(A) no more than two ounces of malt beverages or vinous beverages with a total of eight ounces; and

(B) no more than one-quarter ounce of spirits or fortified wine with a total of one ounce.

(2) At a fourth-class license location at the licensee's manufacturing

premises, the licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the licensed premises.

(3) At each licensed location, a fourth-class licensee may, pursuant to section 64 of this title, sell malt beverages or vinous beverages, or both by the keg.

(c)(1) At only one fourth-class license location, a licensed manufacturer or rectifier may sell by the unopened container or distribute by the glass, with or without charge, alcoholic beverages produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier.

(2) A manufacturer or rectifier may sell its product to no more than five additional manufacturers or rectifiers.

(d) A fourth-class license issued for a farmers' market location shall be valid for all dates of operation for the specific farmers' market location.

(e) Rules and regulations applicable to ~~second-class~~ second-class licenses and pertaining to financial responsibility; ~~education of employees, age of employees, hours of sale, age of purchasers,~~ the selling and furnishing to apparently intoxicated persons; and leases of businesses shall all apply ~~in like manner to fourth-class~~ fourth-class licenses.

(b)(f) Signs and advertising of ~~fourth-class~~ fourth-class licenses at tasting rooms and retail shops other than at the manufacturer's or rectifier's premises shall indicate that the premises are a "tasting room and retail shop," and shall be in lettering not less than 75 percent of the height and width of the lettering setting forth the name of the licensee or establishment.

Sec. 38. 7 V.S.A. § 225 is redesignated and amended to read:

§ ~~225~~ 251. EDUCATIONAL SAMPLING EVENT PERMIT

(a) The Division of Liquor Control Board may grant an educational sampling event permit to a person to ~~conduct an event that is open to the public and at which malt beverages, vinous beverages, fortified wines, or spirits, or all four are served only for the purposes of marketing and educational sampling, provided if:~~

(1) the event is also approved by the local licensing authority. At control commissioners; and

(2) at least 15 days prior to the event, ~~an~~ the applicant ~~shall submit~~ submits an application to the ~~Department~~ Division in a form required by the ~~Department~~. ~~The application shall include Commissioner that includes a list of the alcoholic beverages to be acquired for sampling at the event, and the~~

~~application shall be and is accompanied by a the fee in the amount required pursuant to provided in section 231 204 of this title.~~

(b) An educational sampling event permit holder is permitted to conduct an event that is open to the public at which malt beverages, vinous beverages, fortified wines, spirits, or all four are served only for the purposes of marketing and educational sampling.

(c)(1) No more than four educational sampling event permits shall be issued annually to the same person.

(2) An educational sampling event permit shall be valid for no more than four consecutive days.

(d) The permit holder shall ensure all the following:

(1) Attendees at the educational sampling event shall be required to pay an entry fee of no less than \$5.00.

(2)(A) Beverages Malt beverages or vinous beverages for sampling shall be offered in glasses that contain no more than two ounces of either beverage.

(B) Fortified wines and spirits for sampling shall be offered in glasses that contain no more than one quarter ounce of either beverage.

(3) The event shall be conducted in compliance with all the requirements of this title.

~~(b)~~(e) An educational sampling event permit holder:

(1) May may receive shipments directly from a manufacturer, ~~bottler packager~~, certificate of approval holder, wholesale dealer, or importer licensed in Vermont or that provides evidence of licensure in another state or foreign country satisfactory to the Board;

(2) May may transport ~~malt beverages, vinous beverages, fortified wines, and spirits~~ alcoholic beverages to the event site, and those beverages may be served at the event by the permit holder or the holder's employees, volunteers, or representatives of a manufacturer, ~~bottler packager~~, or importer participating in the event, provided they meet the server age and training requirements under section 259 of this chapter; and

(3) [Repealed.]

~~(e)~~ All the shall mark all cases and bottles of alcoholic beverages to be served at the event ~~shall be marked by the permit holder~~ "For sampling only. Not for resale."

~~(d)~~(f) Taxes for the alcoholic beverages served at the event shall be paid as follows:

(1) ~~Malt~~ malt beverages:

(A) \$0.265 per gallon of malt beverages served that contain not more than six percent of alcohol by volume at 60 degrees Fahrenheit; and

(B) \$0.55 per gallon of malt beverages served that contain more than six percent of alcohol by volume at 60 degrees Fahrenheit;

(2) ~~Vinous~~ vinous beverages: \$0.55 per gallon served;

(3) ~~Spirituuous liquors~~ spirits: \$19.80 per gallon served; and

(4) ~~Fortified~~ fortified wines: \$19.80 per gallon served.

Sec. 39. 7 V.S.A. § 225 is added to read:

§ 225. FORTIFIED WINE PERMITS

(a)(1) The Division of Liquor Control may grant a fortified wine permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 204 of this title.

(2) The Division of Liquor Control shall issue no more than 150 fortified wine permits in any single year.

(b)(1) A fortified wine permit holder may sell fortified wines to the public from the licensed premises for consumption off the premises.

(2) A fortified wine permit holder shall purchase all fortified wines to be offered for sale to the public pursuant to the permit through the Liquor Control Board at a price equal to no more than 75 percent of the current retail price for the fortified wine established by the Commissioner pursuant to subdivision 107(3)(B) of this title.

Sec. 40. 7 V.S.A. § 226 is redesignated and amended to read:

§ ~~226~~ 272. BOTTLERS' PACKAGER'S LICENSE

(a) The ~~liquor control board~~ Board of Liquor and Lottery may grant to a bottler a license to bottle and sell malt and vinous beverages received by such bottler in bulk upon a packager's license to a person if the person:

(1) submits an application and the payment of;

(2) pays the license fee as provided in section ~~231~~ 204 of this title; and

(3) upon ~~satisfying~~ satisfies the commissioner of liquor control Commissioner of Liquor and Lottery as to the its compliance with the rules and regulations of the ~~liquor control board~~ Board relating to the cleanliness of the applicant's facilities for storage and bottling of the ~~malt and vinous~~ alcoholic beverages.

(b) A packager's license holder may:

(1) bottle or otherwise package alcoholic beverages the licensee receives in bulk for sale; and

(2) distribute and sell alcoholic beverages that are bottled or otherwise packaged for sale by the licensee.

(c) A packager's license holder shall comply with the provisions of subsection 274(c) of this subchapter.

Sec. 41. 7 V.S.A. § 226 is added to read:

§ 226. RETAIL DELIVERY PERMITS

(a)(1) The Division of Liquor Control may grant a retail delivery permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 204 of this title.

(2) Notwithstanding subdivision (1) of this subsection, the Division of Liquor Control shall not grant a retail delivery permit in relation to a second-class license issued to a licensed manufacturer or rectifier for the manufacturer's or rectifier's premises.

(b) A retail delivery permit holder may deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age subject to the following requirements:

(1) Deliveries shall only be made by the permit holder or an employee of the permit holder.

(2) Deliveries shall only occur between the hours of 9:00 a.m. and 5:00 p.m.

(3) Deliveries shall only be made to a physical address located in Vermont.

(4) An employee of a retail delivery permit holder shall not be permitted to make deliveries of malt beverages or vinous beverages pursuant to the permit unless he or she has completed a training program approved by the Division pursuant to section 213 of this chapter.

(5) Malt beverages and vinous beverages delivered pursuant to a retail delivery permit shall be for personal use and not for resale.

Sec. 42. 7 V.S.A. § 227 is redesignated and amended to read:

§ ~~227~~ 273. WHOLESALE DEALER'S LICENSE

(a) The ~~liquor control board~~ Board of Liquor and Lottery may grant to a ~~wholesale dealer~~ a license to distribute or sell malt and vinous beverages upon application of such ~~wholesale dealer~~ and the payment of a wholesale dealer's

license to a person if the person:

- (1) submits an application on a form required by the Board;
- (2) pays the license fee as provided in section 231 204 of this title; and
- (3) ~~upon satisfying the liquor control board~~ satisfies the Board as to his or her its qualifications as a wholesale dealer.

(b) A wholesale dealer's license holder may distribute or sell malt beverages or vinous beverages to first- and second-class licensees and holders of educational sampling event permits.

(c)(1) In no event shall a wholesale dealer's license ~~permit carrying holder~~ be permitted to carry on business allowed by a ~~retail dealer's first class~~ first-class license or ~~second-class~~ second-class license.

(2) A wholesale dealer's license holder shall comply with the provisions of subsection 274(c) of this subchapter.

Sec. 43. 7 V.S.A. § 228 is redesignated and amended to read:

§ 228 258. ~~DINING CARS AND BOATS; FIRST- OR THIRD-CLASS LICENSE; PURCHASE OF LIQUORS OUTSIDE STATE; PROMOTIONAL RAILROAD TASTING PERMIT~~

~~(a) The Liquor Control Board may grant to a person that operates a boat or dining car engaged in interstate commerce a license of the first-class or third-class upon the application and payment of the license fee as provided in section 231 of this title. A person that operates a dining car or boat engaged in interstate commerce may procure spirits and fortified wines outside the State of Vermont.~~

~~(b) The Division of Liquor Control Board may grant to a person that operates a railroad a tasting permit that permits the holder to conduct tastings of Vermont-produced alcoholic beverages in the dining car, provided if the person files with the department Division an application along with the permit fee required pursuant to subdivision 231(a)(21) provided in section 204 of this title.~~

Sec. 44. 7 V.S.A. § 238a is redesignated and amended to read:

§ 238a 227. ~~OUTSIDE CONSUMPTION PERMITS; FIRST-, THIRD-, AND FOURTH-CLASS LICENSEES~~

~~Pursuant to regulations of the rules of the Board of Liquor and Lottery, the Division of Liquor Control Board, may grant an outside consumption permit may be granted to the holder of a first- or, first- and third-class licenses for all or part of the outside premises of a golf course or to the holder of a, or fourth-class license for all or part of the outside premises of the license holder,~~

~~provided that such~~ if the permit is first obtained from approved by the local control commissioners and approved by the Board.

Sec. 45. 7 V.S.A. § 228 is added to read:

§ 228. SAMPLER FLIGHTS

(a) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.

(b) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time.

(c) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of spirits or fortified wines to a single customer at one time.

Sec. 46. 7 V.S.A. § 229 is amended to read:

§ 229. NUMBER OF LICENSES ALLOWED CLUBS

~~Unless specially authorized by the board, it shall be unlawful for a person to hold more than one first class license or more than one second class license at the same time or a first class license and a second class license, or a second class license and a third class license at the same time, or a bottler's license or wholesale dealer's license and a license of any other class at the same time. However, nothing herein shall be construed to prevent a person holding a bottler's license and a wholesale dealer's license at the same time provided such person pays both the license fees as provided in section 231 of this title.~~

(a)(1) Except as otherwise provided in subdivisions (2) and (3) of this subsection, a club shall be permitted to obtain a license under this title if it has existed for at least two consecutive years prior to the date of its application.

(2) A club whose officers and members consist solely of veterans of the U.S. Armed Forces or a subordinate lodge or local chapter of any national fraternal order, which fulfills all requirements of this section except that it has not been in existence for at least two consecutive years, shall be permitted to obtain a license under this title if it has existed for at least six months prior to the date of its application.

(3) A club that is located on and integrally associated with at least a regulation nine-hole golf course shall be permitted to obtain a license under this title if it has existed for at least six months prior to the date of its application.

(b) The premises of a club that is licensed pursuant to this title may be used or leased by a nonmember as a location for a social event as if it were any

other licensed commercial establishment.

(c)(1) Before May 1 of each year, each club shall file with the Board of Liquor and Lottery a list of the names and residences of its members and a list of its officers.

(2) Its affairs and management shall be conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting.

(3)(A) A club may provide for a salary for members, officers, agents, or employees of the club by a vote at annual meetings by the club's members, directors, or other governing body, and shall report the salary set for the members, officers, agents, or employees to the Board of Liquor and Lottery.

(B) No member, officer, agent, or employee of a club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the disposition or sale of alcoholic beverages to the club's members or guests introduced by members beyond the amount of any salary that may be fixed and voted pursuant to subdivision (A) of this subdivision (3).

(4) An auxiliary member of a club may invite one guest at any one time.

(5)(A) An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages.

(B) An officer, member, or director of a club may volunteer to perform services at the club other than serving alcoholic beverages, including seating patrons and checking identification, without receiving payment for those services.

(6) An officer, member, or director of a club who volunteers his or her services shall not be considered to be an employee of the club.

Sec. 47. 7 V.S.A. § 238 is redesignated and amended to read:

§ 238 241. CATERER'S LICENSE, GRANTING OF; SALE TO MINORS;
COMMERCIAL CATERING LICENSE

(a) The ~~Liquor Control~~ Board of Liquor and Lottery may issue a caterer's license only to those persons who hold a current first-class license or current first- and third-class licenses for a restaurant or hotel premises.

(b) ~~The Board may issue or~~ a commercial catering license only to those persons ~~a person~~ who ~~hold~~ holds a first-class license or ~~current~~ first- and third-class licenses.

(c)(b) The ~~Liquor Control~~ Board of Liquor and Lottery shall adopt rules as

it deems necessary to effectuate the purposes of this section.

~~(d) No malt or vinous beverages, spirits, or fortified wines shall be sold or served to a minor by a holder of a caterer's license.~~

~~(e) Notwithstanding the provisions of subsection (a) of this section, the Liquor Control Board may issue a caterer's license to a licensed manufacturer or rectifier who holds a current first-class license.~~

Sec. 48 7 V.S.A. § 243 is added to read:

§ 243. REQUEST TO CATER PERMIT

(a) The Division of Liquor Control may issue a request to cater permit to the holder of a caterer's license or commercial caterer's license if the licensee:

(1) submits an application for the permit on a form prescribed by the Commissioner;

(2) receives approval for the proposed event from the local control commissioners; and

(3) pays the fee required pursuant to section 204 of this title.

(b) A request to cater permit shall authorize a licensed caterer or commercial caterer to serve alcoholic beverages at an individual event as set forth in the permit.

Sec. 49. 7 V.S.A. § 252 is added to read:

§ 252. SPECIAL EVENT PERMITS

(a)(1) The Division of Liquor Control may issue a special event permit if the application is submitted to the Division of Liquor Control with the fee provided in section 204 of this title at least five days prior to the date of the event.

(2) A special event permit shall be valid for the duration of each public event or four days, whichever is shorter.

(b)(1) A special event permit holder may sell alcoholic beverages manufactured or rectified by the permit holder by the glass or the unopened bottle.

(2) For purposes of tasting, a special event permit holder may distribute beverages manufactured or rectified by the permit holder with or without charge, provided the beverages are distributed:

(A) by the glass; and

(B) in quantities of no more than two ounces per product and eight ounces total of malt beverages or vinous beverages and no more than one

ounce in total of spirits or fortified wines to each individual.

(c)(1) A licensed manufacturer or rectifier may be issued no more than 104 special event permits during a year.

(2) Each manufacturer or rectifier planning to attend a single special event pursuant to this section may be listed on a single permit for the special event. However, each attendance at a special event shall count toward the manufacturer's or rectifier's annual limit of 104 special event permits.

Sec. 50. 7 V.S.A. § 253 is added to read:

§ 253. FESTIVAL PERMITS

(a) The Division of Liquor Control may grant a festival permit if the applicant has:

(1) received approval from the local control commissioners;

(2) submitted a request for a festival permit to the Division in a form required by the Commissioner at least 15 days prior to the festival; and

(3) paid the fee provided in section 204 of this title.

(b)(1) A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or packager licensed in Vermont, or a manufacturer or packager that holds a federal Basic Permit or Brewers Notice or evidence of licensure in a foreign country that is satisfactory to the Board.

(2) The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event.

(c) A festival permit holder shall be subject to the provisions of this title, including section 214 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous beverages pursuant to section 421 of this title.

(d) A person shall be granted no more than four festival permits per year, and each permit shall be valid for no more than four consecutive days.

Sec. 51. 7 V.S.A. § 254 is added to read:

§ 254. SPECIAL VENUE SERVING PERMITS

(a) The Division of Liquor Control may grant an art gallery, bookstore, public library, or museum a special venue serving permit if the applicant has:

(1) received approval from the local control commissioners;

(2) submitted a request for a permit to the Division in a form required

by the Commissioner at least five days prior to the event; and

(3) paid the fee provided in section 204 of this title.

(b) A permit holder may purchase malt or vinous beverages directly from a licensed retailer.

(c) A permit holder shall be subject to the provisions of this title and the rules of the Board regarding the service of alcoholic beverages.

(d) A public library or museum may only be granted a permit pursuant to this section for an event held for a charitable or educational purpose at which malt and vinous beverages will be served for a period of not more than six hours.

Sec. 52. 7 V.S.A. § 255 is added to read:

§ 255. RETAIL ALCOHOLIC BEVERAGE TASTING PERMITS

(a) The Division of Liquor Control may grant a licensee a permit to conduct an alcoholic beverage tasting event as provided in subsection (b) of this section if:

(1) the licensee has submitted a written application in a form required by the Commissioner and paid the fee provided in section 204 of this title at least five days prior to the date of the alcoholic beverage tasting event; and

(2) the Commissioner determines that the licensee is in good standing.

(b) The Division may grant the following alcoholic beverage tasting permits to the following types of licensees:

(1) A second-class licensee.

(A) The permit authorizes the employees of the second-class licensee or of a designated manufacturer or rectifier to dispense to each customer of legal age on the licensee's premises malt or vinous beverages by the glass not to exceed two ounces of each beverage with a total of eight ounces of malt or vinous beverages.

(B) Malt or vinous beverages dispensed at the tasting event shall be from the inventory of the licensee or purchased from a wholesale dealer.

(C) A second-class licensee may be granted up to 48 tasting permits per year. In addition, a second-class licensee may be granted up to five permits per week to conduct a tasting as part of an educational food preparation class or course conducted by the licensee on the licensee's premises.

(2) A licensed manufacturer or rectifier of malt or vinous beverages.

(A) The permit authorizes the licensed manufacturer or rectifier to

dispense to each customer of legal age for consumption on the premises of a second-class licensee beverages produced by the manufacturer or rectifier by the glass not to exceed two ounces of each beverage with a total of eight ounces of malt or vinous beverages.

(B) A manufacturer or rectifier may conduct no more than 48 tastings per year.

(3) A licensed wholesale dealer. The permit authorizes a licensed wholesale dealer to dispense malt or vinous beverages for promotional purposes at the wholesale dealer's premises without charge to invited employees of first-, second-, and third-class licensees, provided the invited employees are of legal age.

(c) A vinous beverage or malt beverage tasting event held pursuant to subsection (b) of this section, not including an alcoholic beverage tasting conducted on the premises of the manufacturer or rectifier, shall comply with the following:

(1) continue for no more than six hours, with no more than six beverages to be offered at a single event, and no more than two ounces of any single beverage and no more than a total of eight ounces of malt or vinous beverages to be dispensed to a customer;

(2) serve no more than eight individuals at one time; and

(3) be conducted totally within a designated area that extends no further than 10 feet from the point of service and that is marked by a clearly visible sign that states that no one under 21 years of age may participate in the tasting.

(d) The holder of a permit issued under this section shall keep an accurate accounting of the beverages consumed at a tasting event and shall be responsible for complying with all applicable laws under this title.

(e) The holder of a permit issued under this section that provides alcoholic beverages to a minor or permits an individual under 18 years of age to serve alcoholic beverages at a tasting event under this section shall be fined not less than \$500.00 nor more than \$2,000.00 or imprisoned not more than two years, or both.

Sec. 53. 7 V.S.A. § 256 is added to read:

§ 256. PROMOTIONAL TASTINGS FOR LICENSEES

(a)(1) At the request of a first- or second-class licensee, a holder of a manufacturer's, rectifier's, or wholesale dealer's license may distribute without charge to the first- or second-class licensee's management and staff, provided they are of legal age and are off duty for the rest of the day, two ounces per person of vinous or malt beverages for the purpose of promoting the beverage.

(2) At the request of a holder of a third-class license, a manufacturer or rectifier of spirits or fortified wines may distribute without charge to the third-class licensee's management and staff, provided they are of legal age and are off duty for the rest of the day, one-quarter ounce of each beverage and no more than a total of one ounce to each individual for the purpose of promoting the beverage.

(3) No permit is required for a tasting pursuant to this subsection, but written notice of the event shall be provided to the Division of Liquor Control at least two days prior to the date of the tasting.

(b)(1) At the request of a holder of a wholesale dealer's license, a first-class licensee may dispense malt or vinous beverages for promotional purposes without charge to invited management and staff of first-, second-, or third-class licensees, provided they are of legal age.

(2) The event shall be held on the premises of the first-class licensee.

(3) The first-class licensee shall be responsible for complying with all applicable laws under this title.

(4) No permit is required for a tasting pursuant to this subsection, but the wholesale dealer shall provide written notice of the event to the Division of Liquor Control at least 10 days prior to the date of the tasting.

(c)(1) Upon receipt of a first- or second-class application by the Board, a holder of a wholesale dealer's license may dispense malt or vinous beverages for promotional purposes without charge to invited management and staff of the business that has applied for a first- or second-class license, provided they are of legal age.

(2) The event shall be held on the premises of the first- or second-class applicant.

(3) The first- or second-class applicant shall be responsible for complying with all applicable laws under this title.

(4) No malt or vinous beverages shall be left behind at the conclusion of the tasting.

(5) No permit is required under this subdivision, but the wholesale dealer shall provide written notice of the event to the Division at least five days prior to the date of the tasting.

Sec. 54. 7 V.S.A. § 257 is added to read:

§ 257. TASTINGS FOR PRODUCT QUALITY ASSURANCE

(a) A licensed manufacturer or rectifier may distribute to its management and staff who are directly involved in the production of the licensee's products,

provided they are of legal age and at the licensed premises, samples of the licensee's products for the purpose of assuring the quality of the products.

(b) Each sample of malt beverages or vinous beverages shall be no larger than two ounces, and each sample of spirits or fortified wines shall be no larger than one-quarter ounce.

(c) No permit is required for a tasting pursuant to this section.

Sec. 55. 7 V.S.A. § 259 is added to read:

§ 259. TASTING EVENTS; AGE AND TRAINING OF SERVERS

No individual who is under 18 years of age or who has not received training as required by the Division may serve alcoholic beverages at a tasting event under this subchapter.

Sec. 56. 7 V.S.A. § 271 is added to read:

§ 271. MANUFACTURER'S OR RECTIFIER'S LICENSE

(a) The Board of Liquor and Lottery may grant a manufacturer's or rectifier's license upon application and payment of the fee provided in section 204 of this title that permits the license holder to manufacture or rectify:

- (1) malt beverages;
- (2) vinous beverages and fortified wines; or
- (3) spirits and fortified wines.

(b) Except as otherwise provided in section 224 of this title and subsections (d)–(f) of this section:

(1) spirits and fortified wine may be manufactured for sale to the Board of Liquor and Lottery or for export, or both; and

(2) malt beverages and vinous beverages may be manufactured or rectified for sale to packagers or wholesale dealers, or for export, or both.

(c) A licensed manufacturer of vinous beverages or fortified wines may receive from another manufacturer licensed in or outside this State bulk shipments of vinous beverages to rectify with the licensee's own product, provided that the vinous beverages or fortified wines produced by the licensed manufacturer may contain no more than 25 percent imported vinous beverages.

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or a first- and a third-class license permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's premises, provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) For a manufacturer of malt beverages, the premises of the manufacturer may include up to two licensed establishments that are located on the contiguous real estate of the license holder, provided the manufacturer owns or has direct control over both establishments.

(e) The Board of Liquor and Lottery may grant a licensed manufacturer of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer's premises.

(f)(1) A licensed manufacturer or rectifier may serve alcoholic beverages with or without charge at an event held on the premises of the licensee or at a location on the contiguous real estate of the licensee provided the licensee at least five days before the event gives the Division written notice of the event, including details required by the Division.

(2) Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Board of Liquor and Lottery.

Sec. 57. REPEAL

7 V.S.A. chapter 11 (Certificates of Approval) is repealed.

Sec. 58. 7 V.S.A. § 274 is added to read:

§ 274. CERTIFICATE OF APPROVAL FOR DISTRIBUTION OF MALT
OR VINOUS BEVERAGES

(a) The Board of Liquor and Lottery may grant to a manufacturer or distributor of malt or vinous beverages that is not licensed under the provisions of this title a certificate of approval if the manufacturer or distributor does all of the following:

(1) Submits an application on a form prescribed by the Board, including any additional information that the Board may deem necessary.

(2) Agrees to comply with the rules of the Board.

(3) Pays the fee provided in section 204 of this title to the Division of Liquor Control by a certified check payable to the State of Vermont or another form of payment approved by the Board of Liquor and Lottery. If the Board does not grant the application, the certified check or payment shall be returned to the applicant.

(b) A certificate of approval shall permit the holder to export malt or vinous beverages, or sell malt or vinous beverages to holders of packagers' or wholesale dealers' licenses issued under section 272 or 273 of this title, or both.

(c) A holder of a packager's or a wholesale dealer's license issued under

this title shall not purchase within or outside the State, or import or cause to be imported into the State, any malt or vinous beverages unless the person, manufacturer, or distributor from which the beverages are obtained holds a valid certificate of approval or packager's license.

(d)(1) The Board of Liquor and Lottery may suspend or revoke a certificate of approval if the holder fails to comply with the rules of the Board or to submit reports to the Commissioner of Taxes in accordance with all applicable laws and rules.

(2)(A) A certificate of approval shall not be revoked unless the holder has been given a hearing following reasonable notice.

(B) Notice of a revocation or suspension shall be sent to each holder of a packager's or wholesale dealer's license prior to the effective date of the revocation or suspension.

(e) A person who violates a provision of this section shall be fined not more than \$300.00 or imprisoned not more than one year, or both, for each offense and shall forfeit any license issued under the provisions of this title.

Sec. 59. REPEAL

7 V.S.A. chapter 13 (Solicitor's License) is repealed.

Sec. 60. 7 V.S.A. § 275 is added to read:

§ 275. SOLICITOR'S LICENSE

(a) The Board of Liquor and Lottery may grant an individual a solicitor's license if he or she does all of the following:

(1) Submits an application to the Board of Liquor and Lottery on a form prescribed by the Board. The application shall include, at a minimum, the name, residence, and business address of the applicant, the name and address of the vendor or employer to be represented by the applicant, and an agreement by the applicant to comply with the rules of the Board.

(2) Submits to the Board a recommendation by the vendor to be represented by the applicant that indicates the applicant is qualified to hold a solicitor's license.

(3) Pays the fee provided in section 204 of this title to the Division of Liquor Control by certified check made payable to the State of Vermont. The certified check shall be returned to the applicant if the Board does not grant him or her a license under this section.

(b) A solicitor's license holder may solicit orders for and promote the sale of malt or vinous beverages by canvassing or interviewing holders of licenses issued under the provisions of this title.

(c) The Board of Liquor and Lottery may suspend or revoke a solicitor's license for failure to comply with any rule of the Board or for other cause. A solicitor's license shall not be revoked until the license holder has had an opportunity for a hearing following reasonable notice.

(d) A person who solicits orders for, or promotes the sale of malt or vinous beverages, or attempts to solicit or promote the sale of malt or vinous beverages by canvassing or interviewing a holder of a license issued under the provisions of this title, without having first obtained a solicitor's license as provided in this section, or who makes a false or fraudulent statement or representation in an application for the license or in connection with an application shall be imprisoned not more than six months or fined not more than \$500.00, or both.

Sec. 61. 7 V.S.A. § 276 is added to read:

§ 276. INDUSTRIAL ALCOHOL DISTRIBUTOR'S LICENSE

(a) The Board of Liquor and Lottery may grant an industrial alcohol distributor's license upon application and payment of the fee provided in section 204 of this title.

(b) Alcohol sold under an industrial alcohol distributor's license may only be used for manufacturing, mechanical, medicinal, and scientific purposes.

Sec. 62. 7 V.S.A. § 277 is added to read:

§ 277. MALT AND VINOUS BEVERAGE CONSUMER SHIPPING LICENSE

(a)(1) A manufacturer or rectifier of malt or vinous beverages licensed in Vermont may be granted an in-state consumer shipping license by filing with the Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of the applicant's current Vermont manufacturer's license and the fee provided in section 204 of this title.

(2) An in-state consumer shipping license may be renewed annually by submitting to the Division the fee provided in section 204 of this title accompanied by a copy of the licensee's current Vermont manufacturer's license.

(b)(1) A manufacturer or rectifier of malt or vinous beverages licensed in another state that operates a brewery or winery in the United States and holds valid state and federal permits and licenses may be granted an out-of-state consumer shipping license by filing with the Division of Liquor Control an application in a form required by the Commissioner accompanied by copies of the applicant's current out-of-state manufacturer's license and the fee provided in section 204 of this title.

(2) An out-of-state consumer shipping license may be renewed annually by submitting to the Division the fee provided in section 204 of this title accompanied by the licensee's current out-of-state manufacturer's license.

(3) As used in this section, "out-of-state" means any state other than Vermont, any territory or possession of the United States, and does not include a foreign country.

(c)(1) A consumer shipping license granted pursuant to this section shall permit the licensee to ship malt or vinous beverages produced by the licensee to private residents for personal use and not for resale.

(2) A licensee shall not ship more than 12 cases of malt beverages containing no more than 36 gallons of malt beverages or no more than 12 cases of vinous beverages containing no more than 29 gallons of vinous beverages to any one Vermont resident in any calendar year.

(3) The beverages shall be shipped by common carrier certified by the Division pursuant to section 280 of this subchapter. The common carrier shall comply with all the following:

(A) deliver beverages pursuant to an invoice that includes the name of the licensee and the name and address of the purchaser;

(B) on delivery, require a valid authorized form of identification, as defined in section 589 of this title, from a recipient who appears to be under 30 years of age; and

(C) require the recipient to sign an electronic or paper form or other acknowledgment of receipt.

Sec. 63. 7 V.S.A. § 278 is added to read:

§ 278. VINOUS BEVERAGE RETAIL SHIPPING LICENSE

(a) A manufacturer or rectifier of vinous beverages that is licensed in-state or out-of-state and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of its in-state or out-of-state license and the fee provided in section 204 of this title.

(b) The retail shipping license may be renewed annually by submitting to the Division the fee provided in section 204 of this title accompanied by the licensee's current in-state or out-of-state manufacturer's license.

(c) A retail shipping license holder, including the holder's affiliates, franchises, and subsidiaries, may sell up to 5,000 gallons of vinous beverages per year directly to first- or second-class licensees and deliver the beverages by

common carrier, the manufacturer's or rectifier's own vehicle, or the vehicle of an employee of a manufacturer or rectifier, provided that the beverages are sold on invoice, and no more than 100 gallons per month are sold to any single first- or second-class licensee.

(d) The retail shipping license holder shall provide to the Division documentation of the annual and monthly number of gallons sold.

(e) Vinous beverages sold under this section may be delivered by the vehicle of a second-class license holder if the second-class licensee cannot obtain the vinous beverages from a wholesale dealer.

Sec. 64. 7 V.S.A. § 279 is added to read:

§ 279. CONSUMER AND RETAIL SHIPPING LICENSES; GENERAL REQUIREMENTS

A holder of a shipping license granted pursuant to section 277 or 278 of this subchapter shall comply with all of the following:

(1) Ensure that all containers of alcoholic beverages are shipped in a container that is clearly labeled: "contains alcohol; signature of individual 21 years of age or older required for delivery."

(2) Not ship to any address in a municipality that the Division of Liquor Control identifies as having voted to be "dry."

(3) Retain a copy of each record of sale for a minimum of five years from the date of shipping.

(4) Report at least twice per year to the Division if a holder of a consumer shipping license and once per year if a holder of a retail shipping license in a manner and form required by the Commissioner all the following information:

(A) the total amount of malt or vinous beverages shipped into or within the State during the preceding six months if a holder of a consumer shipping license or during the preceding 12 months if a holder of a retail shipping license;

(B) the names and addresses of the purchasers to whom the beverages were shipped; and

(C) the date purchased, the quantity and value of each shipment, and, if applicable, the name of the common carrier used to make each delivery.

(5) Pay to the Commissioner of Taxes the tax required pursuant to section 421 of this title on the malt or vinous beverages shipped pursuant to this subchapter and comply with the provisions of 32 V.S.A. chapter 233, 24 V.S.A. § 138, and any other legally authorized local sales taxes. Delivery

in this State shall be deemed to constitute a sale in this State at the place of delivery and shall be subject to all appropriate taxes levied by the State of Vermont.

(6) Permit the State Treasurer, the Division of Liquor Control, and the Department of Taxes, separately or jointly, upon request, to perform an audit of its records.

(7) If an out-of-state license holder, be deemed to have consented to the jurisdiction of the Board of Liquor and Lottery, Department of Liquor and Lottery, Division of Liquor Control, or any other State agency and the Vermont State courts concerning enforcement of this or other applicable laws and rules.

(8) Not have any direct or indirect financial interest in a Vermont wholesale dealer or retail dealer, including a first-, second-, or third-class licensee.

(9) Comply with all applicable laws and Board of Liquor and Lottery rules.

(10) Comply with the beverage container deposit redemption system pursuant to 10 V.S.A. chapter 53.

Sec. 65. 7 V.S.A. § 280 is added to read:

§ 280. COMMON CARRIERS; REQUIREMENTS

(a) A common carrier shall not deliver malt or vinous beverages pursuant to this chapter until it has complied with the training provisions in section 213 of this title and been certified by the Division of Liquor Control.

(b) No employee of a certified common carrier may deliver malt or vinous beverages until that employee completes the training required pursuant to subsection 213(c) of this title.

(c) A certified common carrier shall deliver only malt or vinous beverages that have been shipped by the holder of a license issued under section 277 or 278 of this subchapter or vinous beverages that have been shipped by the holder of a vinous beverage storage license issued under section 283 of this subchapter.

Sec. 66. 7 V.S.A. § 281 is added to read:

§ 281. PROHIBITIONS

(a)(1) Except as otherwise provided in section 226 of this title, direct shipments of malt or vinous beverages are prohibited if the shipment is not specifically authorized and in compliance with sections 277–280 of this subchapter.

(2) Any person who knowingly makes, participates in, imports, or receives a direct shipment of malt or vinous beverages from a person who does not hold a license, permit, or certificate pursuant to sections 226 or 277–280 of this title may be fined not more than \$1,000.00 or imprisoned not more than one year, or both.

(b) The holder of a license issued pursuant to section 277 or 278 of this title or a common carrier that ships malt or vinous beverages to an individual under 21 years of age shall be fined not less than \$1,000.00 or more than \$3,000.00 or imprisoned not more than two years, or both.

(c) For any violation of sections 277–280 of this subchapter, the Board of Liquor and Lottery may suspend or revoke a license issued under section 277 or 278 of this subchapter, in addition to any other remedies available to the Board.

Sec. 67. 7 V.S.A. § 282 is added to read:

§ 282. RULEMAKING

The Board of Liquor and Lottery and the Commissioner of Taxes may adopt rules and forms necessary to implement sections 277–281 of this subchapter.

Sec. 68. 7 V.S.A. § 68 is redesignated and amended to read:

§ 68 283. VINOUS BEVERAGE STORAGE AND SHIPPING LICENSE

(a) The ~~liquor control board~~ Board of Liquor and Lottery may, pursuant to rules adopted by the Board, grant a vinous beverage storage and shipping license to a person who operates that submits an application and pays the fee provided in section 204 of this title.

(b)(1) A vinous beverage storage and shipping licensee may operate a climate-controlled storage facility in which vinous beverages owned by another person are stored for a fee a license that allows the licensee to store and may transport vinous beverages on which all applicable taxes already have been paid.

(2) A vinous beverage storage facility may also accept shipments from any licensed in-state or out-of-state vinous beverage manufacturer that has an in-state or out-of-state consumer shipping license pursuant to section 66 277 of this title.

(3) Vinous beverages stored by the licensee may be transported only for shipment to the owner of the beverages or to another licensed vinous beverage storage facility, and the beverages shall be shipped only by common carrier in compliance with subsection 66(f) section 280 of this title. The licensee shall pay a fee pursuant to subdivision 231(a)(20) of this title. A license under this

~~section shall be issued pursuant to rules adopted by the board.~~

(c) A person granted a license pursuant to this section may not sell or resell any vinous beverages stored at the storage facility.

Sec. 69. 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT AND VINOUS BEVERAGES

(a) Every ~~bottler packager and wholesaler~~ wholesale dealer shall pay to the Commissioner of Taxes the sum of 26 and one-half cents per gallon for every gallon or its equivalent of malt ~~beverage~~ beverages containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the State and the sum of 55 cents per gallon for each gallon of malt ~~beverage~~ beverages containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous beverages sold by them to retailers in the State ~~and shall also pay to the Liquor Control Board all fees for bottler's and wholesaler's licenses.~~ A manufacturer or rectifier of malt or vinous beverages shall pay the taxes required by this subsection to the Commissioner of Taxes for all malt and vinous beverages manufactured or rectified by them and sold at retail.

(b) A ~~bottler packager or wholesaler~~ wholesale dealer may sell malt or vinous beverages to any duly authorized agency of the U.S. Armed Forces on ~~the Ethan Allen Air Force Reservation in the towns of Colchester and Essex or the firing range of the U.S. Armed Forces in the towns of Bolton, Jericho, and Underhill and at the Air Force bases at St. Albans and at the North Concord Air Force Station at North Concord or any other U.S. Armed Forces' installation presently existing in the State or which may in the future be established as though to a retail dealer but without the payment of the~~ gallonge tax, subject to the filing of the returns hereinafter as provided in subsection (c) of this section.

(c)(1) For the purpose of ascertaining the amount of tax, on the filing dates set out in subdivision (2) of this subsection according to tax liability, each ~~bottler and wholesaler~~ packager, wholesale dealer, manufacturer, or rectifier shall transmit to the Commissioner of Taxes, upon a form prepared and furnished by the Commissioner, a statement or return under oath or affirmation showing the quantity of malt and vinous beverages sold by the ~~bottler or wholesaler~~ packager, wholesale dealer, manufacturer, or rectifier during the preceding filing period, and report any other information requested by the Commissioner accompanied by payment of the tax required by this section. The amount of tax computed under subsection (a) of this section shall be rounded to the nearest whole cent. At the same time this form is due, each ~~bottler and wholesaler~~ packager, wholesale dealer, manufacturer, or rectifier also shall transmit to the Commissioner in electronic format a separate report

showing the description, quantity, and price of malt and vinous beverages sold by the ~~bottler or wholesaler packager, wholesale dealer, manufacturer, or rectifier~~ to each retail dealer as defined in ~~subdivision 2(18)~~ section 2 of this title; provided, however, for direct sales to retail dealers by manufacturers or rectifiers of vinous beverages, the report required by this subsection may be submitted in a nonelectronic format.

(2) Where the tax liability for the immediately preceding full calendar year has been (or would have been in cases when the business was not operating for the entire year):

(A) \$2,000.00 or less, then payment of the tax and submission of the documents required by this section shall be due and payable in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending the last day of March, June, September, and December of each year; or

(B) ~~More~~ more than \$2,000.00, then payment of the tax and submission of the documents required by this section shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due.

(d) The exemption provided in this section for beverages sold on any U.S. Armed Forces' installation presently existing in the State is allowed only if the sales are evidenced by a proper voucher or affidavit in a form prescribed by the Commissioner of Taxes, which shall be a part of the return filed.

(e) A person ~~or corporation~~ failing to pay the tax when due, or failing to make returns as required by this section, shall be subject to and governed by the provisions of 32 V.S.A. §§ 3202 and 3203.

(f) ~~All holders of a license of the first- or second-class shall purchase all malt and vinous beverages from Vermont wholesalers or bottlers. [Repealed.]~~

Sec. 70. 7 V.S.A. § 423 is amended to read:

§ 423. RULES

(a) The Commissioner of Taxes and the ~~Liquor Control Board of Liquor and Lottery~~ shall adopt ~~such~~ rules as ~~they deem~~ necessary for the proper administration and collection of the tax imposed under section 422 of this title.

* * *

Sec. 71. 7 V.S.A. § 425 is amended to read:

§ 425. TAXES A PERSONAL DEBT; ACTION FOR RECOVERY

All taxes imposed by this title and all increases, interest, and penalties ~~thereon~~ on those taxes, from the time they become due and payable, shall

become a personal debt, from the person liable to pay the ~~same~~, amounts due to the state State of Vermont, to and may be recovered in an a civil action on this statute brought pursuant to this section.

Sec. 72. 7 V.S.A. chapter 17 is redesignated to read:

CHAPTER 17. SALE TO INTOXICATED PERSONS
~~AND PUBLIC CHARGES~~

Sec. 73. 7 V.S.A. § 501 is amended to read:

§ 501. ~~UNLAWFUL SALE OF INTOXICATING LIQUORS~~ ALCOHOLIC BEVERAGES; CIVIL ACTION FOR DAMAGES

(a) Action for damages. A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by an intoxicated person, or in consequence of the intoxication of any person, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part ~~such the~~ intoxication by selling or furnishing intoxicating liquor alcoholic beverages:

(1) to a minor as defined in section 2 of this title;

(2) to a person apparently under the influence of ~~intoxicating liquor~~ alcohol;

(3) to a person after legal serving hours; or

(4) to a person ~~whom~~ who it would be reasonable to expect would be under the influence of ~~intoxicating liquor~~ alcohol as a result of the amount of ~~liquor~~ alcoholic beverages served by the defendant to that person.

(b) Survival of action; joint action. Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the person intoxicated ~~and~~, the person or persons who furnished the ~~liquor~~ alcoholic beverages, and an owner who may be liable under subsection (c) of this section, or a separate action against either or any of them.

(c) Landlord liability.

(1) If the ~~intoxicating liquor was~~ alcoholic beverages were sold or furnished to the intoxicated person in a rented building, the owner may be joined as a defendant in the action, and judgment ~~therein~~ in the action may be rendered against the owner, if the owner of the building or in the case of a corporation, its agent, knew or had reason to know that ~~intoxicating liquor was~~ alcoholic beverages were sold or furnished by the tenant:

~~(1)~~(A) to minors as defined in section 2 of this title;

(2)(B) to persons apparently under the influence of ~~intoxicating liquor~~ alcohol;

(3)(C) to persons after legal serving hours; or

(4)(D) to persons ~~whom~~ who it would be reasonable to expect would be under the influence of ~~intoxicating liquor~~ alcohol as a result of the amount of ~~liquor~~ alcoholic beverages served to them by the tenant.

(2) It shall be an affirmative defense to an action against an owner that the owner took reasonable steps to prevent the sale of ~~intoxicating liquor~~ alcoholic beverages under the circumstances described in this subsection or to evict the tenant.

(d) Statute of limitations. An action to recover ~~for~~ damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(e) Evidence.

(1) In an action brought under this section, evidence of responsible actions taken or not taken is admissible, if otherwise relevant.

(2) Responsible actions may include, ~~but are not limited to,~~ instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of ~~intoxicating liquor~~ alcoholic beverages, and inquiry under the methods provided by law as to the age or degree of intoxication of the persons involved.

(f) Right of contribution. A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(g) Social host.

(1) Except as set forth in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing ~~intoxicating liquor~~ alcoholic beverages to any person without compensation or profit, ~~if the social host is not a licensee or required to be a licensee under this title.~~ However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes ~~intoxicating liquor~~ alcoholic beverages to a minor may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the ~~intoxicating liquor~~ alcoholic beverages was a minor.

(h) Definitions. ~~For the purpose of~~ As used in this section:

(1) “Apparently under the influence of ~~intoxicating liquor~~ alcohol” means a state of intoxication accompanied by a perceptible act or series of actions which present signs of intoxication.

(2) “Social host” means a person who is not the holder of a liquor license or permit under this title and is not required to hold a license or permit under this title ~~to hold a liquor license~~.

Sec. 74. 7 V.S.A. § 502 is amended to read:

§ 502. MINORS; PAYMENT OF DAMAGES RECOVERED

All damages recovered by a minor in ~~such an~~ an action under section 501 of this chapter shall be paid over to ~~such the~~ the minor or to his or her guardian on ~~such whatever~~ terms as the court may order.

Sec. 75. 7 V.S.A. § 503 is amended to read:

§ 503. SATISFACTION OF JUDGMENT; REVOCATION OF LICENSE

~~If a judgment recovered against a licensee under the provisions of~~ fails to satisfy a judgment entered under section 501 of this title ~~remains unsatisfied~~ for 30 days after ~~the entry thereof~~ the judgment is entered, the ~~board of local control commissioners or the liquor control board~~ Board of Liquor and Lottery shall revoke ~~his~~ its license. A license shall not be granted to a person against whom ~~such a~~ a judgment has been recovered, until the ~~same~~ judgment is satisfied.

Sec. 76. 7 V.S.A. § 504 is amended to read:

§ 504. ~~ACTION FOUNDED ON TORT; CERTIFIED EXECUTION~~

~~A judgment for the plaintiff under section 501 of this title shall be treated as rendered in an action founded on tort. At the time of such judgment, the court shall adjudge that the cause of action arose from the wilful and malicious act of the defendant, and that he or she ought to be confined in close jail, and a certificate thereof shall be stated in or upon the execution. [Repealed.]~~

Sec. 77. 7 V.S.A. § 505 is amended to read:

§ 505. ~~NOTICE TO PROHIBIT SALES TO CERTAIN PERSONS~~

~~The father, mother, husband, wife, child, brother, sister, guardian, or employer of a person may, in writing, notify any board of control commissioners as defined in section 2 of this title, who may, on investigation, forbid the sale or furnishing of spirits, fortified wines, or malt or vinous beverages, or all four, by licensees as defined in section 2 of this title, within the jurisdiction of that board of control commissioners to that person.~~

[Repealed.]

Sec. 78. 7 V.S.A. § 506 is amended to read:

§ 506. ~~RECORD OF NOTICES~~

~~(a) Such board of control commissioners shall place on file the notices received under section 505 of this title and they shall be open to public inspection at reasonable times, except that the notices of a husband, father, wife, child, mother or a sister provided for in section 505 of this title shall not be open to inspection nor be disclosed by such board of control commissioners. Upon receipt of a notice, such board of control commissioners may, upon investigation, give written notice forbidding the sale or furnishing of spirits, fortified wines, or malt and vinous beverages, or all four to such person and to all licensees within the jurisdiction of such board of control commissioners.~~

~~(b) Copies of all notices sent by a board of control commissioners shall be furnished forthwith to the Commissioner of Liquor Control who may upon receipt of such copy forbid the sale of spirits and fortified wines by any State agency or agencies to such person. [Repealed.]~~

Sec. 79. 7 V.S.A. § 561 is amended to read:

§ 561. ~~AUTHORITY OF LIQUOR CONTROL INVESTIGATORS;
ARREST FOR UNLAWFULLY MANUFACTURING,
POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES;
SEIZURE OF PROPERTY~~

* * *

~~(b) The Commissioner of Liquor Control and Lottery, the Director of the Enforcement Division of for the Department Division of Liquor Control or, an investigator employed by the Liquor Control Board of Liquor and Lottery or by the Department Division of Liquor Control and, or any other law enforcement officer may arrest or take into custody pursuant to the Vermont Rules of Criminal Procedure a person whom he or she finds in the act of manufacturing alcohol or possessing a still, or other apparatus for the manufacture of alcohol, or, unlawfully selling, bartering, possessing, furnishing, or transporting alcohol; or unlawfully selling, furnishing, or transporting spirits, fortified wines, or malt and vinous alcoholic beverages, and shall seize the liquors, alcohol, vessels, and implements of sale and the stills or other apparatus for the manufacture of alcohol in the possession of the person. He or she may also seize and take into custody any property described in this section.~~

Sec. 80. 7 V.S.A. § 563 is redesignated and amended to read:

§ ~~563~~ 562. SEARCH WARRANTS

(a) If a ~~state's attorney~~ State's Attorney, the ~~commissioner of liquor control~~ Commissioner of Liquor and Lottery, or an ~~inspector investigator~~ inspector duly acting for the ~~liquor control board~~ Board of Liquor and Lottery, or a control commissioner, or a town grand juror or two reputable citizens of the county, make a complaint under oath or affirmation, ~~before to~~ to a judge of ~~a criminal division~~ the Criminal Division of the ~~superior court~~ Superior Court, that he or she or they have reason to believe that ~~malt or vinous beverages or spirituous liquor~~ alcoholic beverages or alcohol are kept or deposited for sale or distribution contrary to law, or that alcohol is manufactured or possessed contrary to law, in any kind of vehicle, air or water craft, or other conveyance, or ~~a dwelling house, store, shop, steamboat, or water craft of any kind, depot, railway car, motor vehicle or land or air carriage of any kind, warehouse or other building or place in the county,~~ the judge shall issue a warrant to search the premises described in the complaint.

(b) If the ~~liquor~~ alcoholic beverages or alcohol is found ~~therein~~ there under circumstances warranting the belief that it is intended for sale or distribution contrary to law, or if the alcohol is found ~~therein~~ in that place under circumstances warranting the belief that it is unlawfully manufactured or possessed, or if any still, or ~~any~~ other apparatus for the manufacture of alcohol is found ~~therein~~ in that place, the officer shall seize and convey the ~~same~~ alcoholic beverages, alcohol, or still or other apparatus to ~~some~~ a secure place of security, and keep it until ~~final action is had thereon~~ the court renders a final judgment on it.

Sec. 81. 7 V.S.A. 564 is redesignated and amended to read:

§ ~~564~~ 563. SEARCH OF PREMISES WITHOUT WARRANT

(a) A ~~sheriff, deputy sheriff, constable, police~~ law enforcement officer, selectboard member, or grand juror who has information that ~~malt, vinous, and spirituous liquor~~ alcoholic beverages or alcohol is kept with intent to sell, or is sold contrary to law in ~~a tent, shanty, hut, or place of any kind for selling refreshments in a~~ any kind of public place for selling refreshments, except a dwelling houses house, on or near the ~~ground~~ grounds of a ~~cattle show, agricultural exhibition, military muster, or public occasion of any kind,~~ shall search ~~such~~ the suspected place without a warrant.

(b)(1) If ~~such~~ the officer finds ~~such liquor~~ alcoholic beverages or alcohol upon the premises, he or she shall seize ~~the same~~ it and apprehend the keeper of ~~such~~ the place and take him or her, without the ~~liquor so seized~~ alcoholic beverages or alcohol, ~~forthwith or as soon as conveniently may be practicable,~~ before a district judge of the Criminal Division of the Superior Court in whose the jurisdiction where the ~~same~~ alcoholic beverages or alcohol is found, ~~and~~

~~thereupon such.~~

(2) ~~The officer shall make a written complaint under oath, subscribed by him or her, or affirmation to such magistrate the judge, setting forth the details of the finding of such liquor~~ the alcoholic beverages or alcohol.

(c)(1) ~~Upon proof that the liquor is intoxicating and that the same was the alcoholic beverages or alcohol were found in the possession of the accused in a tent, shanty, or other a public place, with intent to sell contrary to law, the liquor seized alcoholic beverages or alcohol shall be adjudged forfeited and disposed of by order of such magistrate the court, as provided in this chapter. Such~~

(2) ~~The owner or keeper shall be proceeded against, as provided in pursuant to this chapter, for keeping such malt and vinous beverage, spirituous liquor, the alcoholic beverages or alcohol with intent to sell.~~

Sec. 82. 7 V.S.A. § 565 is redesignated and amended to read:

§ ~~565~~ 564. NOTICE OF SEIZURE; HEARING; FEES

~~The An officer who makes a seizure of malt, vinous or spirituous liquor or pursuant to section 562 or 563 of this chapter seizes alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol, with or without a warrant, shall forthwith promptly give notice thereof of the seizure to a grand juror of the town in which such the seizure is made, or to the state's attorney. State's Attorney of the county. Such The grand juror or state's attorney State's Attorney shall then attend and act in behalf of the state State at the hearing against the liquor seized alcoholic beverages, alcohol, still, or apparatus so seized, and the. An officer making the a seizure without a warrant shall be allowed the same fees as if he or she had acted under a warrant.~~

Sec. 83. 7 V.S.A. § 566 is redesignated and amended to read:

§ ~~566~~ 565. ARREST OF OWNER OF SEIZED PROPERTY

~~The officer shall promptly apprehend and bring forthwith before the magistrate court the owner and, keeper, and all persons having the custody of, or exercising any control over, the liquor alcoholic beverages, alcohol, or other property seized pursuant to section 562 or 563 of this chapter, either whether as principal, clerk, servant, or agent.~~

Sec. 84. 7 V.S.A. § 567 is redesignated and amended to read:

§ ~~567~~ 566. ARREST OF OWNER OF BUILDING

~~If the owner or keeper of such liquor the alcoholic beverages, alcohol, or other property seized pursuant to section 562 or 563 of this chapter is unknown~~

to the officer, or if a person is not found in possession or custody of the ~~same~~ seized alcoholic beverages, alcohol, or other property, the officer shall apprehend and bring before the ~~magistrate~~ court the owner or occupant of the building or apartments in which ~~such liquor~~ the seized alcoholic beverages, alcohol, or other property was found, if ~~known to him or can be by him~~ ascertained he or she knows or can ascertain the person's identity.

Sec. 85. 7 V.S.A. § 568 is redesignated and amended to read:

§ ~~568~~ 567. FORFEITURE OF SEIZED PROPERTY

(a) If, ~~upon~~ after a hearing, it appears ~~the court determines~~ that such liquor ~~the alcoholic beverages, alcohol, or other property seized pursuant to section 562 or 563 of this chapter was intended for sale, distribution, or use contrary to law,~~ it shall be adjudged forfeited and condemned. When liquor

(b) Alcoholic beverages, alcohol, or other property that is adjudged forfeited and condemned under this section, ~~it shall be turned over to the commissioner of liquor control~~ Commissioner of Liquor and Lottery for the benefit of the state ~~State~~.

Sec. 86. 7 V.S.A. § 569 is redesignated and amended to read:

§ ~~569~~ 568. COSTS OF FORFEITURE AND CONDEMNATION PROCEEDINGS

Upon condemnation of ~~such liquor~~ alcoholic beverages, alcohol, or other property pursuant to section 567 of this title, any ~~and all persons~~ person apprehended and brought before ~~such magistrate~~ the court under sections ~~564 563 and 566~~ 565 of this title shall be liable ~~to pay for~~ for the costs of ~~such~~ the proceedings, if, in the judgment of the ~~magistrate court~~, any of them by themselves, or through clerks, servants, or agents, ~~shall have been;~~

(1) engaged in, or aided in, assisted in, or abetted the keeping of such liquor ~~the alcoholic beverages, alcohol, or other property for unlawful sale, distribution, or use,~~ or have been;

(2) were privy thereto, to the keeping of the alcoholic beverages, alcohol, or other property for unlawful sale, distribution, or use; or have

(3) knowingly permitted the use of any building or apartments by them ~~the person~~ owned or controlled, for the storing or keeping of such liquor ~~the alcoholic beverages, alcohol, or other property for such unlawful sale, distribution, or use.~~

Sec. 87. 7 V.S.A. § 570 is redesignated and amended to read:

§ ~~570~~ 569. EXECUTION FOR COSTS

~~Against any and all persons by the magistrate adjudged~~ If the court

determines that a person is liable to pay for the costs, in case of the proceedings pursuant to section 568 of this title and the costs are not paid, the magistrate court, after a hearing, shall issue an execution in favor of the state State and against the body or bodies of the persons, person that is liable for the costs; upon which. The execution shall be certified as follows: "This execution is issued for the costs of the seizure and condemnation of intoxicating liquor alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol that was kept in violation of law." Persons committed upon the executions shall not be admitted to the liberties of the jail yard.

Sec. 88. 7 V.S.A. § 571 is amended to read:

~~§ 571. SEARCH OF VEHICLE OR CRAFT WITHOUT WARRANT~~

~~If a sheriff, deputy sheriff, constable, police officer, Commissioner of Liquor Control or inspector duly acting for the Liquor Control Board, or State Police has reason to believe and does believe, that a person is engaged in the act of smuggling, delivering, or transporting, in violation of law, malt or vinous beverages, spirits, fortified wines, or alcohol in any wagon, buggy, automobile, motor vehicle, air or water craft, or other vehicle, he or she shall search for and seize without warrant, malt or vinous beverages, spirits, fortified wines, or alcohol found therein being smuggled, delivered, or transported contrary to law. Whenever malt or vinous beverages, spirits, fortified wines, or alcohol, transported unlawfully or alcohol possessed illegally shall be seized by such officer, he or she shall take possession of the vehicle, team, automobile, boat, air or water craft, or other conveyance and shall arrest the person in charge thereof. [Repealed.]~~

Sec. 89. 7 V.S.A. § 572 is redesignated and amended to read:

~~§ 572~~ § 570. FORFEITURE AND CONDEMNATION OF SEIZED VEHICLE OR CRAFT

(a) If such an officer seizes malt or vinous beverages, spirits, fortified wines, alcoholic beverages or alcohol and takes possession of a vehicle, team, automobile, boat, air or water craft, or other conveyance in which such malt or vinous beverages, spirits, fortified wines, or alcohol is being unlawfully transported or in which alcohol is unlawfully possessed, without a warrant, he or she shall forthwith promptly make a complaint, under oath, subscribed by him or her, or affirmation to a judge of the Criminal Division of the Superior Court, in whose the jurisdiction the same was seized where the seizure occurred. Thereupon the

(b) The same proceedings shall be had as with respect to the liquor alcoholic beverages or alcohol and the vehicle and team or automobile, motor

~~vehicle, boat, air or water craft, or other conveyances as would be had if malt or vinous beverages, spirits, or fortified wines had been seized, except that if the vehicle and team, or automobile, boat, air or water craft, or other conveyance, shall be finally is adjudged forfeited and condemned the same, it shall, upon the written order of the magistrate court, shall be sold at a public sheriff's sale for the benefit of the State. The officer making the sale shall make a return in writing to the court issuing such that issued the order of sale with the proceeds thereof from the sale, less his or her expenses and fees for keeping and selling the same vehicle, air or water craft, or other conveyance, which fees shall be the same as for the sale of personal property upon execution.~~

Sec. 90. 7 V.S.A. § 573 is redesignated and amended to read:

§ ~~573~~ 572. PROCEEDS OF SALE OF CONDEMNED VEHICLE OR CRAFT

(a) From the net proceeds of ~~such a~~ a sale pursuant to section 571 of this title, the court shall pay all liens, according to their priority ~~which are that:~~

(1) are established by intervention or otherwise at the time the court enters the judgment of forfeiture ~~being adjudged~~ or in other proceedings brought for ~~such that~~ purpose, as being; and

(2) are bona fide and ~~having been~~ were created without the owner's having any knowledge that the carrying vehicle was ~~being used or was to would be used for the illegal transportation transport of malt or vinous beverages, spirits, fortified wines, alcoholic beverages or alcohol and.~~

(b) The court shall pay the balance of the proceeds to the State Treasurer, ~~as provided for the payment of fines under the provisions of law.~~

Sec. 91. 7 V.S.A. § 574 is redesignated and amended to read:

§ ~~574~~ 573. RIGHTS OF OWNER; ADJOURNED HEARING

(a) Nothing ~~herein~~ in this chapter shall be construed to prejudice the rights of the a bona fide owner of ~~any such a~~ a vehicle, air or water craft, or other conveyance to have it returned to his or her possession upon affirmative proof by the owner that he or she had no express or implied knowledge that such conveyance it was being used or was to be used for the illegal transportation of malt or vinous beverages, spirits, fortified wines, alcoholic beverages or alcohol, and the owner shall be entitled to a return of the same if provided he or she appears enters an appearance before adjudication the court has entered a judgment of forfeiture.

(b)(1) If upon, following a hearing, the person in charge of any such a vehicle, air or water craft, or other conveyance does not appear is determined

not to be the its owner thereof and no person shall claim such conveyance has claimed it, further the hearing shall be continued to a date certain, and the taking of such the vehicle, air or water craft, or other conveyance and the date of the adjourned hearing shall be advertised in some a newspaper, published in the town or county where it was taken and or, if there be is no newspaper published in such the town or county, then in a newspaper having circulation in such the county, once a week for three successive weeks.

(2) The magistrate Commissioner of Finance and Management shall provide the court conducting the hearing shall be allowed by the Commissioner of Finance and Management with the cost of such the advertising.

Sec. 92. 7 V.S.A. § 575 is redesignated and amended to read:

§ 575 574. REOPENING OF FORFEITURE PROCEEDING

(a) At any time within one year after such a vehicle, air or water craft, or other conveyance shall have has been adjudged forfeited, and upon notice to the state's attorney of the county, a claimant may provide notice to the State's Attorney of the county and, upon showing that he or she had no knowledge of the forfeiture hearing, may apply to the court or magistrate before whom former proceedings were had to that entered the judgment of forfeiture to have the case reopened, provided he or she shall. The court may require the claimant to give security by way of recognizance posting a bond to the state, with State in a sufficient sureties in such sum, as the court directs, conditioned that on the claimant will prosecute prosecuting his or her claim to effect and pay paying the costs awarded against him or her.

(b) If upon rehearing such the claimant establishes his or her claim, the court or magistrate shall certify to the commissioner of finance and management Commissioner of Finance and Management the amount of such the claim, not exceeding which shall not exceed the net amount actually realized by the state State from the sale of such the vehicle, air or water craft, or other conveyance, and the commissioner of finance and management Commissioner of Finance and Management shall issue his or her warrant therefor to pay the sum.

Sec. 93. 7 V.S.A. § 576 is redesignated and amended to read:

§ 576 575. CLAIM BY OWNER, KEEPER, OR POSSESSOR FOR SEIZED GOODS OR APPARATUS; BOND

(a)(1) When the owner, keeper, or possessor of malt, vinous, or spirituous liquor or alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol seized under the provisions of this title, appears and makes a claim to the same seized alcoholic beverages, alcohol, or other

property, he or she shall file a written claim with the magistrate court before whom which the proceedings are pending, setting.

(2) The claim shall set forth his or her interest in the liquor seized alcoholic beverages, alcohol, or other property, and the reasons why it should not be adjudged forfeited.

(b) He or she shall also The court may require the claimant to give security by way of recognizance posting a bond to the state State, with sufficient sureties, in such a sufficient sum as the court directs, conditioned that he or she will prosecute on the claimant prosecuting his or her claim to effect and pay paying the costs awarded against him or her.

Sec. 94. 7 V.S.A. § 577 is redesignated and amended to read:

§ ~~577~~ 576. APPEAL; BOND

An appeal shall not be allowed to the If a claimant elects to appeal from the judgment of the court until he or she gives security by way of recognizance under this chapter, the court may require that he or she give security by posting a bond to the state State, with sufficient sureties, in such a sufficient sum, as the court directs, conditioned that he or she will prosecute on the claimant's prosecuting his or her appeal to effect and pay paying the costs awarded against him or her.

Sec. 95. 7 V.S.A. § 578 is redesignated and amended to read:

§ ~~578~~ 577. JUDGMENT AGAINST CLAIMANT; FORFEITURE; COSTS

If the court renders judgment is against the claimant pursuant to section 575 or 576 of this title, the liquor alcoholic beverages or alcohol and the casks or vessels containing the same alcoholic beverages or alcohol shall be adjudged forfeited and condemned, as provided in this title chapter, and the court shall also enter judgment shall be rendered against the claimant for all costs of prosecution incurred after the filing of his or her claim.

Sec. 96. 7 V.S.A. § 579 is redesignated and amended to read:

§ ~~579~~ 578. DISPOSITION OF LIQUOR CONDEMNED ON APPEAL

If the appellant fails to enter and prosecute his or her appeal pursuant to section 576 of this title, or if judgment is against him or her on appeal, the court in which such the appeal is finally decided shall order the liquor alcoholic beverages or alcohol to be disposed of as in the case of liquor alcoholic beverages or alcohol adjudged forfeited and condemned under an order of a district judge of the Criminal Division of the Superior Court pursuant to section 567 of this title.

Sec. 97. 7 V.S.A. § 580 is redesignated and amended to read:

§ ~~580~~ 579. SEIZED PROPERTY TAKEN BY WRIT OF REPLEVIN

If ~~liquor~~ alcoholic beverages, alcohol, or other property seized by an officer under the provisions of this ~~title~~ chapter is taken from his or her possession by a writ of replevin, it shall not be delivered to the claimant, but shall be held by the officer serving ~~such~~ the writ, until the final determination of the seizure ~~action; whereupon the same.~~ Upon the final determination of the action, the alcoholic beverages, alcohol, or other property held by the officer who served the writ shall be delivered to the party in whose favor judgment is rendered, or to ~~such an~~ an officer as who has authority to hold or dispose of ~~the same~~ it under the original seizure proceedings.

Sec. 98. 7 V.S.A. § 581 is redesignated and amended to read:

§ ~~581~~ 580. SEIZURE PROCEEDINGS WITHOUT DELAY BY REPLEVIN

Proceedings on the seizure of malt, vinous or spirituous liquor or alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol, except final execution, shall not be delayed by a replevin ~~thereof of the seized~~ alcoholic beverages, alcohol, or other property, but the cause shall proceed to final judgment as if the action for replevin had not been commenced.

Sec. 99. 7 V.S.A. § 582 is redesignated and amended to read:

§ ~~582~~ 581. COSTS AGAINST OWNER OR KEEPER

If proceedings for the condemnation of ~~malt, vinous, spirituous liquor or alcoholic beverages, alcohol,~~ or a still or other apparatus for the manufacture of alcohol result in the prosecution and conviction of the owner or keeper ~~thereof of the alcoholic beverages, alcohol, or other property~~ for an offense ~~hereunder~~ under this title, the costs in ~~such~~ the proceedings shall be taxed against ~~such~~ the owner or keeper.

Sec. 100. 7 V.S.A. § 584 is redesignated and amended to read:

§ ~~584~~ 582. SALE OF LIQUOR TAKEN BY ATTACHMENT OR ON EXECUTION

~~Malt, vinous, or spirits and fortified wines~~ Alcoholic beverages lawfully taken by attachment or on execution issued by a court of this State may be sold by a duly authorized officer as other personal property taken on execution, but only to the persons and institutions to which ~~liquor~~ alcoholic beverages may be sold under the provisions of this title.

Sec. 101. 7 V.S.A. § 585 is redesignated and amended to read:

§ ~~585~~ 583. ENFORCEMENT AS STATE EXPENSE

Fees payable and expenses incurred under the provisions of this title shall be paid by the ~~state~~ State.

Sec. 102. 7 V.S.A. § 586 is amended to read:

~~§ 586. NOTICE TO FEDERAL GOVERNMENT~~

~~When a person is convicted of or pleads guilty to furnishing or selling intoxicating liquor contrary to law, the court shall forthwith give notice thereof to the United States district director of internal revenue for this district, if such court has reason to believe that such person has not paid any special tax imposed by the United States government upon dealers in intoxicating liquors. [Repealed.]~~

Sec. 103. 7 V.S.A. § 588 is redesignated and amended to read:

~~§ 588~~ 584. SUFFICIENCY OF SPECIFICATION

If a specification is required in prosecutions for offenses under this title, it shall be sufficient to specify the offenses with ~~such~~ as much certainty as to ~~the~~ time, place, and person as the prosecutor is able to provide, and the ~~same~~ the specifications provided may be amended ~~upon~~ at trial. When the specifications set forth the sale or furnishing of alcoholic beverages or alcohol to any unknown person or persons ~~unknown~~, the witnesses may be inquired of as to ~~such~~ those transactions. If the name of the person is disclosed, it may be added to the specifications, and upon ~~such~~ any terms as related to postponement of the trial as the court deems reasonable.

Sec. 104. 7 V.S.A. § 589 is redesignated and amended to read:

~~§ 589~~ 585. TAX RECEIPT ALCOHOL DEALER REGISTRATION AS EVIDENCE

~~The receipt for or record of the payment of the United States special tax as liquor seller~~ A copy or record of a person's Alcohol Dealer Registration with the U.S. Alcohol and Tobacco Tax and Trade Bureau shall be prima facie evidence that the person named therein in the registration keeps for sale and sells ~~intoxicating liquors~~ alcoholic beverages or alcohol.

Sec. 105. 7 V.S.A. § 590 is redesignated and amended to read:

~~§ 590~~ 587. FINES AND COSTS

Fines collected under this title shall be remitted to the ~~general fund~~ General Fund. Costs collected under this title shall be remitted to the ~~liquor control fund~~ Liquor Control Enterprise Fund.

Sec. 106. 7 V.S.A. § 598 is amended to read:

~~§ 598. FORM OF NOTICE TO FEDERAL GOVERNMENT~~

~~The notice to the United States district director of internal revenue shall be in substance as follows:~~

I hereby notify you that _____ of _____ in the county of _____ and state of Vermont, has this day been convicted of or has pleaded guilty to the crime of furnishing or selling intoxicating liquor, contrary to law. I give you this information so that you may, if you desire, investigate as to whether or not said _____ has paid the special internal revenue tax to the United States government. [Repealed.]

Sec. 107. 7 V.S.A. § 600 is redesignated and amended to read:

§ ~~600~~ 588. FEES OF SHERIFF, CONSTABLE, OR POLICE OFFICER

When a sheriff, constable, or police officer makes a search for intoxicating liquor by direction of a lawful under this title pursuant to a warrant, he or she shall receive as fees for such services \$2.00 a fee for the search, \$0.15 a mile for actual travel reimbursement for mileage at the rate set pursuant to 32 V.S.A. § 1267, and such the sum as that he or she shall actually pay paid out for necessary assistance, if deemed reasonable by the commissioner of finance and management,;

(1) the Commissioner of Liquor and Lottery deems the amount to be reasonable; and if

(2) the officer makes declares under oath that the money was so expended as claimed, stating and, if applicable, states the name of his or her assistant and the amount paid for the assistance.

Sec. 108. 7 V.S.A. § 602 is redesignated as follows:

§ ~~602~~ 589. EXHIBITION OF CARD

Sec. 109. 7 V.S.A. § 603 is redesignated and amended to read:

§ ~~603~~ 590. LIQUOR CONTROL BOARD OF LIQUOR AND LOTTERY;
RULES

The ~~liquor control board~~ Board of Liquor and Lottery shall ~~make~~ adopt rules and regulations as necessary to effectuate the purposes of section 602 589 of this title.

Sec. 110. 7 V.S.A. § 651 is amended to read:

§ 651. SOLICITING ORDERS

A person who, for himself or herself or as agent, takes or solicits orders for the sale of malt or vinous beverages, except for licensees or from agencies of the U.S. Army ~~Armed Forces~~ as specified in section 421 of this title, or of spirits or fortified wines shall be imprisoned not more than six months nor less than three months or fined not more than \$500.00 nor less than \$100.00, or both.

Sec. 111. 7 V.S.A. § 652 is amended to read:

§ 652. TRANSPORTATION

A person who, by himself or herself, or through a clerk or agent, brings into the state State, or conveys or transports over or along a railroad or public highway, or by land, air, or water, ~~malt or vinous beverages or spirituous liquor~~ alcoholic beverages, or alcohol which the person knows or has reason to believe is to be unlawfully kept, sold, or furnished, shall be imprisoned not more than six months nor less than three months or fined not more than \$500.00 nor less than \$100.00, or both.

Sec. 112. 7 V.S.A. § 654 is amended to read:

§ 654. TAMPERING WITH SAMPLES

~~A person who tampers with samples of alcohol, malt or vinous beverages or spirituous liquor taken for analysis under this chapter shall be imprisoned not more than 12 months nor less than six months or fined not more than \$500.00 nor less than \$100.00, or both. [Repealed.]~~

Sec. 113. 7 V.S.A. § 655 is amended to read:

§ 655. BARTER

(a) A licensee or permittee who shall be imprisoned not more than 12 months nor less than six months or fined not more than \$1,000.00 nor less than \$300.00, or both, if the licensee or permittee:

(1) purchases or receives wearing apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions, directly or indirectly, by way of sale or barter, the consideration of for which is, in whole or in part is, ~~malt or vinous beverages or spirituous liquor~~ alcoholic beverages or alcohol or the price thereof, of the alcoholic beverages or alcohol; or

(2) receives such article apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions in pawn for such beverage or liquor alcoholic beverages or alcohol or the price thereof, ~~shall be imprisoned not more than twelve months nor less than six months or fined not more than \$1,000.00 nor less than \$300.00, or both~~ of the alcoholic beverages or alcohol.

(b) ~~On~~ A person's license or permit issued under this title shall be revoked following a conviction thereof, his or her license or permit shall be revoked under subsection (a) of this section.

Sec. 114. 7 V.S.A. § 658 is amended to read:

§ 658. SALE OR FURNISHING TO MINORS; ENABLING
CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR

SERIOUS BODILY INJURY

(a) ~~No~~ A person shall not:

(1) sell or furnish ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages to a person under ~~the age of 21 years of age~~; or

(2) knowingly enable the consumption of ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages by a person under ~~the age of 21 years of age~~.

(b) As used in this section, “enable the consumption of ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages” means creating a direct and immediate opportunity for a person to consume ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages.

(c) A person who violates subsection (a) of this section shall be fined not less than \$500.00 nor more than \$2,000.00 or imprisoned not more than two years, or both. However, an employee of a licensee or an employee of a ~~State-contracted~~ State liquor agency, who in the course of employment violates subdivision (a)(1) of this section:

(1) during a compliance check conducted by a law enforcement officer as defined in 20 V.S.A. § 2358:

(A) shall be assessed a civil penalty of not more than \$100.00 for the first violation, and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(B) shall be subject to the criminal penalties provided in this subsection for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(2) may plead as an affirmative defense that:

(A) the purchaser exhibited and the employee carefully viewed photographic identification that complied with section ~~602~~ 589 of this title and indicated the purchaser to be 21 years of age or older; and

(B) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(C) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase alcoholic beverages.

(d) A person who violates subsection (a) of this section, where the person under ~~the age of 21 years of age~~, while operating a motor vehicle on a public highway causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than

five years or fined not more than \$10,000.00, or both.

Sec. 115. 7 V.S.A. § 659 is amended to read:

§ 659. REFUSAL OR NEGLECT OF OFFICERS TO PERFORM DUTIES

(a) ~~The sheriffs of the several counties and their~~ county sheriffs, sheriff's deputies, constables, officers or members of the village or city police, state police State Police, and inspectors investigators of the liquor control board are hereby empowered, and it is hereby made their Board of Liquor and Lottery shall have the authority and duty to see that the provisions of this title and the rules and regulations made as authorized adopted by the liquor control board herein provided for Board of Liquor and Lottery pursuant to this title are enforced within their respective jurisdictions. Any such officer who wilfully ~~willfully~~ refuses or neglects to perform the duties imposed upon him or her by this section shall be fined not more than \$500.00 or imprisoned not more than 90 days, or both.

(b) A control commissioner, ~~state's attorney~~ State's Attorney, or town grand juror who ~~wilfully~~ willfully refuses or neglects to investigate a complaint for a violation of this chapter, when accompanied by evidence in support thereof ~~of the complaint~~, shall be fined \$300.00.

Sec. 116. 7 V.S.A. § 665 is amended to read:

§ 665. PRESCRIPTIONS FOR OTHER THAN MEDICAL USE

~~A physician who gives a prescription for spirituous liquor, when he knows or has reason to believe it is not necessary for medicinal use, shall be fined not more than \$200.00 for the first offense and \$500.00 for each subsequent offense. [Repealed.]~~

Sec. 117. 7 V.S.A. § 666 is redesignated and amended to read:

§ ~~666~~ 660. ADVERTISING

(a) ~~No~~ A person shall not display on outside billboards or signs erected on the highway any advertisement of any kind ~~of malt, vinous beverage or spirituous liquor~~ relating to alcoholic beverages, or indicate where ~~the same alcoholic beverages~~ may be procured. ~~However, the prohibition contained in this section shall not apply to a motor vehicle lawfully transporting in transit malt, vinous beverage or spirituous liquor from a place in another state to a place in another state.~~ A person who violates any provision of this section shall be fined not more than \$100.00 nor less than \$10.00, for each offense, and ~~such a conviction for a violation shall be cause for revoking the person's license after conviction issued under this title.~~

(b) ~~Advertising of malt or vinous~~ Notwithstanding subsection (a) of this section, advertising of alcoholic beverages on vehicles a motor vehicle

lawfully transporting alcoholic beverages or on a vehicle drawn by horses shall be permitted.

(c)(1) ~~The alcoholic~~ alcohol content of any malt beverage shall not be set forth or stated in any advertising or promotion ~~thereof~~ of the beverage in any medium.

(2) ~~No~~ A person shall not advertise or promote the sale of any fermented beverage made from malt by indicating in any way that the beverage has a higher alcoholic content than other similar beverages.

(3) ~~However~~ Notwithstanding subdivisions (1) and (2) of this subsection, the alcoholic content of a malt beverage may be set forth on its label or packaging.

Sec. 118. 7 V.S.A. § 667 is redesignated and amended to read:

§ ~~667~~ 661. VIOLATIONS OF TITLE

(a)(1) A person, ~~partnership, association, or corporation who~~ that furnishes, sells, ~~exposes,~~ or keeps with intent to sell, or bottles or prepares for sale any ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages, except as authorized by this title, or sells, barter, transports, imports, exports, delivers, prescribes, furnishes, or possesses alcohol, except as authorized by the Liquor Control Board of Liquor and Lottery, or ~~who~~ that unlawfully manufactures alcohol or possesses a still or other apparatus for the manufacture of alcohol shall be imprisoned not more than 12 months nor less than three months or fined not more than \$1,000.00 nor less than \$100.00, or both.

(2) For a subsequent conviction ~~thereof~~ under subdivision (1) of this subsection within one year, ~~such a person, partnership, association, or corporation~~ shall be imprisoned not more than three years nor less than six months or fined not more than \$2,000.00 nor less than \$500.00, or both.

(b) A person, ~~partnership, association, or corporation, who~~ that willfully violates a provision of this title for which no other penalty is prescribed or ~~who~~ that willfully violates a ~~provision of the regulations~~ rule of the Liquor Control Board of Liquor and Lottery shall be imprisoned not more than three months nor less than one month or fined not more than \$200.00 nor less than \$50.00, or both.

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than 18 years of age.

Sec. 119. 7 V.S.A. § 668 is redesignated and amended to read:

§ ~~668~~ 662. LIMIT OF SENTENCE

A sentence of imprisonment under this title, ~~either cumulative or on failure to pay fine and costs,~~ shall not exceed the a term of three years.

Sec. 120. 7 V.S.A. § 671 is redesignated and amended to read:

§ ~~671~~ 65. PURCHASE OF KEGS OF MALT BEVERAGES

Any ~~person~~ individual who, within 60 days of purchase, fails to return a keg, ~~as defined in section 64 of this title,~~ sold pursuant to section 64 of this chapter to the ~~second-class~~ second-class or fourth-class licensee from which the keg was purchased shall be fined not more than \$200.00.

Sec. 121. 7 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

As used in this chapter, ~~and unless otherwise required by the context:~~

(1) “Certificate of approval” ~~shall mean~~ means an authorization by the ~~liquor control board~~ Board of Liquor and Lottery pursuant to section 274 of this title to a manufacturer or distributor of malt beverages or vinous beverages, or both not licensed under the provisions of this title, to sell ~~such those~~ those beverages ~~either to holders of bottlers a packager’s or wholesale dealers licenses~~ dealer’s license issued by the ~~board~~ Board ~~under the provisions of pursuant to section 226 272 or 227 273~~ of this title.

(2) “Franchise” or “agreement” shall mean one or more of the following:

(A) a commercial relationship between a wholesale dealer and a certificate of approval holder or a manufacturer of a definite duration or indefinite duration, ~~which that~~ is or is not in writing and ~~which relationship~~ has been in existence for at least one year;

(B) a relationship ~~whereby that~~ that has been in existence for at least one year in which the wholesale dealer is granted the right to offer and sell the brands of ~~beer~~ malt beverages or ~~wine~~ vinous beverages offered by the certificate of approval holder or manufacturer ~~and which relationship has been in existence for at least one year;~~

(C) a relationship ~~whereby that~~ that has been in existence for at least one year in which the wholesale dealer, as an independent business, constitutes a component of a certificate of approval holder’s or manufacturer’s distribution system ~~and which relationship has been in existence for at least one year;~~

(D) a relationship ~~whereby that~~ that has been in existence for at least one year in which the wholesale dealer’s business is substantially associated with the certificate of approval holder’s or manufacturer’s brand, advertising, or other commercial symbol designating the manufacturer ~~and which relationship~~

has been in existence for at least one year;

(E) a relationship ~~whereby that~~ has been in existence for at least one year in which the wholesale dealer's business is substantially reliant on the certificate of approval holder or manufacturer for the continued supply of beer malt beverages or wine and ~~which relationship has been in existence for at least one year~~ vinous beverages; and

(F) a written or oral arrangement for a definite or indefinite period ~~whereby that~~ has been in existence for at least one year in which a certificate of approval holder or manufacturer grants to a wholesale dealer a license to use a trade name, trade mark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, or otherwise ~~and which arrangement has been in existence for at least one year.~~

(3) "Franchisee" means any beer malt beverages or wine vinous beverages wholesale dealer to whom a franchise or agreement as defined ~~herein~~ in this section is granted or offered, or any beer malt beverages or wine vinous beverages certificate of approval holder or manufacturer who is a party to a franchise or agreement as defined ~~herein~~ in this section.

(4) "Franchisor" means any beer malt beverages or wine vinous beverages certificate of approval holder or manufacturer who enters into any franchise or agreement with a beer malt beverages or wine vinous beverages wholesale dealer, or any beer malt beverages or wine vinous beverages certificate of approval holder or manufacturer who is a party to a franchise or agreement as defined ~~herein~~ in this section.

(5) "Territory" or "sales territory" ~~shall mean~~ means the area of sales responsibility designated by any agreement or franchise between any franchisee or franchisor for the brand or brands of any franchisor or manufacturer.

(6) ~~As used herein, brand~~ "Brand" and "brands" are synonymous with label and labels.

Sec. 122. 7 V.S.A. § 702 is amended to read:

§ 702. PROHIBITED ACTS BY MANUFACTURER

No A manufacturer shall not:

(1) induce or coerce, or attempt to induce or coerce, any wholesale dealer to accept delivery of any alcoholic beverage, any form of advertisement, or any other commodity, ~~which shall not have been~~ that was not ordered by the wholesale dealer;

(2) induce or coerce, or attempt to induce or coerce, any wholesale

dealer to do any illegal act or thing by threatening to cancel or terminate his ~~beer the wholesale dealer's malt beverages or wine vinous beverages~~ franchise agreement; or

(3) fail or refuse to deliver promptly to a wholesale dealer after the receipt of his its order any ~~beer malt beverages or wine vinous beverages~~ when the product is publicly advertised for immediate sale.

Sec. 123. 7 V.S.A. § 703 is amended to read:

§ 703. CANCELLATION OF FRANCHISE

Notwithstanding the terms, provisions, or conditions of any agreement or franchise, no certificate of approval holder or manufacturer shall cancel, terminate, or refuse to continue a franchise, or cause a wholesale dealer to relinquish a franchise, unless good cause is shown to exist.

Sec. 124. 7 V.S.A. § 704 is amended to read:

§ 704. 120 DAYS DAYS' NOTICE FOR CANCELLATION;
RECTIFICATION

(a)(1) Except as provided in subsection (c) of this section, a certificate of approval holder or manufacturer shall provide a franchisee or agreement holder at least 120 ~~days~~ days' written notice of any intent to terminate or cancel any franchise or agreement.

(2) The notice shall state the causes and reasons for the intended termination or cancellation. The franchisee shall have ~~such~~ 120 days in which to rectify any claimed deficiency.

(b) The ~~superior court~~ Superior Court, upon petition and after due notice to both parties and the opportunity to be heard, shall decide whether good cause exists to allow termination or cancellation of the franchise or agreement.

(c) The notice provisions of subsection (a) of this section may be waived if the reason for termination, cancellation, or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, bankruptcy, or if the certificate of approval holder or manufacturer is able to prove to the court that ~~such~~ providing the required notice would do irreparable harm to the marketing of his its product.

Sec. 125. 7 V.S.A. § 705 is amended to read:

§ 705. EXCLUSIVE TERRITORIES

No certificate of approval holder or manufacturer, who ~~shall designate~~ designates a sales territory for which ~~any a~~ a wholesale dealer shall be primarily responsible or in which ~~any a~~ a wholesale dealer is required to concentrate its efforts, shall enter into any franchise or agreement with any other wholesale

dealer for the purpose of establishing an additional franchisee for its brand or brands of ~~beer malt beverages~~ or ~~wine vinous beverages~~ in the territory being primarily served or concentrated upon by a the first licensed wholesale dealer.

Sec. 126. 7 V.S.A. § 706 is amended to read:

§ 706. SALE TO RETAILERS BY FRANCHISEES

No franchisee ~~who shall be~~ that is granted a sales territory for which the franchisee shall be primarily responsible or in which the franchisee is required to concentrate its efforts shall make any sale or delivery of ~~beer malt beverages~~ or ~~wine vinous beverages~~ to any retail licensee whose place of business is not within the sales territory granted to the franchisee.

Sec. 127. 7 V.S.A. § 707 is amended to read:

§ 707. SALE OR TRANSFER; PURCHASE BY MANUFACTURER

(a) A wholesale dealer wishing to sell or otherwise transfer ~~his~~ its interests in a franchise shall give at least 90 days' written notice to the certificate of approval holder or manufacturer, prior to ~~such~~ the sale or transfer. The notice of intended sale or transfer shall give the full name and address of the proposed transferee, along with full details outlining the qualifications of the proposed transferee which, in the opinion of the wholesale dealer, make the proposed transferee competent to operate the franchise.

(b) In the event the certificate of approval holder or manufacturer wishes to resist the proposed sale or transfer to the proposed transferee, ~~he~~ the certificate of approval holder or manufacturer shall petition the ~~superior court~~ Superior Court for a hearing no later than 60 days prior to the date of the proposed sale or transfer, ~~clearly stating his~~. The petition shall clearly state the certificate of approval holder's or manufacturer's reasons for resisting the proposed sale or transfer.

(c) Upon receipt of a petition brought resisting a sale or transfer, the ~~superior court~~ Superior Court shall hold a hearing on the proposed transfer or sale. The court shall make a full inquiry into the qualifications of the proposed transferee, and shall determine whether or not ~~such~~ the proposed transferee is in a position to substantially continue the operations of the franchise, to assume the obligations of the franchise holder, and to conduct the business in a manner ~~which~~ that will serve ~~to~~ protect the legitimate interests of the certificate of approval holder or manufacturer.

(d) ~~In the event~~ If the superior court Superior Court finds the proposed transferee to be qualified to operate the franchise, it shall approve the transfer of the franchise to the proposed transferee ~~shall be approved~~.

Sec. 128. 7 V.S.A. § 709 is redesignated to read:

§ ~~709~~ 708. MERGER OF FRANCHISOR

Sec. 129. 7 V.S.A. § 710 is redesignated to read:

§ ~~710~~ 709. HEIRS, SUCCESSORS, AND ASSIGNS

Sec. 130. REPEAL

7 V.S.A. chapter 25 (rathskellars) is repealed.

Sec. 131. 7 V.S.A. § 1002 is amended to read:

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a)(1) No person shall engage in the retail sale of tobacco products, tobacco substitutes, or tobacco paraphernalia, ~~or provide a vending machine for their sale~~ in his or her place of business without a tobacco license obtained from the ~~Department~~ Division of Liquor Control; ~~provided, however, that no.~~

(2) No person shall engage in the retail sale of tobacco substitutes without also obtaining a tobacco substitute endorsement from the ~~Department~~ Division of Liquor Control.

(3) Tobacco licenses and tobacco substitute endorsements shall expire at midnight, April 30, of each year.

(b)(1) The Board shall prepare and issue tobacco license and tobacco substitute endorsement forms and applications. These shall be incorporated into the liquor license forms and applications prepared and issued under this title.

(2) The licenses issued under this section shall be entitled "LIQUOR LICENSE," "LIQUOR-TOBACCO LICENSE," or "TOBACCO LICENSE," as applicable. The endorsements issued under this section shall be entitled "TOBACCO SUBSTITUTE ENDORSEMENT."

(3) The Board shall also provide simple instructions for licensees designed to assist them in complying with the provisions of this chapter.

(c) Each tobacco license and tobacco substitute endorsement shall be prominently displayed on the premises identified in the license.

(d)(1) For a license or endorsement required under this section, a person shall apply to the legislative body of the municipality and shall pay the following fees:

(A) to the ~~Department~~ Division of Liquor Control, the applicable liquor license fee, ~~as set forth in chapter 9 provided in section 204~~ of this title, for a liquor license and a tobacco license;

(B) to the legislative body of the municipality, a fee of \$110.00 for a tobacco license or renewal; and

(C) to the legislative body of the municipality, a fee of \$50.00 for a tobacco substitute endorsement as provided in ~~subsection (a)~~ subdivision (a)(2) of this section.

(2) The municipal clerk shall forward the application to the ~~Department~~ Division, and the ~~Department~~ Division shall issue the tobacco license and the tobacco substitute endorsement, as applicable, and shall forward all fees to the Commissioner for deposit in the Liquor Control Enterprise Fund.

* * *

Sec. 132. 7 V.S.A. § 1002a is amended to read:

§ 1002a. LICENSEE EDUCATION

(a) An applicant for a tobacco license that does not hold a liquor license issued under this title shall be granted a tobacco license pursuant to section 1002 of this title only after the applicant has attended a ~~Department~~ Division of Liquor Control in-person seminar or completed the appropriate ~~Department~~ Division of Liquor Control online training program for the purpose of being informed about the Vermont tobacco laws pertaining to the purchase, storage, and sale of tobacco products. A corporation, partnership, or association shall designate a director, partner, or manager to comply with the requirements of this subsection.

(b) The holder of a tobacco license that does not also hold a liquor license issued pursuant to this title for the same premises shall:

(1) Complete the ~~Department's~~ Division's in-person or online enforcement seminar at least once every two years. A corporation, partnership, or association shall designate a director, partner, or manager to comply with this subdivision.

(2) Ensure that every employee involved in the sale of tobacco products completes a ~~Department~~ Division of Liquor Control in-person or online training program or other training programs approved by the ~~Department~~ Division before the employee begins selling or providing tobacco products, and at least once every 24 months thereafter. A licensee may comply with this subdivision by conducting its own training program on its premises using information and materials furnished by the ~~Department~~ Division of Liquor Control. A licensee ~~who~~ that fails to comply with the requirements of this subsection shall be subject to suspension of ~~the~~ its tobacco license for no less than one day.

(3) Fees for ~~Department~~ Division of Liquor Control in-person and online seminars for tobacco only ~~will~~ shall be \$10.00 per person.

Sec. 133. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
TOBACCO PARAPHERNALIA; REQUIREMENTS;
PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person ~~younger than~~ under 18 years of age.

~~(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.~~

~~(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all~~ All vending machines selling tobacco products are prohibited.

~~(d)~~(c)(1) Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

(B) in a locked container.

(2) This subsection shall not apply to the following:

(A) a display of tobacco products that is located in a commercial establishment in which by law no person ~~younger than~~ under 18 years of age is permitted to enter at any time;

(B) cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

(C) cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

~~(e)~~(d) The sale and the purchase of bidis is prohibited. A person who holds a tobacco license who sells bidis as prohibited by this subsection shall be fined not more than \$500.00. A person who purchases bidis from any source shall be fined not more than \$250.00.

~~(f)~~(e) No person holding a tobacco license shall sell cigarettes or little cigars individually or in packs that contain fewer than 20 cigarettes or little cigars.

~~(g)~~(f) As used in this section, “little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco which is a cigarette within the meaning of 32 V.S.A. § 7702(1), and as to which 1,000 units weigh not more than three pounds.

Sec. 134. 7 V.S.A. 1004 is amended to read:

§ 1004. PROOF OF AGE FOR THE SALE OF TOBACCO PRODUCTS;
TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA

(a) A person shall exhibit proper proof of his or her age upon demand of a person licensed under this chapter, an employee of a licensee, or a law enforcement officer. If the person fails to provide such proper proof of age, the licensee shall be entitled to refuse to sell tobacco products, tobacco substitutes, or tobacco paraphernalia to the person. The sale or furnishing of tobacco products, tobacco substitutes, or tobacco paraphernalia to a person exhibiting proper proof of age shall be prima facie evidence of a licensee’s compliance with section 1007 of this title.

(b) As used in this section, “proper proof of age” means ~~a photographic motor vehicle operator’s license, a valid passport, a U.S. Military identification card, or a photographic nondriver motor vehicle identification card obtained from the Department of Motor Vehicles~~ a valid authorized form of identification as defined in section 589 of this title.

Sec. 135. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF
TOBACCO PRODUCTS; MISREPRESENTING AGE OR
PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment.

(2) A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

(b) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of ~~this subsection~~ (a) of this section shall be subject to having the tobacco products, tobacco substitutes, or tobacco

paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

~~(b)~~(c) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both.

Sec. 136. 7 V.S.A. 1006 is amended to read:

§ 1006. POSTING OF SIGNS

(a) A person licensed under this chapter shall post in a conspicuous place on the premises identified in the tobacco license a warning sign stating that the sale of tobacco products, tobacco substitutes, and tobacco paraphernalia to ~~minors~~ persons under 18 years of age is prohibited. The Board shall prepare the sign and make it available with the license forms issued under this chapter. The sign may include information about the health effects of tobacco and tobacco cessation services. The Board, in consultation with a representative of the licensees when appropriate, is authorized to change the design of the sign as needed to maintain its effectiveness.

(b) A person violating this section shall be guilty of a misdemeanor and fined not more than \$100.00.

Sec. 137. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 18 YEARS OF AGE; REPORT

(a) ~~An individual who~~ A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

(b)(1) The ~~Department~~ Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to ~~minors~~ persons under 18 years of age of at least 90 percent for buyers who are 16 or 17 years of age. An individual under 18 years of age participating in a compliance test shall not be in violation of ~~7 V.S.A. § section~~ 1005 of this title.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this

title and this section after a first sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

- (A) Two violations one weekday;
- (B) Three violations two weekdays;
- (C) Four violations three weekdays;
- (D) Five violations three weekend days, Friday through Sunday.

(3) The ~~Department~~ Commissioner shall report to the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the Tobacco Evaluation and Review Board annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 138. 7 V.S.A. § 1008 is amended to read:

§ 1008. RULEMAKING

The ~~board~~ Board of Liquor and Lottery shall adopt rules for the administration and enforcement of this chapter.

Sec. 139. 7 V.S.A. § 1009 is amended to read:

§ 1009. CONTRABAND AND SEIZURE

Any cigarettes or other tobacco products that have been sold, offered for sale, or possessed for sale in violation of section 1003 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband, and shall be subject to seizure by the Commissioner, the Commissioner's agents or employees, the Commissioner of Taxes, or any agent or employee ~~thereof~~ of the Commissioner of Taxes, or by any ~~peace law enforcement~~ officer of this State when directed to do so by the Commissioner. All cigarettes or other tobacco products seized shall be destroyed.

Sec. 140. 7 V.S.A. § 1010 is amended to read:

§ 1010. INTERNET SALES

(a) As used in this section:

- (1) "Cigarette" has the same definition ~~as that found at~~ meaning as in

32 V.S.A. § 7702(1).

(2) [Repealed.]

(3) “Licensed wholesale dealer” has the same ~~definition as that found at~~ meaning as in 32 V.S.A § 7702(5).

(4) “Little cigars” has the same ~~definition as that found at~~ meaning as in 32 V.S.A. § 7702(6).

(5) “Retail dealer” has the same ~~definition as that found at~~ meaning as in 32 V.S.A. § 7702(10).

(6) “Roll-your-own tobacco” has the same ~~definition as that found at~~ meaning as in 32 V.S.A § 7702(11).

(7) “Snuff” has the same ~~definition as that found at~~ meaning as in 32 V.S.A. § 7702(13).

(b) No person shall cause cigarettes, roll-your-own tobacco, little cigars, or snuff, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network, to be shipped to anyone other than a licensed wholesale dealer or retail dealer in this State.

(c) No person shall, with knowledge or reason to know of the violation, provide substantial assistance to a person in violation of this section.

(d) A violation of this section is punishable as follows:

(1) A knowing or intentional violation of this section shall be punishable by imprisonment for not more than five years or a fine of not more than \$5,000.00, or both.

(2) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a person has violated this section, the Attorney General may impose a civil penalty in an amount not to exceed \$5,000.00 for each violation. For purposes of this subsection, each shipment or transport of cigarettes, roll-your-own tobacco, little cigars, or snuff shall constitute a separate violation.

(3) The Attorney General may seek an injunction to restrain a threatened or actual violation of this section.

(4) In any action brought pursuant to this section, the State shall be entitled to recover the costs of investigation, of expert witness fees, of the action, and reasonable attorney’s fees.

(5) A person who violates this section engages in an unfair and deceptive trade practice in violation of the State’s Consumer Protection Act, 9 V.S.A. §§ 2451 et seq.

(6) If a court determines that a person has violated the provisions of this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the State Treasurer for deposit in the General Fund.

(7) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this State.

Sec. 141. 7 V.S.A. § 1011 is amended to read:

§ 1011. COMMERCIAL CIGARETTE ROLLING MACHINES

(a) A person shall not possess or use a cigarette rolling machine for commercial purposes.

(b) A person who knowingly violates subsection (a) of this section shall be subject to the following civil penalties:

(1) The revocation or termination of any license, permit, appointment, or commission under this chapter.

(2) A civil penalty of up to \$50,000.00 in any action brought by the Department of Taxes, the Department of Liquor and Lottery, the Division of Liquor Control, or the Attorney General.

(c) Penalties assessed under subsection (b) of this section shall be paid into the General Fund.

(d) A person who violates subsection (a) of this section shall be imprisoned for not more than three years or fined not more than \$100,000.00, or both.

(e) This section shall not apply to the possession of a cigarette rolling machine intended solely for personal use by individuals who do not intend to offer the resulting product for resale.

(f) A cigarette rolling machine capable of rolling 200 cigarettes in fewer than 15 minutes is shall be presumed to be for commercial purposes.

Sec. 142. 7 V.S.A. § 1012 is amended to read:

§ 1012. LIQUID NICOTINE; PACKAGING

(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont:

(1) any liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or

(2) any nicotine liquid container unless that container constitutes child-

resistant packaging.

(b) As used in this section:

(1) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance ~~contained therein~~ in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all ~~such~~ children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(2) “Nicotine liquid container” means a bottle or other container of a nicotine liquid or other substance containing nicotine ~~which~~ that is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

Sec. 143. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers which contain liquor, a deposit of not less than five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. which contain liquor, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the ~~liquor control fund~~ Liquor Control Enterprise Fund for administration of this subsection.

* * *

Sec. 144. 10 V.S.A. § 6605f is amended to read:

§ 6605f. WASTE MANAGEMENT PERSONNEL BACKGROUND
REVIEW

(a) Disqualifying criteria. Any nongovernmental entity or person applying for a certification under section 6605, 6605a, or 6606 of this title, for interim certification under section 6605b of this title, or for a waste transportation permit under section 6607a of this title, shall be denied certification or other authorization if the Secretary finds:

(1) that the applicant or any person required to be listed on the disclosure statement pursuant to subdivision (b)(1) of this section has been

convicted of any of the following disqualifying offenses in this or any other jurisdiction within the 10 years preceding the date of the application:

* * *

(L) ~~trafficking in alcoholic beverages as defined in~~ unlawfully selling, bartering, possessing, furnishing, or transporting alcohol pursuant to 7 V.S.A. § 561;

* * *

Sec. 145. 12 V.S.A. § 7156 is amended to read:

§ 7156. EFFECT OF EMANCIPATION

* * *

(b) The order of emancipation shall not affect the status of the minor in the applicability of any provision of law which requires specific age requirements under the ~~state~~ State or federal constitution or any ~~state~~ State or federal law including laws that prohibit the sale, purchase, or consumption of ~~intoxicating liquor~~ alcoholic beverages to or by a person under 21 years of age.

Sec. 146. 13 V.S.A. § 6505 is amended to read:

§ 6505. PAYMENT

~~The commissioner of finance and management~~ Commissioner of Finance and Management shall allow counsel so employed a reasonable compensation for his or her services and expenses and shall issue his or her warrant for the amount allowed. Compensation shall not be allowed where it appears to the ~~commissioner~~ Commissioner that the prosecution was superfluous and instituted to enhance costs, nor in the trial of a person upon a complaint for intoxication or for any other offense against the ~~chapter~~ title relating to ~~intoxicating liquors~~ alcoholic beverages, except where the respondent pleads not guilty.

Sec. 147. 18 V.S.A. § 4249 is amended to read:

§ 4249. TRANSPORTATION OF ALCOHOL, TOBACCO, OR
REGULATED DRUGS INTO PLACES OF DETENTION

(a) No person shall knowingly carry or introduce or cause to be carried or introduced into a lockup, jail, prison, or correctional facility:

(1) ~~alcohol, malt or vinous beverages, or spirituous liquor~~ or alcoholic beverages;

* * *

Sec. 148. 18 V.S.A. § 4254 is amended to read:

§ 4254. IMMUNITY FROM LIABILITY

* * *

(b) A person who, in good faith and in a timely manner, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under age 21 years of age pursuant to 7 V.S.A §§ § 656 ~~and 657~~ or for providing to or enabling consumption of alcohol by someone under age 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(c) A person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under age 21 years of age pursuant to 7 V.S.A. §§ § 656 ~~and 657~~ or for providing to or enabling consumption of alcohol by someone under age 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(d) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order), for a violation of this chapter or 7 V.S.A §§ § 656 ~~and 657~~, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A §§ § 656 ~~and 657~~ for being at the scene of the drug overdose or for being within close proximity to any person at the scene of the drug overdose.

* * *

Sec. 149. 20 V.S.A. § 1817 is amended to read:

§ 1817. REPORTS OF LAW ENFORCEMENT OFFICER; ACCIDENTS INVOLVING ~~LIQUOR~~ ALCOHOL

Any law enforcement officer who, upon investigation of a motor vehicle accident or other incident involving the use of ~~intoxicating liquor~~ alcohol, shall inquire whether the person involved in the accident or incident was served or furnished ~~intoxicating liquor~~ alcoholic beverages at a licensed establishment

and, if the officer determines that a person was served or furnished ~~intoxicating liquor~~ alcoholic beverages at a licensed establishment, the officer shall so inform ~~in writing~~ the appropriate licensee or licensees in writing. A law enforcement officer shall not be subject to civil liability for an omission or failure to comply with a provision of this section.

Sec. 150. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

* * *

(2) Level II certification.

(A) An applicant for certification as a Level II law enforcement officer shall first complete Level II basic training and may then become certified in a specialized practice area as set forth in subdivision (B)(ii) of this subdivision (2). Level II basic training shall include training to respond to calls regarding alleged crimes in progress and to react to the circumstances described in subdivision (B)(iii) of this subdivision (2).

(B)(i) Except as provided in subdivisions (ii) and (iii) of this subdivision (B), the scope of practice of a Level II law enforcement officer shall be limited to investigating the following matters:

(I) ~~7 V.S.A. § 657 (person under 21 years of age misrepresenting age procuring, possessing, or consuming alcoholic beverages; third or subsequent offense); [Repealed.]~~

(II) 7 V.S.A. § 658 (sale or furnishing to minors; enabling consumption by minors);

* * *

Sec. 151. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL

(a) A person shall not consume alcoholic beverages while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as ~~“intoxicating liquor”~~ “alcohol” as

defined in section 1200 of this title.

* * *

Sec. 152. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
POSSESSION OF ALCOHOL

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or possess any open container which contains alcoholic beverages in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as ~~“intoxicating liquor”~~ “alcohol” as defined in section 1200 of this title.

* * *

Sec. 153. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(4) ~~“Intoxicating liquor”~~ “Alcohol” includes alcohol, malt beverages, ~~spirituous liquors~~ spirits, fortified wines, and vinous beverages, as defined in 7 V.S.A. § 2, and any beverage or liquid containing any of them.

* * *

(7) ~~“Highway” shall be defined~~ has the same meaning as in subdivision 4(13) of this title, except that for purposes of this subchapter, “highway” does not include the driveway which serves only a single-family or two-family residence of the operator. This exception shall not apply if a person causes the death of a person, causes bodily injury to a person, or causes damage to the personal property of another person, while operating a motor vehicle on a driveway in violation of section 1201 of this subchapter.

* * *

(9)(A) “Ignition interlock restricted driver’s license” or “ignition interlock RDL” or “RDL” means a restricted license or privilege to operate a motor vehicle issued by the Commissioner allowing a resident whose license or privilege to operate has been suspended or revoked for operating under the influence of ~~intoxicating liquor~~ alcohol or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer’s reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved

ignition interlock device.

(B) "Ignition interlock certificate" means a restricted privilege to operate a motor vehicle issued by the Commissioner allowing a nonresident whose privilege to operate a motor vehicle in Vermont has been suspended or revoked for operating under the influence of ~~intoxicating liquor~~ alcohol or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer's reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

* * *

Sec. 154. 23 V.S.A. § 3207a is amended to read:

§ 3207a. OPERATING UNDER THE INFLUENCE OF ~~INTOXICATING LIQUOR~~ ALCOHOL OR DRUGS; SWI

(a) A person shall not operate, attempt to operate, or be in actual physical control of a snowmobile on any lands, waters, or public highways of this State:

(1) when the person's alcohol concentration is 0.08 or more; or

(2) when the person is under the influence of ~~intoxicating liquor~~ alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of safely operating a snowmobile.

(b) A person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug, substance, or inhalant other than ~~intoxicating liquor~~ alcohol to a degree which renders the person incapable of safely operating a snowmobile may not operate, attempt to operate, or be in actual physical control of a snowmobile.

* * *

(e) As used in this section, "~~intoxicating liquor~~" includes "alcohol," includes "alcohol," "malt beverages," "~~spirituous liquors~~ spirits," "fortified wines," and "vinous beverages" as defined in 7 V.S.A. § 2, and any beverage or liquid containing any of them.

* * *

Sec. 155. 23 V.S.A. § 3323 is amended to read:

§ 3323. OPERATING UNDER THE INFLUENCE OF ~~INTOXICATING LIQUOR~~ ALCOHOL OR DRUGS; B.W.I.

(a) A person shall not operate, attempt to operate, or be in actual physical

control of a vessel on the waters of this State while:

(1) there is 0.08 percent or more by weight of alcohol in his or her blood, as shown by analysis of his or her breath or blood; or

(2) under the influence of ~~intoxicating liquor~~ alcohol; or

(3) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of operating safely.

(b) ~~For purposes of As used in this section, “intoxicating liquor” includes “alcohol,” includes “alcohol,” “malt beverages,” “spirituous liquors spirits,” “fortified wines,” and “vinous beverages” as defined in 7 V.S.A. § 2, and any beverage or liquid containing any of the foregoing them.~~

(c) A person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug, substance, or inhalant other than ~~intoxicating liquor~~ alcohol to a degree which renders the person incapable of safely operating a vessel may not operate, attempt to operate, or be in actual physical control of a vessel. The fact that a person charged with a violation of this section is or has been entitled to use such drug under the laws of this State shall not constitute a defense against any charge of violating this section.

* * *

Sec. 156. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

* * *

(b) An all-terrain vehicle may not be operated:

* * *

(8) While the operator is under the influence of drugs or ~~intoxicating beverages~~ alcohol as defined by this title.

* * *

Sec. 157. 24 V.S.A. § 301 is amended to read:

§ 301. PENALTY FOR REFUSAL TO ASSIST

A person being required in the name of the State by a sheriff, deputy sheriff, high bailiff, deputy bailiff, or constable, who neglects or refuses to assist ~~such an~~ the officer in the execution of his or her office, in a criminal cause, ~~or~~ in the preservation of the peace, ~~or~~ in the apprehension and securing of a person for a breach of the peace, ~~or~~ in a search and seizure of ~~intoxicating liquors~~ alcohol as defined in 7 V.S.A. § 2 or in transporting ~~such liquors~~ the

alcohol when seized, or in a case of escape or rescue of persons arrested on civil process, shall be fined not more than \$500.00, unless the circumstances under which his or her assistance is called for amount to a riot, in which case he or she shall be imprisoned not more than six months or fined not more than \$100.00, or both.

Sec. 158. 29 V.S.A. § 902 is amended to read:

§ 902. DUTIES OF COMMISSIONER OF BUILDINGS AND GENERAL SERVICES

* * *

(f) The Commissioner of Buildings and General Services may also:

* * *

(4) receive, warehouse, manage, and distribute all State property and commodities, except alcoholic beverages purchased ~~for~~ by the ~~Liquor Control Board of Liquor and Lottery~~; and all surplus federal property and commodities;

* * *

(i) Notwithstanding subsection (a) of this section, all alcoholic beverages sold by the Board of Liquor and Lottery shall be purchased by the Board as set forth in 7 V.S.A. §§ 104 and 107.

Sec. 159. 32 V.S.A. § 10203 is amended to read:

§ 10203. DISTRIBUTION; RETAIL PURCHASE AND SALE

* * *

(f) Break-open tickets shall not be sold at premises licensed to sell alcoholic beverages except ~~at clubs~~ for clubs as defined in 7 V.S.A. § ~~2(7)~~ 2. However, a nonprofit organization may sell break-open tickets at premises licensed to sell alcoholic beverages if, notwithstanding 13 V.S.A. § 2143(e), all proceeds from the sale of the break-open tickets are used by the nonprofit organization exclusively for charitable, religious, educational, and civic undertakings, with only the following costs deducted from the proceeds:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded;

(3) the reasonable legal fees necessary to organize the nonprofit organization and to ~~assure~~ ensure compliance with all legal requirements; and

(4) the reasonable accounting fees necessary to account for the proceeds from the sale of the break-open tickets.

* * *

Sec. 160. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters, ~~unless the context otherwise requires:~~

* * *

(9) “Delinquent act” means an act designated a crime under the laws of this State, or of another state if the act occurred in another state, or under federal law. A delinquent act shall include a violation of 7 V.S.A. §§ § 656 and 657; however, it shall not include:

(A) snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations of sections 3207a, 3207b, 3207c, 3207d, and 3323;

(B) motor vehicle offenses committed by an individual who is at least 16 years of age, except for violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.

* * *

Sec. 161. REPLACEMENTS

In the following sections, the phrase “intoxicating liquor” or “intoxicating liquors,” wherever it appears, shall be replaced with “alcohol”:

(1) 5 V.S.A. §§ 427, 3728, and 3729;

(2) 9 V.S.A. § 3807;

(3) 13 V.S.A. §§ 4017, 5041, 5042, 5301, and 7601;

(4) 23 V.S.A. §§ 308, 1130, 1201, 1204, 1211, 1213, 1218, 3206, 3207d, 3311, 3325, 3326, 3905, and 4116; and

(5) 32 V.S.A. § 805.

Sec. 162. REVIEW OF FINES AND PENALTIES; REPORT

The Commissioner of Liquor and Lottery shall review the adequacy and effectiveness of all fines and penalties in Title 7 to determine which fines and penalties, if any, require an amendment to improve their efficacy and operation in concert with the regulatory and enforcement provisions of Title 7. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committees on General, Housing and Military Affairs and on Judiciary, and the Senate Committees on Economic Development, Housing and General Affairs and on Judiciary regarding his or her findings and any

recommendations for legislative action.

* * * Merger of State Lottery into Department of Liquor and Lottery * * *

Sec. 163. FINDINGS AND PURPOSE

(a) The General Assembly finds that:

(1) The Department of Liquor Control and the State Lottery serve similar roles in Vermont's government by generating significant revenue for the State through the sales of a controlled product.

(2) The similarities between the roles and functions of the Department of Liquor Control and the State Lottery create the potential for the two entities to merge and collaborate in carrying out their respective functions and missions.

(3) Merging the Department of Liquor Control and State Lottery into a single Department of Liquor and Lottery will enable the State to deliver services more effectively and efficiently to the public.

(4) Merging the Department of Liquor Control and the State Lottery into a single Department of Liquor and Lottery will also enable the State to realize significant cost savings by eliminating redundancy, improving accountability, providing for more efficient use of specialized expertise and facilities, and promoting the effective sharing of best practices and state-of-the-art technology.

(b) Accordingly, it is the intent of the General Assembly to:

(1) create a combined Department of Liquor and Lottery that will be a successor to and continuation of the Department of Liquor Control and the State Lottery; and

(2) create a Board of Liquor and Lottery that shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.

Sec. 164. REPEALS

31 V.S.A. §§ 651 (State Lottery Commission), 652 (organization), and 653 (compensation) are repealed.

Sec. 165. 31 V.S.A. § 654 is redesignated and amended to read:

§ 654 651. POWERS AND DUTIES OF BOARD OF LIQUOR AND LOTTERY

The ~~Commission~~ Board of Liquor and Lottery shall adopt rules pursuant to 3 V.S.A. chapter 25, governing the establishment and operation of the State Lottery. The rules may include the following:

* * *

(7) Lottery product sales locations, which may include State agency liquor stores ~~and liquor agencies~~; private business establishments, except establishments holding first- or first- and third-class licenses pursuant to Title 7; fraternal, religious, and volunteer organizations; town clerks' offices; and State fairs, race tracks, and other sporting arenas.

* * *

(11) Apportionment of total revenues, within limits hereinafter specified, accruing to the State Lottery Fund among:

(A) the payment of prizes to winning ticket holders;

(B) the payment of all costs incurred in the creation, operation, and administration of the ~~lottery~~ State Lottery, including compensation of the ~~Commission Board, Director~~ Commissioner of Liquor and Lottery, employees of the Department of Liquor and Lottery, consultants, contractors, and other necessary expenses;

(C) the repayment of monies advanced to the State Lottery Fund for initial funding of the ~~lottery~~ State Lottery;

* * *

Sec. 166. 31 V.S.A. § 654a is redesignated and amended to read:

§ ~~654a~~ 652. MULTIJURISDICTIONAL LOTTERY GAME

(a) In addition to the Tri-State Lotto Compact provided for in subchapter 2 of this chapter, and the other authority to operate lotteries contained in this chapter, the ~~Commission Board of Liquor and Lottery~~ is authorized to negotiate and contract with up to four multijurisdictional lotteries to offer and provide multijurisdictional lottery games. The ~~Commission Board~~ may join any multijurisdictional lottery that provides indemnification for its standing committee members, officers, directors, employees, and agents. The ~~Commission Board~~ shall adopt rules under 3 V.S.A. chapter 25 to govern the establishment and operation of any multijurisdictional lottery game authorized by this section.

* * *

(c) The provisions of subdivisions 674L.1.1A through 674L.1.1I of this title shall apply to the payment of prizes to a person other than a winner for prizes awarded under any multijurisdictional lottery authorized by this section, except that the ~~Vermont Lottery Commission Board of Liquor and Lottery~~ shall be responsible for implementing such the provisions under this section, rather than the Tri-State Lotto Commission.

Sec. 167. 31 V.S.A. § 655 is redesignated and amended to read:

§ ~~655~~ 653. LICENSE FEES

A license fee shall be charged for each sales license granted to a person for the purpose of selling lottery tickets at the time the person is first granted a license. The fee shall be fixed by the ~~Commission~~ Board of Liquor and Lottery, but no license fee in excess of \$50.00 may be charged.

Sec. 168. 31 V.S.A. § 656 is redesignated and amended to read:

§ ~~656~~ 654. INTERSTATE LOTTERY; CONSULTANT; MANAGEMENT

(a) The ~~Commission~~ Board of Liquor and Lottery may develop and operate a lottery or the State may enter into a contractual agreement with another state or states to provide for the operation of the lottery. Approval of the Joint Fiscal Committee and the Governor shall be required for such contractual agreements with other states.

(b) If no interstate contract is entered into, the ~~Commission~~ Board shall obtain the service of an experienced lottery design and implementation consultant. The fee for the consultant may be fixed or may be based ~~upon~~ on a percentage of gross receipts realized from the lottery.

(c) The ~~Commission~~ Board may enter into a facilities management type of agreement for operation of the lottery by a third party.

Sec. 169. 31 V.S.A. § 657 is redesignated and amended to read:

§ ~~657~~ 655. DIRECTOR AND DUTIES OF THE COMMISSIONER

(a) The State Lottery shall be under the immediate supervision and direction of a ~~Lottery Director~~ the Commissioner of Liquor and Lottery. ~~The Director shall devote his or her entire time and attention to the duties of his or her office and shall not be engaged in any other profession or occupation. The Office of Director of the State Lottery is an executive position and shall not be included in the plan of classification of State employees, notwithstanding 3 V.S.A. § 310(a).~~

(b) The ~~Director~~ Commissioner shall:

(1) supervise and administer the operation of the ~~lottery~~ Lottery within the rules adopted by the ~~Commission~~ Board of Liquor and Lottery;

(2) subject to the approval of the ~~Commission~~ Board, enter into such contracts ~~as may be required~~ necessary for the proper creation, administration, operation, modification, and promotion of the ~~lottery~~ Lottery or any part thereof of the Lottery. These contracts shall not be assignable;

(3) license sales agents and suspend or revoke any license in accordance with the provisions of this chapter and the rules of the ~~Commission~~ Board;

(4) act as Secretary to the Commission Board, but as a nonvoting member of the Commission Board;

(5) employ ~~such~~ professional and secretarial staff as ~~may be required necessary~~ to carry out the functions of the Commission Division of the Lottery. 3 V.S.A. chapter 13 shall apply to employees of the Commission Division; and

(6) annually prepare a budget and submit it to the Commission Board.

Sec. 170. 31 V.S.A. § 658 is redesignated and amended to read:

§ ~~658~~ 656. STATE LOTTERY FUND

(a) There is hereby created in the State Treasury a separate fund to be known as the State Lottery Fund. ~~This fund~~ The Fund shall consist of all revenues received from the Treasurer for initial funding, from sale of lottery tickets, from license fees, and from all other money credited or transferred from any other fund or source pursuant to law. The monies in the State Lottery Fund shall be disbursed pursuant to subdivision ~~654(11)~~ 651(11) of this title, and shall be disbursed by the Treasurer on warrants issued by the Commissioner of Finance and Management, when authorized by the Commissioner of Liquor and Lottery Director and approved by the Commissioner of Finance and Management.

(b) Expenditures for administrative and overhead expenses of the operation of the ~~lottery~~ Lottery, except agent and bank commissions, shall be paid from ~~lottery~~ Lottery receipts from an appropriation authorized for that purpose. Agent commissions shall be set by the Lottery Commission Board of Liquor and Lottery and ~~may~~ shall not exceed 6.25 percent of gross receipts and bank commissions ~~may~~ shall not exceed ~~1~~ one percent of gross receipts. Once the draw game results become official, the payment of any commission on any draw game ticket that wins at least \$10,000.00 shall be made through the normal course of processing payments to lottery agents, regardless of whether the winning ticket is claimed.

* * *

Sec. 171. 31 V.S.A. § 659 is redesignated and amended to read:

§ ~~659~~ 657. REPORT OF THE COMMISSION BOARD

The Commission Board of Liquor and Lottery shall make an annual report to the Governor and to the General Assembly on or before the 10th day of January in each year, ~~including therein~~. The report shall include an account of its the Board's actions, and the receipts derived under the provisions of this chapter, the practical effects of the application thereof of the proceeds of the Lottery, and any recommendation for legislation which that the Commission

Board deems advisable.

Sec. 172. 31 V.S.A. § 660 is redesignated and amended to read:

§ ~~660~~ 658. ~~POST AUDITS~~ POSTAUDITS

All ~~lottery~~ Lottery accounts and transactions of the ~~Lottery Commission~~ Board of Liquor and Lottery and Division of the Lottery pursuant to this chapter shall be subject to annual ~~post-audits~~ postaudits conducted by independent auditors retained by the ~~Commission~~ Board for this purpose. The ~~Commission~~ Board may order ~~such~~ other audits as it deems necessary and desirable.

Sec. 173. 31 V.S.A. § 661 is redesignated and amended to read:

§ ~~661~~ 659. SALES AND PURCHASE OF LOTTERY TICKETS

The following acts relating to the purchase and sale of lottery tickets are prohibited:

* * *

(4) No member of the ~~Commission~~ Board of Liquor and Lottery or employee of the ~~Commission~~ Department of Liquor and Lottery, or ~~members~~ member of their his or her immediate household, may claim or receive prize money ~~hereunder~~ under this chapter.

Sec. 174. 31 V.S.A. § 662 is redesignated to read:

§ ~~662~~ 660. UNCLAIMED PRIZE MONEY

Sec. 175. 31 V.S.A. § 663 is redesignated to read:

§ ~~663~~ 661. STATE GAMING LAWS INAPPLICABLE AS TO LOTTERY

Sec. 176. 31 V.S.A. § 665 is redesignated to read:

§ ~~665~~ 662. PENALTIES

Sec. 177. 31 V.S.A. § 666 is redesignated to read:

§ ~~666~~ 663. PUBLICATION OF ODDS

Sec. 178. 31 V.S.A. § 667 is redesignated to read:

§ ~~667~~ 664. FISCAL COMMITTEE REVIEW

* * *

(b) This section shall not apply in the event the ~~Commission~~ Board of Liquor and Lottery enters into a facilities management agreement pursuant to the provisions of subsection ~~656(e)~~ 654(c) of this title.

Sec. 179. 3 V.S.A. § 212 is amended to read:

§ 212. DEPARTMENTS CREATED

The following administrative departments are hereby created, through the instrumentality of which the Governor, under the Constitution, shall exercise such functions as are by law assigned to each department respectively:

* * *

(14) The Department of ~~Liquor Control~~ and Lottery

* * *

Sec. 180. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the compensation of the members of the following Boards shall be \$50.00 per diem:

* * *

(7) ~~Liquor Control Board~~ Board of Liquor and Lottery

* * *

Sec. 181. [Deleted.]

Sec. 182. BOARD OF LIQUOR AND LOTTERY; DEPARTMENT OF
LIQUOR AND LOTTERY; POWERS AND DUTIES

On July 1, 2017:

(1)(A) The Board of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Liquor Control Board and the Lottery Commission.

(B) The rules of the Liquor Control Board and the Lottery Commission in effect on July 1, 2017 shall be the rules of the Board of Liquor and Lottery until they are amended or repealed.

(2)(A) The Department of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Department of Liquor Control and the State Lottery.

(B) All positions and appropriations of the Department of Liquor Control and the State Lottery shall be transferred to the Department of Liquor and Lottery.

(3)(A) The Commissioner of Liquor Control shall become the Commissioner of Liquor and Lottery.

(B) The Commissioner of Liquor and Lottery shall assume all the

powers, duties, rights, and responsibilities of the Commissioner of Liquor Control and the Director of the State Lottery.

Sec. 183. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2018, the Office of Legislative Council shall prepare and submit a draft bill to the House Committees on General, Housing and Military Affairs and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations that makes statutory amendments of a technical nature and identifies all statutory sections that the General Assembly may need to amend substantively to effect the intent of this act.

Sec. 184. DEPARTMENT OF LIQUOR AND LOTTERY; FUNCTIONS AND DUTIES; EFFECTIVENESS; REPORT

The Commissioner Liquor and Lottery, in consultation with the Board of Liquor and Lottery, shall examine the effectiveness of the Department of Liquor and Lottery in fulfilling its functions and duties and shall identify specific measures to enhance the Department's ability to carry out its functions and duties effectively and efficiently. On or before November 15, 2017, the Chair of the Board shall submit a written report to the Governor and the General Assembly of his or her findings and recommendations for legislative action.

* * * Casino Events Hosted by Nonprofit Organizations * * *

Sec. 185. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a) Notwithstanding the provisions of this chapter, a nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated. Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be utilized under authority of this section.

* * *

(d) Casino events shall be limited as follows:

(1) A location may be the site of no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at

least 15 days between each event.

(2) A location that is owned by a nonprofit, as defined in 32 V.S.A. § 10201(5), may be the site of no more than ~~three casino events in any calendar quarter and no more than 12 casino events in any calendar year~~ two casino events in any calendar month as long as there are at least ~~15~~ 10 days between each event.

(3) A nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute no more than:

~~(A) one casino event in any calendar quarter; or~~

~~(B) three casino events in any calendar year, as long as there are at least 15 days between each event~~ month.

(4) ~~For the purposes of~~ As used in this subsection, “casino event” means an event held during any 24-hour period at which any game of ~~change~~ chance is conducted except those prohibited by ~~13 V.S.A. § subdivision~~ 2135(a)(1) or (2) of this title. A “casino event” shall not include a fair, bazaar, field days, agricultural exposition, or similar event ~~which~~ that utilizes a wheel of fortune, chuck-a-luck, or other such games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle.

(e) Games of chance shall be limited as follows:

(1) All proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

(A) reasonable expenses, as determined by fair market value, of purchasing or renting materials and equipment used for the game of chance ~~and~~, of printing advertisements, and of the direct purchase of advertising through established media, such as newspapers, radio, and television; and

(B) reasonable expenses, as determined by fair market value, for rent for the premises on which the game of ~~change~~ chance is executed, ~~except that rent paid prior to August 1, 1994, pursuant to a written lease in effect on June 1, 1994, and not subject to cancellation, may be deducted, whether or not such rent is reasonable,~~ and repairs and upkeep to the premises for nonprofit organizations having ownership in premises; and

(C) prizes awarded to players as limited in subdivision (4) of this subsection (e); and

(D) payments to persons as limited in subdivision (2) of this subsection (e).

* * *

(6) A nonprofit organization shall not organize and execute games of

chance on more than two days in any calendar week, nor shall games of chance be organized and executed at any location on more than two days in any calendar week, except that:

(A) Casino events may be conducted only as permitted under subsection (d) of this section.

* * *

~~(D) Agricultural fairs qualified to receive a State stipend pursuant to 31 V.S.A. § 617 may organize and execute games of chance for not more than 12 consecutive days during the fair once each calendar year. [Repealed.]~~

* * *

* * * Division of Liquor Control; Raffles of Rare and Unusual Products * * *

Sec. 186. 7 V.S.A. § 5 is added to read:

§ 5. DEPARTMENT OF LIQUOR AND LOTTERY; RAFFLES FOR RIGHT TO PURCHASE RARE AND UNUSUAL PRODUCTS

(a) Notwithstanding any provision of 13 V.S.A. chapter 51 to the contrary, the Division of Liquor Control may conduct raffles for the right to purchase certain rare and unusual spirits and fortified wines that are acquired by the Board of Liquor and Lottery. A raffle conducted pursuant to this section shall meet the following requirements:

(1) Tickets to enter the raffle shall only be available for purchase to a member of the general public who is 21 years of age or older.

(2) Tickets for the raffle shall be sold at a price fixed by the Commissioner.

(3) All notices or advertisements relating to the raffle shall clearly state:

(A) the price of a raffle ticket;

(B) the date of the drawing;

(C) the sales price of each rare and unusual spirit or fortified wine; and

(D) that the winning prize will be the right to purchase the rare and unusual spirit or fortified wine for the specified sales price.

(4) No Board member or employee of the Department, and no immediate family member of a Board member or employee of the Department shall be permitted to enter the raffle.

(b) The proceeds from the sale of tickets for each raffle shall be deposited in the Liquor Control Enterprise Fund established pursuant to section 112 of

this title.

(c) As used in this section, “rare and unusual spirits and fortified wines” means spirits and fortified wines that are distributed or allocated to the Board in an amount that is insufficient for general distribution to local agency stores and for which the Commissioner determines that an extraordinary level of public demand exists.

Sec. 186a. PROCEEDS FROM SALE OF RAFFLE TICKETS FOR
PURCHASE OF RARE AND UNUSUAL PRODUCTS;
REPORT

On or before January 15, 2018, the Commissioner of Liquor and Lottery shall submit a written report regarding raffles conducted by the Department pursuant to 7 V.S.A. § 5, including the number of products for which a raffle was conducted, the total number of tickets sold, and the proceeds from the sales of raffle tickets to the House Committees on Appropriations and on General, Housing and Military Affairs and the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs.

Sec. 187. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to modernizing and reorganizing Title 7 and creating the Department of Liquor and Lottery.

(For text see House Journal February 15, 16, 2017)

H. 347

An act relating to the State Telecommunications Plan

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State.

The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure;

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; ~~and.~~

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers,

including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 2. 30 V.S.A. § 218(c) is amended to read:

(c)(1) The Public Service Board shall take any action, including the setting of telephone rates, enabling necessary to enable the State of Vermont and telecommunications companies offering service in Vermont to participate in the Federal Communications Commission telephone federal Lifeline program administered by the Federal Communications Commission (FCC) or its agent and also the Vermont Lifeline program described in subdivision (2) of this subsection. ~~The Board shall set one or more residential basic exchange Lifeline telephone service credits, for those persons eligible to participate in the Federal Communications Commission Lifeline program.~~

~~(2) A person shall be eligible for the Lifeline benefit who meets the Department for Children and Families means test of eligibility, which shall include all persons participating in public assistance programs administered by the Department. The Department for Children and Families shall verify this eligibility, in compliance with Federal Communications Commission requirements.~~

~~(A) The benefit under this subdivision shall be equal to the full subscriber line charge, plus an amount equal to the larger of:~~

~~(i) 50 percent of the monthly basic service charge, including 50 percent of all mileage charges and, if the Board determines after notice and opportunity for hearing that their inclusion will make Lifeline benefits more comparable in different areas, 50 percent of the usage cost arising from a fixed amount of monthly local usage; and~~

~~(ii) \$7.00 per month;~~

~~(B) provided that in no event shall the amount of the monthly credit exceed the monthly basic service charge, including any standard usage and mileage charges household that qualifies for participation in the federal Lifeline program under criteria established by the FCC or other federal law or regulation shall also be eligible to receive a Vermont Lifeline benefit for wireline voice telephone service. The Vermont Lifeline benefit established under this subdivision shall be set at an amount not to exceed the benefit provided to a household as of October 31, 2017, or \$4.25, whichever is greater, and shall be applied as a supplement to any wireline voice benefit received through participation in the federal Lifeline program. However, in no event shall the aggregate amount of benefits received through the federal and State programs described in this subdivision exceed a household's monthly basic service charge for wireline services, including any standard usage and mileage charges.~~

~~(3) A person shall also be eligible for the Lifeline benefit who submits to the Commissioner for Children and Families an application containing any information and disclosure of information authorization necessary to process the Lifeline credit. Such application shall be filed with the Commissioner on or before June 15 of each year and shall be signed by the applicant under the pains and penalties of perjury. A person shall be eligible who is 65 years of age or older whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than 175 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1 of the preceding taxable year. A person shall be eligible whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than~~

~~150 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1 of the preceding taxable year. In the case of sickness, absence, disability, excusable neglect, or when, in the judgment of the Secretary of Human Services good cause exists, the Secretary may extend the deadline for filing claims under this section. The provisions of 32 V.S.A. § 5901 shall apply to such application. The Secretary of Human Services shall perform income verification. Upon enrollment in the program, and for each period of renewal, such participant shall receive the credit for 12 ensuing months.~~

~~(A) The benefit under this subdivision shall be equal to the full subscriber line charge, plus an amount equal to the larger of:~~

~~(i) 50 percent of the monthly basic service charge, including 50 percent of all mileage charges and, if the Board determines after notice and opportunity for hearing that their inclusion will make Lifeline benefits more comparable in different areas, 50 percent of the usage cost arising from a fixed amount of monthly local usage; and~~

~~(ii) \$7.00 per month.~~

~~(B) The amount of the monthly credit pursuant to subdivision (A) of this subdivision (3) shall not exceed the monthly basic service charge, including any standard usage and mileage charges company designated as an eligible telecommunications carrier by the Board pursuant to 47 U.S.C. § 214(e) shall verify an applicant's eligibility for receipt of federal or State Lifeline benefits as required by federal law or regulation or as directed by the Vermont Agency of Human Services, as applicable. The Agency shall provide the FCC or its agent with categorical eligibility data regarding an applicant's status in qualifying programs administered by the Agency.~~

(4) Notwithstanding any provisions of this subsection to the contrary, a subscriber who is enrolled in the Lifeline program and has obtained a final relief from abuse order in accordance with the provisions of 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69 shall qualify for a Lifeline benefit credit for the amount of the incremental charges imposed by the local telecommunications company for treating the number of the subscriber as nonpublished and any charges required to change from a published to a nonpublished number. Such subscribers shall be deemed to have good cause by the Secretary of Human Services for the purpose of extending the application deadline in subdivision (3) of this subsection. For purposes of As used in this section, "nonpublished" means that the customer's telephone number is not listed in any published directories, is not listed on directory assistance records of the company, and is not made available on request by a member of the general public, notwithstanding any claim of emergency a requesting party may present. The

Department for Children and Families shall develop an application form and certification process for obtaining this Lifeline benefit credit. Upon enrollment in the program, such participant shall receive the Lifeline benefit credit until the end of the calendar year. Renewals shall be for a period of one year.

Sec. 3. LIFELINE ELIGIBILITY AND PARTICIPATION; REPORT

On or before January 1, 2019 and annually thereafter for the next three years, the Commissioner for Children and Families, in consultation with the Commissioner of Public Service, shall file a report with the General Assembly describing the eligibility and participation rates in Vermont with respect to both the federal and State Lifeline programs. The first report shall include the number of persons 65 years of age or older who became ineligible for the federal and State Lifeline programs pursuant to the repeal of the State-specific eligibility criteria.

Sec. 4. CONSUMER EDUCATION AND OUTREACH; REPORT

(a) On or before September 15, 2017, the Commissioner for Children and Families and the Commissioner of Public Service, with input and assistance from representatives of various advocacy groups, including AARP, Inc., shall prepare and distribute one or more notices for distribution to Vermonters, particularly persons 65 years of age or older, who are eligible to participate in the Lifeline program according to the Department for Children and Families' data. The notices shall describe the criteria for eligibility and the process necessary for such participation. With input and assistance from the same advocacy groups' representatives, the Commissioners shall engage, on or before October 31, 2017, in other education and outreach efforts designed to increase participation in the Lifeline program, with particular focus on eligibility through the Supplemental Nutrition Assistance Program (SNAP). In addition, education and outreach efforts shall be targeted to persons age 65 years or older who are eligible for the Lifeline program pursuant to the State-specific eligibility criteria that will be repealed effective November 1, 2017. Beginning on November 1, 2017, the Commissioners shall cooperate, to the extent necessary, with outreach efforts conducted by eligible telecommunications carriers and the FCC or its agent.

(b) On or before September 15, 2017, the Commissioner for Children and Families, within input from the Commissioner of Public Service, shall file a report with the General Assembly describing the specific efforts made to identify persons age 65 or older who might be at risk of losing eligibility for Lifeline because of the elimination of State-specific eligibility criteria and to inform them of alternative means of obtaining Lifeline eligibility under the new federal criteria and summarizing the results of such outreach efforts.

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 2 (Lifeline eligibility and administration) shall take effect on November 1, 2017.

(For text see House Journal March 21, 2017)

H. 424

An act relating to the Commission on Act 250: the Next 50 Years

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; PURPOSE

(a) Findings. The General Assembly finds as follows:

(1) In 1969, Governor Deane Davis by executive order created the Governor's Commission on Environmental Control, which consisted of 17 members and became known as the Gibb Commission because it was chaired by Representative Arthur Gibb.

(2) The Gibb Commission's recommendations, submitted in 1970, included a new State system for reviewing and controlling plans for large-scale and environmentally sensitive development. The system was not to be centered in Montpelier. Instead, the power to review projects and grant permits would be vested more locally, in commissions for districts within the State.

(3) In 1970, the General Assembly enacted 1970 Acts and Resolves No. 250, an act to create an environmental board and district environmental commissions. This act is now codified at 10 V.S.A. chapter 151 and is commonly known as Act 250. In Sec. 1 of Act 250 (the Findings), the General Assembly found that:

(A) "the unplanned, uncoordinated and uncontrolled use of the lands and the environment of the state of Vermont has resulted in usages of the lands and the environment which may be destructive to the environment and which are not suitable to the demands and needs of the people of the state of Vermont";

(B) "a comprehensive state capability and development plan and land use plan are necessary to provide guidelines for utilization of the lands and environment of the state of Vermont and to define the goals to be achieved through land environmental use, planning and control";

(C) "it is necessary to establish an environmental board and district environmental commissions and vest them with the authority to regulate the use of the lands and the environment of the state according to the guidelines

and goals set forth in the state comprehensive capability and development plan and to give these commissions the authority to enforce the regulations and controls”; and

(D) “it is necessary to regulate and control the utilization and usages of lands and the environment to insure that, hereafter, the only usages which will be permitted are not unduly detrimental to the environment, will promote the general welfare through orderly growth and development and are suitable to the demands and needs of the people of this state.”

(4) In 1973 Acts and Resolves No. 85, Secs. 6 and 7, the General Assembly adopted the Capability and Development Plan (the Plan) called for by Act 250. Among the Plan’s objectives are:

(A) “Preservation of the agricultural and forest productivity of the land, and the economic viability of agricultural units, conservation of the recreational opportunity afforded by the state’s hills, forests, streams and lakes, wise use of the state’s non-renewable earth and mineral reserves, and protection of the beauty of the landscape are matters of public good. Uses which threaten or significantly inhibit these resources should be permitted only when the public interest is clearly benefited thereby.”

(B) “Increased demands for and costs of public services, such as schools, road maintenance, and fire and police protection must be considered in relation to available tax revenues and reasonable public and private capital investment. . . . Accordingly, conditions may be imposed upon the rate and location of development in order to control its impact upon the community.”

(C) “Strip development along highways and scattered residential development not related to community centers cause increased cost of government, congestion of highways, the loss of prime agricultural lands, overtaxing of town roads and services and economic or social decline in the traditional community center.”

(D) “Provision should be made for the renovation of village and town centers for commercial and industrial development, where feasible, and location of residential and other development off the main highways near the village center on land which is other than primary agricultural soil.”

(E) “In order to achieve a strong economy that provides satisfying and rewarding job and investment opportunities and sufficient income to meet the needs and aspirations of the citizens of Vermont, economic development should be pursued selectively so as to provide maximum economic benefit with minimal environmental impact.”

(b) Purpose. The General Assembly establishes a Commission on Act 250: the Next 50 Years (the Commission) and intends that the Commission review

the vision for Act 250 adopted in the 1970s and its implementation with the objective of ensuring that, over the next 50 years, Act 250 supports Vermont's economic, environmental, and land use planning goals.

(c) Executive Branch working group. Contemporaneously with the consideration of this act by the General Assembly, the Chair of the Natural Resources Board (NRB) has convened a working group on Act 250 to include the NRB and the Agencies of Commerce and Community Development and of Natural Resources, with assistance from the Agencies of Agriculture, Food and Markets and of Transportation. The working group intends to make recommendations during October 2017. The General Assembly intends that the Commission established by this act receive and consider information and recommendations offered by the working group convened by the Chair of the NRB.

Sec. 2. COMMISSION ON ACT 250: THE NEXT 50 YEARS; REPORT

(a) Establishment. There is established the Commission on Act 250: the Next 50 Years (the Commission) to:

(1) Review the goals of Act 250, including the findings set forth in 1970 Acts and Resolves No. 250, Sec. 1 (the Findings) and the Capability and Development Plan adopted in 1973 Acts and Resolves No. 85, Secs. 6 and 7 (the Plan), and assess, to the extent feasible, the positive and negative outcomes of Act 250's implementation from 1970 to 2017. This review shall include consideration of the information, statistics, and recommendations described in subdivision (d)(1)(B) of this section.

(2) Engage Vermonters on their priorities for the future of the Vermont landscape, including how to maintain Vermont's environment and sense of place, and address relevant issues that have emerged since 1970.

(3) Perform the tasks and the review set forth in subsection (e) of this section and submit a report with recommended changes to Act 250 to achieve the goals stated in the Findings and the Plan, including any suggested revisions to the Plan.

(b) Membership; officers.

(1) The Commission shall be composed of the following six members:

(A) three members of the House of Representatives, not all from the same party, appointed by the Speaker of the House; and

(B) three members of the Senate, not all from the same party, appointed by the Committee on Committees.

(2) At its first meeting, the Commission shall elect a Chair and Vice Chair. The Vice Chair shall function as Chair in the Chair's absence.

(c) Advisors. Advisors to the Commission shall be appointed as set forth in this subsection. The advisors are referred to collectively as the “Act 250 Advisors.” The Commission may seek assistance from additional persons or organizations with expertise relevant to the Commission’s charge.

(1) The advisors may attend and participate in Commission meetings and shall have the opportunity to present information and recommendations to the Commission. The Commission shall notify the advisors of each Commission meeting.

(2) The advisors to the Commission shall be:

(A) the Chair of the Natural Resources Board or designee;

(B) a representative of a Vermont-based, statewide environmental organization that has a focus on land use and significant experience in the Act 250 process, appointed by the Committee on Committees;

(C) a person with expertise in environmental science affiliated with a Vermont college or university, appointed by the Speaker of the House;

(D) a representative of the Vermont Association of Planning and Development Agencies, appointed by the Speaker of the House;

(E) a representative of the Vermont Planners Association, appointed by the Committee on Committees;

(F) a representative of a Vermont-based business organization with significant experience in real estate development and land use permitting, including Act 250, appointed by the Committee on Committees;

(G) a person currently serving or who formerly served in the position of an elected officer of a Vermont city or town, appointed by the Vermont League of Cities and Towns;

(H) the Chair of the Environmental Law Section of the Vermont Bar Association;

(I) each of the following or their designees:

(i) the Secretary of Agriculture, Food and Markets;

(ii) the Secretary of Commerce and Community Development;

(iii) the Secretary of Natural Resources; and

(iv) the Secretary of Transportation; and

(J) a current or former district coordinator or district commissioner, appointed by the Chair of the Natural Resources Board.

(3) The Commission and the Chair of the Natural Resources Board each

may appoint one advisor in addition to the advisors set forth in subdivision (c)(2) of this section.

(4) Each appointing authority for an advisor to the Commission shall promptly notify the Office of Legislative Council of the appointment when made.

(d) Meetings; phases. The Commission shall meet as needed to perform its tasks and shall conduct three phases of meetings: a preliminary meeting phase, a public discussion phase, and a deliberation and report preparation phase. The initial meeting shall be part of the preliminary meeting phase, convened by the Office of Legislative Council during September 2017 after notice to the Commission members and the Act 250 Advisors. Subsequent Commission meetings shall be at the call of the Chair or of any three members of the Commission.

(1) Preliminary meeting phase.

(A) The preliminary meeting phase shall include the initial meeting of the Commission and such additional meetings as may be scheduled.

(B) During the preliminary meeting phase, the Commission shall become informed on the history, provisions, and implementation of Act 250, including its current permitting and appeals processes. This phase shall include:

(i) Review of available information on the outcomes of Act 250 from 1970 to 2017, including case studies and analyses. When information relevant to this review does not exist, the Commission may request its preparation.

(ii) Review of the history and implementation of land use planning in Vermont, including municipal and regional planning under 24 V.S.A. chapter 117.

(iii) Receipt of the information and recommendations of the working group described in Sec. 1(c) of this act;

(iv) Information prepared by the Natural Resources Board on:

(I) the Act 250 application process;

(II) coordination of the Act 250 program with the Agencies of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation;

(III) over multiple years, application processing times by district, number of appeals of application decisions and time to resolve, and number of appeals of jurisdictional opinions and time to resolve; and

(IV) an overview of the history of the Natural Resources Board.

(v) Opportunity for the Act 250 Advisors to present relevant information.

(2) Public discussion phase. Following the preliminary meeting phase, the Commission, with assistance from the Act 250 Advisors, shall conduct a series of information and interactive meetings on 2070: A Vision for Vermont's Future.

(A) The purpose of this phase shall be to accomplish the public engagement set forth in subdivision (a)(2) of this section.

(B) The Commission shall conduct this phase during adjournment of the General Assembly.

(3) Deliberation and report preparation phase. Following completion of the public meeting phase, the Commission shall meet to perform the tasks set forth in subsection (e) of this section and deliberate and prepare its written report and recommendations, with assistance from the Act 250 Advisors.

(e) Tasks; report and recommendations. After considering the information from its public discussion meetings and consultation with the Act 250 Advisors, the Commission shall perform the tasks set forth in this subsection and submit its report, including:

(1) A statistical analysis based on available data on Vermont environmental and land use permitting in general and on Act 250 permit processing specifically, produced in collaboration with municipal, regional, and State planners and regulatory agencies.

(2) Review and recommendations related to:

(A) An evaluation of the degree to which Act 250 has been successful or unsuccessful in meeting the goals set forth in the Findings and the Plan.

(B) An evaluation of whether revisions should be made to the Plan.

(C) An examination of the criteria and jurisdiction of Act 250, including:

(i) Whether the criteria reflect current science and adequately address climate change and other environmental issues that have emerged since 1970. On climate change, the Commission shall seek to understand, within the context of the criteria of Act 250, the impacts of climate change on infrastructure, development, and recreation within the State, and methods to incorporate strategies that reduce greenhouse gas emissions.

(ii) Whether the criteria support development in areas designated under 24 V.S.A. chapter 76A, and preserve rural areas, farms, and forests outside those areas.

(iii) Whether the criteria support natural resources, working lands, farms, agricultural soils, and forests in a healthy ecosystem protected from fragmentation and loss of wildlife corridors.

(iv) Whether Act 250 promotes compact centers of mixed use and residential development surrounded by rural lands.

(v) Whether Act 250 applies to the type and scale of development that provides adequate protection for important natural resources as defined in 24 V.S.A. § 2791.

(vi) Whether the exemptions from Act 250 jurisdiction further or detract from achieving the goals set forth in the Findings and the Plan, including the exemptions for farming and for energy projects.

(D) An examination of changes that have occurred since 1970 that may affect Act 250, such as changes in demographics and patterns and structures of business ownership.

(E) An examination of the interface between Act 250 and other current permit processes at the local and State levels and opportunities to consolidate and reduce duplication. This examination shall include consideration of the relationship of the scope, criteria, and procedures of Act 250 with the scope, criteria, and procedures of Agency of Natural Resources permitting, municipal and regional land use planning and regulation, and designation under 24 V.S.A. chapter 76A.

(F) An evaluation of how well the Act 250 application, review, and appeals processes are serving Vermonters and the State's environment and how they can be improved, including consideration of:

(i) Public participation before the District Environmental Commissions and in the appeals process, including party status.

(ii) The structure of the Natural Resources Board.

(iii) De novo or on the record appeals.

(iv) Comparison of the history and structure of the former Environmental Board appeals process with the current process before the Environmental Division of the Superior Court.

(v) Other appellate structures.

(G) The following specific considerations:

(i) Circumstances under which land might be released from Act 250 jurisdiction.

(ii) Potential revisions to Act 250's definitions of development and subdivision for ways to better achieve the goals of Act 250, including the ability to protect forest blocks and habitat connectivity.

(iii) The scope of Act 250's jurisdiction over projects on ridgelines, including its ability to protect ridgelines that are lower than 2,500 feet, and projects on ridgelines that are expressly exempted from Act 250.

(iv) Potential jurisdictional solutions for projects that overlap between towns with and without both permanent zoning and subdivision bylaws.

(v) The potential of a person that obtains party status to offer to withdraw the person's opposition or appeal in return for payment or other consideration that is unrelated to addressing the impacts of the relevant project under the Act 250 criteria.

(H) Such other issues related to Act 250 as the Commission may consider significant.

(f) Due date. On or before December 15, 2018, the Commission shall submit its report and recommendations to the House Committee on Natural Resources, Fish and Wildlife and the Senate Committee on Natural Resources and Energy (the Natural Resource Committees). The report shall attach the Commission's proposed legislation.

(g) Assistance.

(1) The Office of Legislative Council shall provide administrative and legal assistance to the Commission, including the scheduling of meetings and the preparation of recommended legislation. The Joint Fiscal Office shall provide assistance to the Commission with respect to fiscal and statistical analysis.

(2) The Commission shall be entitled to technical and professional services from the Natural Resources Board and the Agencies of Commerce and Community Development, of Natural Resources, and of Transportation.

(3) On request, the Commission shall be entitled to available statistics and data from municipalities, regional planning commissions, and State agencies on land use and environmental permit processing and decisions.

(4) On request, the Commission shall be entitled to data from the Superior Court on appeals before the Environmental Division from decisions under Act 250, including annual numbers of appeals, length of time, and disposition.

(h) Subcommittees. The Commission may appoint members of the Commission to subcommittees to which it assigns tasks related to specific issues within the Commission's charge and may request one or more of the Act 250 Advisors to assist those subcommittees.

(i) Reimbursement.

(A) For attendance at no more than 10 Commission meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(B) There shall be no reimbursement for attendance at subcommittee meetings or more than 10 Commission meetings.

(j) Cessation. The Commission shall cease to exist on February 15, 2019.

Sec. 3. ASSISTANCE; PUBLIC ENGAGEMENT

If requested by the Commission established under Sec. 2 of this act, the Office of Legislative Council may retain professional assistance in the design and conduct of the public discussion phase set forth in Sec. 2(d)(2) of this act, provided the cost of this assistance does not exceed \$20,000.00.

Sec. 3a. ADDITIONAL AUTHORIZED USE; PUBLIC TRUST LANDS

(a) The General Assembly finds that:

(1) the General Assembly has the authority to authorize public uses of filled public trust lands in the City of Burlington; and

(2) the use of the filled public trust lands in the City of Burlington authorized by this act is consistent with the public trust doctrine.

(b) In addition to the uses authorized by the General Assembly in 1990 Acts and Resolves No. 274, 1991 Acts and Resolves No. 53, 1996 Acts and Resolves No. 87, and 1997 Acts and Resolves No. 22, the filled public trust lands within the City of Burlington that are located north of the centerline of Maple Street extending north to the northern terminus of the Lake Street extension completed in 2016 and that extend to the waters of Lake Champlain may be utilized for public markets that benefit Vermont's public and are available to the public on an open and nondiscriminatory basis.

(c) Any use authorized under this act is subject to all applicable requirements of law.

Sec. 3b. 10 V.S.A. § 6607a(g)(1) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid

waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(C) Beginning on July 1, ~~2017~~ 2018, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 28, 2017)

S. 9

An act relating to the preparation of poultry products

The Senate concurs in the House proposal of amendment thereto as follows::

First: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subdivision (B) in its entirety and inserting in lieu thereof the following:

(B) rooms or compartments in which an edible product is processed, handled, or stored shall be separated from areas used for slaughter, provided that a producer may use food-grade plastic sheeting as a means of separation when such sheeting prevents the creation of insanitary conditions;

Second: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subdivisions (F) and (G) in their entirety and inserting in lieu thereof the following:

(F)(i) sewage from human waste shall be disposed of in a sewage system separate from other drainage lines; or

(ii) sewage is disposed of through other means to prevent the creation of insanitary conditions or the backup into the area where the product is processed, handled, or stored, including disposal of process wastewater through on-farm composting under the Required Agricultural Practices;

And by relettering the subsequent subdivisions to be alphabetically correct

Third: In Sec. 2, 6 V.S.A. § 3312 in subdivision (c)(2), by striking out relettered subdivision (K) in its entirety and inserting in lieu thereof the following:

(K) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable.

Fourth: In Sec. 2, 6 V.S.A. § 3312, by striking out subsection (h) (approved label) in its entirety

(For House Proposal of Amendment see House Journal April 26, 27, 2017)

Committee of Conference Report

S. 75

An act relating to aquatic nuisance species control

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 75 An act relating to aquatic nuisance species control

Respectfully report that they have met and considered the same and recommend that the Senate accede to the House proposal of amendment and the House proposal be further amended as follows:

First: In Sec. 2, 10 V.S.A. § 1454, in subsection (c), after “(c)” and before “It shall be a violation” by striking out “Aquatic nuisance species inspection station.” and inserting in lieu thereof “No-cost boat wash; aquatic nuisance species inspection station.”

and after “other equipment inspected, and” and before “decontaminated at an approved” by striking out the words “, if determined necessary,”

Second: In Sec. 4, 10 V.S.A. § 1461, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall instruct participants regarding how to address noncompliance with the requirements of section 1454 of this title, including how:

(1) operators of the inspection station do not have authority to board a vessel unless authorized by the vessel owner; and

(2) operators of the inspection station do not have law enforcement

authority to mandate compliance with the requirements of section 1454 of this title.

Third: In Sec. 4, 10 V.S.A. § 1461, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (b) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to conduct the inspection and decontamination of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species.

Fourth: By striking out Sec. 7 in its entirety and inserting in lieu thereof the following:

Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

(a) The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers:

(A) three days prior to placement of the barriers in a water if the Secretary has identified the water as containing threatened or endangered species; or

(B) on the day the barriers are placed in the water if the Secretary has not identified the water as containing threatened or endangered species; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

(b) The Secretary of Natural Resources shall designate an e-mail address, telephone number, or other publicly available method by which a lake

association may provide the notice required by this section seven days a week.

Rep. Mary Sullivan

Rep. David Deen

Rep. Trevor Squirrel

Committee on the part of the House

Sen. John Rodgers

Sen. Brian Campion

Sen. Christopher Bray

Committee on the part of the Senate

S. 127

An act relating to miscellaneous changes to laws related to vehicles and vessels

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 127 An act relating to miscellaneous changes to laws related to vehicles and vessels

Respectfully report that they have met and considered the same and recommend that the Senate accede to the House proposal of amendment and the House proposal be further amended as follows:

First: In Sec. 12, 23 V.S.A. § 1095b, in subdivision (c)(3), by striking out the following: “for a first conviction and four points assessed for a second or subsequent conviction”

Second: By striking out Sec. 13 in its entirety and inserting in lieu thereof the following:

Sec. 13. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

- (LL)(i) § 1095. Entertainment picture visible to operator;
- (ii) § 1095b(c)(2)(3) Use of portable electronic device ~~in outside work or school zone—first offense;~~

* * *

(3) Four points assessed for:

- (A) § 1012. Failure to obey enforcement officer;
- (B) § 1013. Authority of enforcement officers;
- (C) § 1051. Failure to yield to pedestrian;
- (D) § 1057. Failure to yield to persons who are blind;
- (E) § 1095b(c)(2) Use of portable electronic device in work or school zone—first offense;

(4) Five points assessed for:

- (A) § 1050. Failure to yield to emergency vehicles;
- (B) § 1075. Illegal passing of school bus;
- (C) § 1099. Texting prohibited;
- (D) § 1095b(c)(2) Use of portable electronic device in work or school zone—second and subsequent offenses;

* * *

Third: By striking out Sec. 24 in its entirety and inserting in lieu thereof the following:

Sec. 24. 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13 and by 2014 Acts and Resolves No. 189, Sec. 26, is further amended as follows:

Sec. 1. VERMONT STRONG MOTOR VEHICLE PLATES

* * *

(c) Use. An approved Vermont Strong commemorative plate may be displayed on a motor vehicle registered in Vermont as a pleasure car or on a

motor truck registered in Vermont for less than 26,001 pounds (but excluding vehicles registered under the International Registration Plan) by covering the front registration plate with the commemorative plate any time from the effective date of this act ~~until June 30, 2016~~. The regular front registration plate shall not be removed. The regular rear registration plate shall be in place and clearly visible at all times.

* * *

* * * License Plate Cost Savings * * *

Sec. 24a. LICENSE PLATE COST SAVINGS

(a) The Commissioner of Motor Vehicles, in consultation with the Commissioner of Corrections, shall:

(1) examine whether the redesign of Vermont's standard license plate could lead to cost savings associated with the production of such plates and, if cost savings are likely to result from a redesign, shall estimate how much savings would result from various redesign options; and

(2) identify any other opportunities to reduce costs associated with the production and acquisition of license plates, including by reducing materials costs, and estimate the cost savings expected to result from such opportunities.

(b) The Commissioner of Motor Vehicles shall estimate all cost savings that would result from eliminating the requirement that vehicles registered in Vermont display front license plates, except in the case of motor trucks with a registered weight of 10,100 pounds or more. The estimate shall assume that front and rear license plates will continue to be issued for vehicles registered pursuant to 23 V.S.A. § 304(b)(1) (vanity plates).

(c) On or before January 15, 2018, the Commissioner of Motor Vehicles shall report to the House and Senate Committees on Transportation and on Appropriations the findings and estimates required under this section and any proposed actions or recommendations related to achieving license plate-related cost savings.

Fourth: By striking out Sec. 27a and the reader assistance thereto in their entirety

Fifth: In Sec. 31 (effective dates), in subdivision (a)(1), by striking out the following: "27a (inspections; emissions repairs)."

Rep. Brennan

Rep. Corcoran

Rep. Burke

Committee on the part of the House

Sen. Mazza

Sen. Flory

Sen. Degree

Committee on the part of the Senate