

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred House Bill No. 904
3 entitled “An act relating to miscellaneous agricultural subjects” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Produce Inspection * * *

8 Sec. 1. 6 V.S.A. § 21(b) is amended to read:

9 (b) The Secretary shall have the authority to:

10 (1) respond to and remediate incidences of mass animal death,
11 agricultural structure fires, or other emergencies on a farm in order to prevent a
12 public health hazard;

13 (2) condemn, confiscate, or establish restrictions on the use, sale, or
14 distribution of adulterated raw agricultural commodities or animal feed; and

15 (3) cooperate with the Department of Health and other State and federal
16 agencies regarding:

17 (A) the prevention or remediation of the adulteration of raw
18 agricultural commodities, food, or animal feed on farms; and

19 (B) application of the FDA Food Safety Modernization Act,
20 ~~21 U.S.C. §§ 2201–2252~~ Pub. L. No. 111-353, to farms, farm products, or
21 value-added products produced in the State.

1 Sec. 2. 6 V.S.A. § 852 is amended to read:

2 § 852. ~~AUTHORITY; ENFORCEMENT~~

3 (a) The Secretary may enforce in the State the requirements of:

4 (1) the rules adopted under the ~~federal~~ U.S. Food and Drug
5 Administration Food Safety Modernization Act, Public Law No. 111-353, for
6 standards for growing, harvesting, packing, and holding of produce for human
7 consumption Standards for Growing, Harvesting, Packing, and Holding of
8 Produce for Human Consumption, 21 C.F.R. part 112; and

9 (2) the rules adopted under this chapter.

10 (b) The Agency may collaborate with the ~~Vermont~~ Department of Health
11 regarding application of the ~~federal Food Safety Modernization Act and the~~
12 ~~rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety
13 Modernization Act, Standards for Growing, Harvesting, Packing, and Holding
14 of Produce for Human Consumption, 21 C.F.R. part 112, and application of the
15 rules adopted under this chapter.

16 (c) The Secretary shall carry out the provisions of this chapter using:

17 (1) monies appropriated to the Agency by the federal government for the
18 purpose of administering the federal Food Safety Modernization Act and the
19 rules adopted thereunder;

20 (2) monies appropriated to the Agency by the State for the purpose of
21 administering this chapter; and

1 (3) other gifts, bequests, and donations by private entities for the
2 purposes of administering this chapter.

3 Sec. 3. 6 V.S.A. § 853 is amended to read:

4 § 853. FARM INSPECTIONS

5 (a)(1) The Secretary may inspect a produce farm during reasonable hours
6 for the purposes of ensuring compliance with:

7 (A) the federal standards for growing, harvesting, packing, and
8 holding of produce for human consumption, as adopted under 21 C.F.R.
9 part 112; or

10 (B) the rules adopted under this chapter.

11 (2) This section shall not limit the Secretary's authority to respond to an
12 emergency in order to prevent a public health hazard under section 21 of this
13 title.

14 (b) ~~After inspection, the Secretary may issue an inspection certificate that~~
15 ~~shall include the date and place of inspection along with any other pertinent~~
16 ~~facts that the Secretary may require.~~

17 (e) The Secretary may coordinate with other State agencies and
18 organizations to carry out inspections at or near the same time on a given
19 produce farm.

1 Sec. 4. 6 V.S.A. §§ 856 and 857 are added to read:

2 § 856. ENFORCEMENT; CORRECTIVE ACTIONS

3 When the Secretary of Agriculture, Food and Markets determines that a
4 person is violating the rules listed in section 852 of this title, the Secretary may
5 issue a written warning that shall be served in person or by certified mail,
6 return receipt requested. A warning issued under this section shall include:

7 (1) a description of the alleged violation;

8 (2) identification of this section;

9 (3) identification of the applicable rule violated; and

10 (4) the required corrective action that the person shall take to correct the
11 violation.

12 § 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

13 (a) Notwithstanding the requirements of section 856 of this title, the
14 Secretary at any time may pursue one or more of the following:

15 (1) issue a cease and desist order in accordance to a person the Secretary
16 believes to be in violation of the rules listed in section 852 of this title;

17 (2) issue a verbal order or written administrative order to protect public
18 health, including orders for the stop sale, recall, embargo, destruction,
19 quarantine, and release of produce, when:

20 (A) the U.S. Food and Drug Administration requires immediate State
21 action; or

1 (B) an alleged violation, activity, or farm practice presents an
2 immediate threat to the public health or welfare;

3 (3) order mandatory corrective actions;

4 (4) take any action authorized under chapter 1 of this title;

5 (5) seek administrative or civil penalties in accordance with the
6 requirements of section 15, 16, or 17 of this title.

7 (b) When the Secretary of Agriculture, Food and Markets issues a cease
8 and desist order, written administrative order, or required corrective action
9 under subsection (a) of this section, the Secretary shall provide the person
10 subject to the order or corrective action with a statement that the order or
11 corrective action is effective upon receipt and the person has 15 days from the
12 date the order or corrective action was issued to request a hearing.

13 (c) If the Secretary of Agriculture, Food and Markets issues a verbal order
14 under this section, the Secretary shall issue written notice to the person subject
15 to the order within five days of the issuance of the verbal order. The written
16 notice shall include a statement that the person has 15 days from the date the
17 written notice was received to request a hearing.

18 (d) If a person who receives a cease and desist order, a verbal order, an
19 administrative order, or a mandatory corrective action under this section does
20 not request in writing a hearing within 15 days of receipt of the order or within
21 15 days of written notice for a verbal order, the person's right to a hearing is

1 waived. Upon receipt of a written request for a hearing, the Secretary
2 promptly shall set a date and time for a hearing. A request for a hearing on a
3 cease and desist order, verbal order, or administrative order issued under this
4 section shall not stay the order.

5 (e) A person aggrieved by a final action or decision of the Secretary under
6 this section may appeal de novo to the Civil Division of the Superior Court
7 within 30 days of the final decision of the Secretary.

8 * * * Livestock and Poultry Transport for Slaughter * * *

9 Sec. 5. 6 V.S.A. § 1461a(c) is amended to read:

10 (c) Livestock and poultry that are transported to a commercial slaughter
11 facility within the State shall not be removed from the facility without the
12 facility's ~~owner~~ owner's first obtaining written permission from the State
13 Veterinarian. For purposes of this section, arrival of the conveyance onto
14 facility property and the offloading of livestock or poultry constitutes transport
15 to a slaughter facility, regardless of whether the animals have been ~~offloaded~~
16 ~~or~~ presented for antemortem inspection. The State Veterinarian may require
17 inspection and testing prior to issuing consent for removal.

* * * Farm and Forest Viability * * *

Sec. 6. 6 V.S.A. § 4710 is amended to read:

§ 4710. VERMONT FARM AND FOREST VIABILITY ~~ENHANCEMENT~~
PROGRAM

(a) The Vermont Farm and Forest Viability ~~Enhancement~~ Program is a voluntary program established in the Agency of Agriculture, Food and Markets to provide assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses to enhance the financial success and long-term viability of Vermont ~~agriculture~~ agricultural and forest sectors. In administering the Program, the Secretary shall:

(1) Collaborate with the Vermont Housing and Conservation Board; to administer the program with other State and federal agencies, private entities, and service groups to develop, coordinate, and provide technical and financial assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses.

(2) ~~Include teams of~~ Secure and coordinate experts to assist ~~farmers~~ farm, food, and forest-sector business owners in areas such as ~~assessing farm resources and potential~~ business and financial planning, succession planning, diversifying, adopting new technologies, improving product quality, developing value-added products, and lowering costs of production ~~for~~ Vermont's ~~agricultural sector~~. The teams Providers may include ~~farm~~ business management specialists, University of Vermont Extension professionals,

1 ~~veterinarians~~, and other experts to deliver the ~~informational and technological~~
2 educational and consulting services.

3 (3) Encourage agricultural or forest-sector economic development
4 through investing in improvements to essential infrastructure and the
5 promotion of ~~farm~~ businesses in ~~Vermont~~ these sectors.

6 (4) Enter into agreements with private organizations or individuals or
7 with any agency or instrumentality of the United States or of this State and
8 employ technical experts to carry out the purposes of this section.

9 (b) The ~~farm viability enhancement program~~ Farm and Forest Viability
10 Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members
11 who shall include:

12 (1) The Secretary of Agriculture, Food and Markets. The Secretary
13 shall serve as Chair of the Board.

14 (2) The Commissioner of Forests, Parks and Recreation or designee.

15 (3) The Commissioner of Economic Development or designee.

16 ~~(3)~~(4) The Manager of the Vermont Economic Development Authority
17 or designee.

18 ~~(4)~~(5) The Director of University of Vermont Extension or designee.

19 ~~(5)~~(6) The Executive Director of the Vermont Housing and
20 Conservation Board or designee.

1 ~~(6)~~(7) Four Vermont ~~farmers~~ agricultural or forest-sector business
2 owners appointed by the Secretary of Agriculture, Food and Markets in
3 consultation with the Vermont Housing and Conservation Board and the
4 Commissioner of Forests, Parks and Recreation. ~~The four farmers shall serve~~
5 ~~two-year terms, except for the first year, two farmers chosen by the Chair shall~~
6 ~~serve one-year terms~~ At least two of the four business owners shall be
7 agricultural-sector business owners.

8 ~~(7)~~(8) ~~A person who has~~ Two people who have expertise in agricultural
9 or forest-sector economics, financing, or business ~~planning~~ development
10 appointed by the Secretary of Agriculture, Food and Markets in consultation
11 with the Vermont Housing and Conservation Board and the Commissioner of
12 Forests, Parks and Recreation.

13 (c) Members of the Advisory Board established in subsection (b) of this
14 section other than ex officio members shall serve up to three two-year terms
15 and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for
16 each day spent in the performance of their duties, and each such member shall
17 be reimbursed ~~from the fund created by this section~~ for his or her reasonable
18 expenses incurred in carrying out his or her duties under this section.

19 (d) In consultation with the Advisory Board, the Secretary of Agriculture,
20 Food and Markets and the Vermont Housing and Conservation Board shall
21 establish ~~grant criteria~~, performance goals, performance measures that

1 demonstrate Program results, and other criteria to implement the Program. The
2 ~~grant~~ criteria shall include at least the following requirements:

3 (1) ~~the application is developed in consultation with the producers who~~
4 ~~use or would use the Program and will address their needs;~~

5 (2) ~~the use of the funds available to the Program~~ is likely to succeed in
6 improving the economic viability of the ~~farm and the farm's producers~~
7 business;

8 (3)~~(2)~~ ~~the producers are committed~~ enrollees demonstrate commitment
9 to participating in the Program; and

10 (4)~~(3)~~ an evaluation shall be completed by ~~enrolled farmers in~~
11 ~~conjunction with the teams~~ enrollees.

12 (e)~~(1)~~ ~~The Farm Viability Enhancement Program Special Fund is~~
13 ~~established in the State Treasury and shall be administered by the Secretary of~~
14 ~~Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A.~~
15 ~~chapter 7, subchapter 5, except that interest earned on the fund shall be~~
16 ~~retained in the Fund. The Fund shall be used only for the purpose of~~
17 ~~implementing and effectuating the Farm Viability Enhancement Program~~
18 ~~established by this section. There shall be deposited in such Fund any monies~~
19 ~~appropriated by the General Assembly to, or received by, the Secretary of~~
20 ~~Agriculture, Food and Markets from any other source, public or private. The~~
21 ~~Fund shall be used only for the purposes of:~~

1 ~~(A) providing funds for the Farm Viability Enhancement Program as~~
2 ~~established in this section;~~

3 ~~(B) providing funds to enrolled farmers;~~

4 ~~(C) providing funds to service providers for administrative expenses~~
5 ~~of the program; and~~

6 ~~(D) leveraging other competitive public and private funds, grants,~~
7 ~~and contributions for the Farm Viability Enhancement Program.~~

8 (2) The Secretary of Agriculture, Food and Markets, the Commissioner
9 of Forests, Parks and Recreation, and the Vermont Housing and Conservation
10 Board, separately or cooperatively, may solicit federal funds, grants, and
11 private contributions for the Farm and Forest Viability ~~Enhancement~~ Program,
12 but any Vermont Housing and Conservation Board funds used for the Farm
13 and Forest Viability ~~Enhancement~~ Program shall be administered in
14 accordance with 10 V.S.A. § 312.

15 (f)(4) In collaboration with ~~the Vermont Housing and Conservation Board,~~
16 the Secretary of Agriculture, Food and Markets and the Commissioner of
17 Forests, Parks and Recreation, the Vermont Housing and Conservation Board
18 shall report in writing to the Senate ~~Committee~~ Committees on Agriculture and
19 on Economic Development, Housing and General Affairs and the House
20 ~~Committee~~ Committees on Agriculture and Forestry and on Commerce and
21 Economic Development on or before January 31 of each year with a report on

1 the activities and performance of the Farm and Forest Viability ~~Enhancement~~
2 Program. At a minimum, the report shall include an evaluation of the Program
3 utilizing the performance goals and performance measures established in
4 consultation with the Advisory Board under subsection (d) of this section. ~~The~~
5 ~~report should assess potential demand for the Program over the succeeding~~
6 ~~three years.~~

7 ~~(2) The Agency of Agriculture, Food and Markets and the Vermont~~
8 ~~Housing and Conservation Board shall describe in their annual budget~~
9 ~~submissions plans to develop adequate State, federal, and private funds to carry~~
10 ~~out this initiative.~~

11 ~~(g)(1) The Agricultural Economic Development Special Account is~~
12 ~~established as a dedicated sub-account of the Vermont Farm Viability~~
13 ~~Enhancement Program Special Fund. There shall be deposited in such account~~
14 ~~any monies:~~

15 ~~(A) appropriated by the General Assembly to the account; and~~

16 ~~(B) received by the State or the Secretary of Agriculture, Food and~~
17 ~~Markets from any source, public or private, for use for any of the purposes for~~
18 ~~which the account was established.~~

19 ~~(2) The Fund shall only be used for the purposes of:~~

20 ~~(A) encouraging private investment in the economic initiative; and~~

1 ~~(B) providing incentives for technology businesses, determined by~~
2 ~~the Agency of Agriculture, Food and Markets to provide critical technological~~
3 ~~solutions for the growth of Vermont’s agricultural economy.~~

4 ~~(3) Assistance from the Agricultural Economic Development Special~~
5 ~~Account shall be available in order to produce agricultural energy, harvest~~
6 ~~biomass, convert biomass into energy, or enable installation and usage of wind,~~
7 ~~solar, or other technology that relies on a resource that is being consumed at a~~
8 ~~harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A.~~
9 ~~§ 8002(2), including:~~

10 ~~(A) business and technical assistance for research and planning to aid~~
11 ~~a farmer or a group of farmers in developing business enterprises;~~

12 ~~(B) cost-effective implementation assistance to leverage other~~
13 ~~sources of capital to assist a farmer or group of farmers in purchasing~~
14 ~~equipment, technology, or other assistance; and~~

15 ~~(C) business, technical, and implementation assistance to persons that~~
16 ~~are not farmers for the development and implementation of technology or~~
17 ~~development of facilities designed to produce agricultural energy, harvest~~
18 ~~biomass, or convert biomass into energy, provided that the person is working~~
19 ~~in consultation with a Vermont farm, is creating an enterprise that utilizes~~
20 ~~Vermont resources, and provides Vermont a significant return on investment~~

1 ~~and meets any financial and technical criteria established by the Secretary by~~
2 ~~procedure.~~ [Repealed.]

3 * * * Vermont Trails System; Act 250 * * *

4 Sec. 7. PURPOSE

5 The purpose of Sec. 8 of this act is to provide for consistency in the
6 application of 10 V.S.A. chapter 151 (Act 250) to the construction and
7 improvement of trails that are part of the Vermont Trails System under 10
8 V.S.A. chapter 20.

9 Sec. 8. 10 V.S.A. § 6001(3) is amended to read:

10 (3)(A) “Development” means each of the following:

11 * * *

12 (v) The construction of improvements on a tract of land involving
13 more than 10 acres that is to be used for municipal, county, or State purposes.
14 In computing the amount of land involved, land shall be included that is
15 incident to the use such as lawns, parking areas, roadways, leaching fields and
16 accessory buildings. Trails recognized as part of the Vermont Trails System
17 under section 443 of this title shall be deemed to be for a State purpose.

18 * * *

19 (C) For the purposes of determining jurisdiction under subdivision

20 ~~(3)(A)~~ of this section subdivision (3), the following shall apply:

21 * * *

1 (vi) Vermont Trail System projects. In the case of a construction
2 project for a trail recognized as part of the Vermont Trail System pursuant to
3 section 443 of this title, the computation of land involved shall not include any
4 existing or planned portion of the trail or of the Vermont Trail System unless
5 that portion will be physically altered as part of the project and is on the same
6 tract or tracts of land.

7 * * * Forest Products Industry; Act 250 * * *

8 Sec. 9. 10 V.S.A. § 6084 is amended to read:

9 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF

10 REVIEW

11 * * *

12 (g) When an application concerns the construction of improvements for one
13 of the following, the application shall be processed as a minor application in
14 accordance with subsections (b) through (e) of this section:

15 (1) a sawmill that produces one million board feet or less annually; or

16 (2) an operation that involves the primary processing of forest products
17 of commercial value and that annually produces:

18 (A) 1,750 cords or less of firewood or cordwood; or

19 (B) 5,000 tons or less of bole wood, whole tree chips, or wood
20 pellets.

1 * * * Forest Products Industry; Wood Energy; Supply * * *

2 Sec. 10. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT
3 SUPPLIERS; REPORT

4 (a) On or before December 15, 2018, the Commissioner of Buildings and
5 General Services (Commissioner), in consultation with the Commissioner of
6 Public Service, shall submit a written report and recommendation on the
7 feasibility and impacts of requiring certain public buildings that use wood to
8 produce heat or electricity, or both, to give preference to Vermont suppliers
9 when making fuel supply purchases.

10 (b) As used in this section, “public building” has the same meaning as in
11 20 V.S.A. § 2730.

12 (c) The submission shall include the Commissioner’s specific
13 recommendations as to each of the following categories of public buildings:

14 (1) schools owned, occupied, or administered by municipalities;

15 (2) other public buildings owned or occupied by the State of Vermont,
16 counties, municipalities, or other public entities; and

17 (3) public buildings in Vermont that receive incentives or financing, or
18 both, from the State of Vermont and are not within the category described in
19 subdivisions (1) or (2) of this subsection.

20 (d) The Commissioner shall submit the report and recommendation to the
21 Senate Committees on Agriculture and on Natural Resources and Energy and

1 the House Committees on Agriculture and Forestry and on Energy and
2 Technology.

3 * * * Forestland; Use Value Appraisal * * *

4 Sec. 11. 32 V.S.A. § 3756 is amended to read:

5 § 3756. QUALIFICATION FOR USE VALUE APPRAISAL

6 (a) The owner of eligible agricultural land, farm buildings, or managed
7 forestland shall be entitled to have eligible property appraised at its use value,
8 provided the owner shall have applied to the Director on or before September 1
9 of the previous tax year, on a form approved by the Board and provided by the
10 Director. A farmer, whose application has been accepted on or before
11 December 31 by the Director of the Division of Property Valuation and
12 Review of the Department of Taxes for enrollment for the use value program
13 for the current tax year, shall be entitled to have eligible property appraised at
14 its use value, if he or she was prevented from applying on or before
15 September 1 of the previous year due to the severe illness of the farmer.

16 * * *

17 (i)(1) ~~After providing 30 days' notice to the owner, the Director shall~~
18 ~~remove from use value appraisal an entire parcel of managed forestland and~~
19 ~~notify the owner when the Commissioner of Forests, Parks and Recreation has~~
20 ~~not received a required management activity report or has received an adverse~~
21 ~~inspection report, unless the lack of conformance consists solely of the failure~~

1 ~~to make prescribed planned cutting. In that case, the Director may delay~~
2 ~~removal from use value appraisal for a period of one year at a time to allow~~
3 ~~time to bring the parcel into conformance with the plan.~~

4 ~~(2)(A)~~ The Director shall remove from use value appraisal an entire
5 parcel or parcels of agricultural land and farm buildings identified by the
6 Secretary of Agriculture, Food and Markets as being used by a person:

7 ~~(i)(A)~~ found, after administrative hearing, or contested judicial
8 hearing or motion, to be in violation of water quality requirements established
9 under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification
10 issued under 6 V.S.A. chapter 215; or

11 ~~(ii)(B)~~ who is not in compliance with the terms of an
12 administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10
13 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules
14 adopted or any permit or certification issued under 6 V.S.A. chapter 215.

15 ~~(B)(2)~~ The Director shall notify the owner that agricultural land or a
16 farm building has been removed from use value appraisal by mailing
17 notification of removal to the owner or operator's last and usual place of
18 abode. After removal of agricultural land or a farm building from use value
19 appraisal under this section, the Director shall not consider a new application
20 for use value appraisal for the agricultural land or farm building until the
21 Secretary of Agriculture, Food and Markets submits to the Director a

1 certification that the owner or operator of the agricultural land or farm building
2 is complying with the water quality requirements of 6 V.S.A. chapter 215 or an
3 order issued under 6 V.S.A. chapter 215. After submission of a certification by
4 the Secretary of Agriculture, Food and Markets, an owner or operator shall be
5 eligible to apply for enrollment of the agricultural land or farm building
6 according to the requirements of this section.

7 * * *

8 (k)(1) As used in this subsection:

9 (A) “Contiguous” means touching, bordering, or adjoining along the
10 boundary of a property. Properties that would be contiguous if except for
11 separation by a roadway, railroad, or other public easement shall be considered
12 contiguous.

13 (B) “Parcel” shall have the same meaning as in section 4152 of this
14 title.

15 (2) After providing 30 days’ notice to the owner, the Director shall
16 remove from use value appraisal an entire parcel of contiguous managed
17 forestland and notify the owner when the Commissioner of Forests, Parks and
18 Recreation has not received a required management activity report or has
19 received an adverse inspection report on greater than one percent of enrolled
20 forestland on a parcel, unless the lack of conformance consists solely of the
21 failure to make prescribed planned cutting. In that case, the Director may

1 delay removal from use value appraisal for a period of one year at a time to
2 allow opportunity to bring the parcel into conformance with the plan. When
3 the Director receives an adverse inspection report documenting violations on
4 less than or equal to one percent of forestland on a parcel, the forestland
5 enrolled in the municipality in which the violation occurred shall be removed
6 from use value appraisal, unless the lack of conformance consists solely of the
7 failure to make a prescribed planned cutting under a forest management plan.
8 If a violation consists solely of failure to make a prescribed planned cutting,
9 the Director may delay removal of a parcel of forestland from use value
10 appraisal for a period of one year at a time to allow the owner of the parcel
11 opportunity to bring the parcel into conformance with its forest management
12 plan.

13 Sec. 12. 32 V.S.A. § 3755(d) is amended to read:

14 (d) After managed forestland has been removed from use value appraisal
15 due to an adverse inspection report under ~~subdivision 3756(i)(1)~~ subsection
16 3756(k) of this title, a new application for use value appraisal shall not be
17 considered for a period of five years, and then shall be approved by the
18 Department of Forests, Parks and Recreation only if a compliance report has
19 been filed with the new application, certifying that appropriate measures have
20 been taken to bring the parcel into compliance with minimum acceptable
21 standards for forest or conservation management.

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* * * Energy Efficiency; Efficiency Charge * * *

Sec. 13. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(d) Energy efficiency.

* * *

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Commission 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 Commission and deposited into 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 Commission. 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.

* * *

1 (B) The charge established by the Commission pursuant to this
2 subdivision (3) shall be in an amount determined by the Commission by rule or
3 order that is consistent with the principles of least-cost integrated planning as
4 defined in section 218c of this title.

5 (i) As circumstances and programs evolve, the amount of the
6 charge shall be reviewed for unrealized energy efficiency potential and shall be
7 adjusted as necessary in order to realize all reasonably available, cost-effective
8 energy efficiency savings.

9 (ii) In setting the amount of the charge and its allocation, the
10 Commission shall determine an appropriate balance among the following
11 objectives; provided, however, that particular emphasis shall be accorded to
12 the first four of these objectives: reducing the size of future power purchases;
13 reducing the generation of greenhouse gases; limiting the need to upgrade the
14 State's transmission and distribution infrastructure; minimizing the costs of
15 electricity; reducing Vermont's total energy demand, consumption, and
16 expenditures; providing efficiency and conservation as a part of a
17 comprehensive resource supply strategy; providing the opportunity for all
18 Vermonters to participate in efficiency and conservation programs; and
19 targeting efficiency and conservation efforts to locations, markets, or
20 customers where they may provide the greatest value.

1 (iii) The Commission, by rule or order, shall establish a process by
2 which a customer ~~who pays an average annual energy efficiency charge under~~
3 ~~this subdivision (3) of at least \$5,000.00~~ may apply to the Commission to self-
4 administer energy efficiency through the use of an energy savings account
5 which shall contain a percentage of the customer’s energy efficiency charge
6 payments as determined by the Commission. The remaining portion of the
7 charge shall be used for systemwide energy benefits. The Commission in its
8 rules or order shall establish criteria for approval of these applications. A
9 customer shall be eligible for an energy savings account if one of the following
10 applies:

11 (I) The customer pays an average annual energy efficiency
12 charge under this subdivision (3)(B)(iii) of at least \$5,000.00.

13 (II) The served premises of the customer are located in an
14 industrial park in a rural area. As used in this subdivision (II):

15 (aa) “Industrial park” means an area of land permitted as an
16 industrial park under 10 V.S.A. chapter 151 or under 24 V.S.A. chapter 117, or
17 under both.

18 (bb) “Rural area” means a county of the State designated as
19 “rural” or “mostly rural” by the U.S. Census Bureau in its most recent
20 decennial census.

21 * * *

1 (e) Thermal energy and process fuel efficiency funding.

2 * * *

3 (2) If a program combines regulated fuel efficiency services with
4 unregulated fuel efficiency services supported by funds under this section, the
5 Commission shall allocate the costs of the program among the funding sources
6 for the regulated and unregulated fuel sectors in proportion to the benefits
7 provided to each sector.

8 * * *

9

10 (f) Goals and criteria; all energy efficiency programs. With respect to all
11 energy efficiency programs approved under this section, the Commission shall:

12 (1) Ensure that all retail consumers, regardless of retail electricity, gas,
13 or heating or process fuel provider or of household income, will have an
14 opportunity to participate in and benefit from a comprehensive set of cost-
15 effective energy efficiency programs and initiatives designed to overcome
16 barriers to participation. To further this goal, the Commission shall require
17 that a percentage of energy efficiency funds be used to deliver energy
18 efficiency programs to customers with household incomes below 80 percent of
19 the statewide median income, as defined by the U.S. Department of Housing
20 and Urban Development, and the requirements of subdivision (e)(2) of this
21 section shall not apply to such delivery.

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* * * Sales and Use Tax; Advanced Wood Boilers * * *

Sec. 14. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(54) “Noncollecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) “Advanced wood boiler” means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emissions standards established by the Department of Environmental Conservation.

Sec. 15. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

1 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE