

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 recommends that the Senate propose to the House that the bill be  
5 amended by striking out all after the enacting clause and inserting in lieu  
6 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.



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 32 V.S.A. § 4152.

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

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

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

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

20 \* \* \*Self-administered Efficiency Charge \* \* \*

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

1 § 209. JURISDICTION; GENERAL SCOPE

2 \* \* \*

3 (d) Energy efficiency.

4 \* \* \*

5 (3) Energy efficiency charge; regulated fuels. In addition to its existing  
6 authority, the Commission may establish by order or rule a volumetric charge  
7 to customers for the support of energy efficiency programs that meet the  
8 requirements of section 218c of this title, with due consideration to the State's  
9 energy policy under section 202a of this title and to its energy and economic  
10 policy interests under section 218e of this title to maintain and enhance the  
11 State's economic vitality. The charge shall be known as the energy efficiency  
12 charge, shall be shown separately on each customer's bill, and shall be paid to  
13 a fund administrator appointed by the Commission and deposited into the  
14 Electric Efficiency Fund. When such a charge is shown, notice as to how to  
15 obtain information about energy efficiency programs approved under this  
16 section shall be provided in a manner directed by the Commission. This notice  
17 shall include, at a minimum, a toll-free telephone number, and to the extent  
18 feasible shall be on the customer's bill and near the energy efficiency charge.

19 (B) The charge established by the Commission pursuant to this  
20 subdivision (3) shall be in an amount determined by the Commission by rule or

1 order that is consistent with the principles of least-cost integrated planning as  
2 defined in section 218c of this title.

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

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

19 (iii) The Commission, by rule or order, shall establish a process  
20 by which a customer ~~who pays an average annual energy efficiency charge~~  
21 ~~under this subdivision (3) of at least \$5,000.00~~ may apply to the Commission

1 to self-administer energy efficiency through the use of an energy savings  
2 account which shall contain a percentage of the customer's energy efficiency  
3 charge payments as determined by the Commission. The remaining portion of  
4 the charge shall be used for systemwide energy benefits. The Commission in  
5 its rules or order shall establish criteria for approval of these applications. A  
6 customer shall be eligible for an energy savings account if one of the following  
7 applies:

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

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

12 (aa) "Industrial park" means an area of land permitted as an  
13 industrial park under 10 V.S.A. chapter 151 or under 24 V.S.A. chapter 117, or  
14 under both.

15 (bb) "Rural area" means a county of the State designated as  
16 "rural" or "mostly rural" by the U.S. Census Bureau in its most recent  
17 decennial census.

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

19 \* \* \*

20 (2) If a program combines regulated fuel efficiency services with  
21 unregulated fuel efficiency services supported by funds under this section, the

1 Commission shall allocate the costs of the program among the funding sources  
2 for the regulated and unregulated fuel sectors in proportion to the benefits  
3 provided to each sector.

4 \* \* \*

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

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

17 \* \* \*

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

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

20 § 9701. DEFINITIONS



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

3 \* \* \*

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

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

8 (A) installed as a primary central heating system;

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

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

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

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

16 § 9741. SALES NOT COVERED

17 Retail sales and use of the following shall be exempt from the tax on retail  
18 sales imposed under section 9771 of this title and the use tax imposed under  
19 section 9773 of this title.

20 \* \* \*

