

H.731

An act relating to technical corrections for the 2022 legislative session

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Technical Corrections * * *

Sec. 1. 4 V.S.A. § 3 is amended to read:

§ 3. JUDICIAL OFFICERS; ADMINISTRATIVE AND DISCIPLINARY
CONTROL

The Supreme Court shall have administrative and disciplinary control of all judicial officers of the State, in addition to and not inconsistent with the constitutional powers of the General Assembly in those matters. It shall ~~adopt~~ ~~and~~ promulgate a Code of Judicial Ethics which shall be binding on those officers for disciplinary purposes. It may ~~issue~~ promulgate rules ~~and~~ ~~regulations~~ providing for the exercise of disciplinary control, including providing for the manner of making and disposing of complaints of violations of judicial ethics, a committee of the Judiciary for determining issues raised by complaints, and imposing sanctions, including when appropriate suspension from judicial duties for the balance of the term of the judicial officer charged.

Sec. 2. 4 V.S.A. § 4(c) is amended to read:

(c) A Supreme Court Justice may file in the Office of the Secretary of State, on or before September 1 of the year preceding the expiration of the term for which ~~he or she~~ the Justice was appointed or retained, a declaration that ~~he~~

~~or she~~ the Justice will be a candidate for retention. However, a Justice appointed and having taken the oath of office after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. When a Justice files such a declaration, ~~his or her~~ the Justice's name shall be submitted to the General Assembly for a vote on retention. The General Assembly shall vote upon one ballot on the question "Shall the following Supreme Court Justices be retained in office?" The names of the Justices shall be followed by "Yes ___ No ___ ." If a majority of those voting on the question vote against retention, upon expiration of the term of office, a vacancy shall exist ~~which~~ that shall be filled by appointment in accordance with the Constitution and chapter 15 of this title; if the majority vote is in favor of retention, the Justice shall, unless removed for cause, remain in office for another term, and, at its end, shall be eligible for retention in office in the manner ~~herein~~ prescribed pursuant to this subsection.

Sec. 3. 4 V.S.A. § 18 is amended to read:

§ 18. OPINIONS; FILING AND PRESERVATION; COPIES

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(b) When a volume of the Vermont Reports has been published, the reporter shall transmit for preservation the original opinions in the cases printed ~~therein~~ in the volume to the clerk of the general term.

(c) On tender of the fees ~~therefor~~ for a certified copy of any opinion, the reporter or clerk shall furnish a the certified copy of any opinion to any person applying for the same.

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Sec. 4. 4 V.S.A. § 36 is amended to read:

§ 36. COMPOSITION OF THE COURT

* * *

(b) Questions of law and fact. In all proceedings, questions of law shall be decided by the presiding judge. In cases not tried before a jury, questions of fact shall be decided by the court. Mixed questions of law and fact shall be deemed to be questions of law. The presiding judge alone shall decide which are questions of law, questions of fact, and mixed questions of law and fact. Written or oral stipulations of fact submitted by the parties shall establish the facts ~~related therein~~ in the submitted stipulation, except that the presiding judge, in ~~his or her~~ the presiding judge's discretion, may order a hearing on any such stipulated fact. Neither the decision of the presiding judge under this subsection nor participation by an assistant judge in a ruling of law shall be grounds for reversal unless a party makes a timely objection and raises the issue on appeal.

* * *

(e) Duty to complete hearing or trial. After an assistant judge has decided to participate in a hearing or trial, ~~he or she~~ the assistant judge shall not withdraw ~~therefrom~~ from the hearing or trial except for cause. However, if the assistant judge is not available for a scheduled hearing or trial or becomes unavailable during trial, the matter may continue without ~~his or her~~ the assistant judge's participation, and ~~he or she~~ the assistant judge may not return to participate.

* * *

Sec. 5. 4 V.S.A. § 38(a) is amended to read:

(a) The Administrative Judge may appoint a licensed Vermont lawyer who has been engaged in the practice of law in Vermont for at least the last five years to serve as a Judicial Master. The Judicial Master shall be an employee of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial Master shall not engage in the active practice of law for remuneration while serving in this position. In making this appointment, the Administrative Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title. The Judicial Master may hear and decide the following matters as designated by the Administrative Judge:

(1) In the Criminal Division of the Superior Court, proceedings in treatment court dockets, as approved by the presiding judge, to ~~assure~~ ensure compliance with court orders, including attendance and participation with a

treatment plan, imposition of sanctions and incentives, including incarceration in the course of the program and dismissal from the program due to noncompliance; the Master shall not have authority to accept pleas or to impose sentences, to hear motions to suppress, or to dismiss for lack of a prima facie case.

(2) In the Family Division of the Superior Court, in juvenile proceedings, as approved by the presiding judge, to ~~assure~~ ensure compliance with existing court orders, including attendance and participation in substance abuse, mental health, and other court-ordered counseling; compliance with and modification of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a contested permanency hearing becomes necessary; and to provide case management of juvenile proceedings; the Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.

(3) In the Family Division of the Superior Court, proceedings, with the approval of the presiding judge, to ~~assure~~ ensure compliance with existing court orders relating to parent-child contact; to act as a Master pursuant to Rule 53 of the Vermont Rules of Civil Procedure where no order has been made pursuant to 32 V.S.A. § 1758(b); and to provide case management of proceedings with 15 V.S.A. chapters 5, 11, 15, and 18; the Master shall not

have authority to determine divorce or parentage actions, parental rights and responsibilities, or spousal maintenance or modifications of such orders.

Sec. 6. 4 V.S.A. § 71(b) is amended to read:

(b) A Superior judge may file in the Office of the Secretary of State, on or before September 1 of the year preceding the expiration of the term for which ~~he or she~~ the Superior judge was appointed or retained, a declaration that ~~he or she~~ the Superior judge will be a candidate for retention. However, a Superior judge appointed and having taken the oath of office after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. When a judge files such a declaration, ~~his or her~~ the judge's name shall be submitted to the General Assembly for a vote on retention. The General Assembly shall vote upon one ballot on the question "Shall the following Superior judges be retained in office?" The names of the judges shall be listed followed by "Yes __ No __ ." If a majority of those voting on the question vote against retention, upon expiration of the term of office, a vacancy shall exist ~~which~~ that shall be filled by appointment in accordance with the Constitution and chapter 15 of this title; if the majority vote is in favor of retention, the judge shall, unless removed for cause, remain in office for another term and, at its end, shall be eligible for retention in office in the manner ~~herein~~ prescribed pursuant to this subsection.

Sec. 7. 4 V.S.A. § 219 is amended to read:

§ 219. POWERS OF CHANCELLOR

The powers and jurisdiction of the courts that were ~~heretofore~~ previously vested in the courts of chancery are vested in the Superior Court. Superior, Environmental, and Probate judges have the powers of a chancellor in passing upon all civil matters which may come before them.

Sec. 8. 4 V.S.A. § 457 is amended to read:

§ 457. PARTICIPATION AND AVAILABILITY OF ASSISTANT JUDGES

* * *

(b) Questions of law and fact. In all proceedings, questions of law shall be decided by the presiding judge. Mixed questions of law and fact shall be deemed to be questions of law. The presiding judge alone shall decide which are questions of law, questions of fact, and mixed questions of law and fact. Written or oral stipulations of fact submitted by the parties shall establish the facts ~~related therein~~ in the submitted stipulation, except that the presiding judge, in ~~his or her~~ the presiding judge's discretion, may order a hearing on any stipulated fact. Neither the decision of the presiding judge under this subsection nor participation by an assistant judge in a ruling of law shall be grounds for reversal unless a party makes a timely objection and raises the issue on appeal.

* * *

(f) Duty to complete hearing or trial. After an assistant judge has decided to participate in a hearing or trial, the assistant judge shall not withdraw ~~therefrom~~ from the hearing or trial except for cause. However, if an assistant judge is not available for a scheduled hearing or trial or becomes unavailable during trial, the matter may continue without that assistant judge's participation, and ~~he or she~~ the assistant judge may not return to participate.

* * *

Sec. 9. 4 V.S.A. § 461(c)(2) is amended to read:

(2) A magistrate may file in the office of the Secretary of State, on or before September 1 of the year preceding the expiration of the term for which ~~he or she~~ the magistrate was appointed or retained, a declaration that ~~he or she~~ the magistrate will be a candidate to succeed ~~himself or herself~~ themselves. However, a magistrate appointed and having taken the oath of office after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. When a magistrate files such a declaration, ~~his or her~~ the magistrate's name shall be submitted to the General Assembly for a vote on retention. The General Assembly shall vote upon one ballot on the question: "Shall the following magistrates be retained in office?" The names of the magistrates shall be listed followed by "Yes____ No____." If a majority of those voting on the question vote against retaining a magistrate in office, upon the expiration of the term, a

vacancy shall exist ~~which~~ that shall be filled in accordance with the Constitution and chapter 15 of this title. If the majority vote is in favor of retention, the magistrate shall, unless removed for cause, remain in office for another term, and at its end, shall be eligible for retention in office in the manner ~~herein~~ prescribed pursuant to this subdivision.

Sec. 10. 4 V.S.A. § 461c(c) is amended to read:

(c) Prior to hearing an uncontested domestic matter, an assistant judge shall sit with a Superior judge on domestic proceedings for a minimum of 100 hours, satisfactorily complete a minimum of 30 hours of training on subjects relevant to domestic proceedings and the Code of Judicial Conduct, and conduct a minimum of three uncontested domestic hearings with a Superior judge who shall, in ~~his or her~~ the Superior judge's sole discretion, certify to the Administrative Judge that the assistant judge is qualified to preside over matters under this section. Upon application of an assistant judge, some or all of these requirements may be waived by the Administrative Judge based on equivalent experience. The requirements set forth ~~herein~~ in this subsection shall only apply to assistant judges who elect to conduct uncontested final hearings in domestic cases after July 1, 2010. An assistant judge already conducting hearings under this section as of July 1, 2010 shall be deemed to have complied with these requirements.

Sec. 11. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the Office of the Superior Court Clerk become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, the Court Administrator may direct the court clerk to provide suitable books and transcribe such records ~~therein~~ into the books provided. At the end of a transcript of record so made, the clerk shall certify under official signature and the seal of the court that the same is a true transcript of the original record. Such transcript or a duly certified copy ~~thereof~~ of the transcript shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the State.

Sec. 12. 4 V.S.A. § 691(c) is amended to read:

(c) With respect to counties where the assistant judges have elected to offer passport processing services, the Court Administrator and the assistant judges shall enter into a memorandum of understanding providing for the acceptance and processing of ~~United States~~ U.S. passport applications. The memorandum may provide for performance of passport acceptance and processing duties by the court clerk, county clerk, a Superior Court staff person serving as county clerk pursuant to subsection (b) of this section, or any other court or county employee.

Sec. 13. 4 V.S.A. § 798 is amended to read:

§ 798. PROBATIVE FORCE OF TRANSCRIPTS

All transcripts of evidence or proceedings in a cause or hearing tried in Superior Court or before an auditor, referee, or commissioner, ordered to be reported by a Probate or Superior judge, and made by or under the direction of the reporter and duly certified by him or her to be a verbatim transcript of the verbatim stenographic notes of such evidence or proceedings, shall be received as evidence in any action, civil or criminal, if relevant ~~thereto~~ to the action.

Sec. 14. 4 V.S.A. § 851 is amended to read:

§ 851. APPOINTMENT AND POWERS OF COMMISSIONERS

The Governor may appoint commissioners in other states and in foreign countries; who shall hold office for five years unless sooner removed by him or her. They may take depositions, affidavits, and testimony to be used in any proceedings in Superior Court, administer oaths and take the acknowledgment of deeds and other instruments to be used or recorded in this State, and their acts ~~therein~~ in other states or foreign countries shall have the same force as though performed by a justice or master in this State.

Sec. 15. 4 V.S.A. § 952(a) is amended to read:

(a) The Court Administrator, subject to the approval of the Supreme Court, shall make rules regarding the qualifications, lists, and selection of all jurors and prepare questionnaires for prospective jurors. Each Superior Court clerk

shall, in conformity with the rules, prepare a list of jurors from residents of its unit. The rules shall be designed to ~~assure~~ ensure that the list of jurors prepared by the Superior Court clerk shall be representative of the citizens of its unit in terms of age, sex, occupation, economic status, and geographical distribution.

Sec. 16. 5 V.S.A. § 1 is amended to read:

§ 1. DEFINITIONS

As used in this title, unless the context requires otherwise, ~~the following definitions shall apply:~~

* * *

Sec. 17. 5 V.S.A. § 205(h) is amended to read:

(h) The Agency may render assistance in the acquisition, development, operation, or maintenance of airports owned, controlled, or operated, or to be owned, controlled, or operated, by municipalities in this State, out of appropriations made by the ~~Legislature~~ General Assembly for that purpose.

Sec. 18. 5 V.S.A. § 606 is amended to read:

§ 606. VOTE; INCOME; ISSUANCE OF NOTES OR BONDS

An airport or landing field shall not be established or constructed, or equipped, maintained, or improved ~~from time to time~~ by a municipality, acting either singly or jointly with one or more other municipalities, unless and until a proposition ~~therefor~~ fixing the maximum amount ~~which~~ that may be expended

~~thereunder~~ by ~~such~~ the municipality for such establishment, construction, equipment, or improvement has been submitted to an annual or special meeting of the municipality and adopted by a majority vote of the qualified voters voting ~~thereon~~ on the proposition. A municipality may use and expend all income derived from the operation of ~~such~~ the airport or landing field for maintenance and upkeep ~~thereof~~ of the airport or landing field and pledge its credit and issue notes or bonds for the purposes of this subchapter in accordance with the provisions of the general law or the charter applicable to ~~such~~ the municipality.

Sec. 19. 5 V.S.A. § 655 is amended to read:

§ 655. PROPERTY DEVOTED TO PUBLIC USE

Property or a right in property ~~which~~ that is devoted to a public use may be taken under this subchapter if it is alleged in the petition and found by the court in the proceedings that the public interest will be better served by the use of the property or right for the airport, landing field, or air navigation facility for which it is sought to be taken than by the continuance of the public use to which it is already devoted. However, no property in which the federal government or a department or agency of the federal government has an interest or for the development or use of which the federal government or a department or agency has expended or contributed monies under any legislative contract or arrangements ~~whereby~~ where an obligation exists to

refund or replace the monies so expended or contributed, shall be taken under this subchapter, unless the taking is specifically approved in writing by the President of the United States or the principal officer of the appropriate department or agency of the federal government and by the Governor of this State.

Sec. 20. 5 V.S.A. § 1020 is amended to read:

§ 1020. PENALTIES

A person who violates a provision of this chapter or any ~~regulation~~ rule, order, or ruling ~~promulgated~~ adopted or made pursuant to this chapter shall be fined not more than \$500.00 or imprisoned for not more than 90 days, or both.

Sec. 21. 5 V.S.A. § 1810 is amended to read:

§ 1810. JURISDICTION BY THE TRANSPORTATION BOARD OVER
CHARGES AND RATES

When, upon hearing, the rates, tolls, charges, or schedules are found unjust, unreasonable, insufficient, or unjustly discriminatory, or are found to be preferential or otherwise in violation of a provision of this chapter, the Board may order and substitute for the rates, tolls, charges, or schedules, and make ~~such~~ changes in any regulations, measurements, practices, or acts of the company relating to its service, and may make an order to compel the furnishing of adequate service as shall after hearing be found by the Board to be just and reasonable.

Sec. 22. 5 V.S.A. § 2001 is amended to read:

§ 2001. TRANSPORTATION OF HAZARDOUS MATERIALS

(a) The Secretary of Transportation is authorized to promote safety in the transportation of hazardous materials by all modes of transportation; and furthermore:

(1) Is authorized to ~~make~~ adopt rules, under 3 V.S.A. chapter 25, governing transportation of hazardous materials. As used in this section, “hazardous materials” means those substances or materials in such quantity and form that may pose an unreasonable risk to health and safety or property when transported in commerce by all modes. For purposes of this section, hazardous materials includes explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases. These rules shall be no less protective of public safety than the rules promulgated by the federal government with respect to the transportation of hazardous materials, but no rule shall prohibit a person between 18 to 21 years of age from operating a motor vehicle transporting hazardous materials.

* * *

(b) It shall be unlawful for any person to violate any of the rules ~~promulgated~~ adopted by the Secretary under this section.

* * *

(d) Notwithstanding any other provision of this chapter or other law, whether general, special, or local, violations of any rules ~~promulgated~~ adopted pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the Supreme Court pursuant to 4 V.S.A. § 1105.

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Sec. 23. 5 V.S.A. § 3454 is amended to read:

§ 3454. INVESTIGATION OF ACCIDENTS; HEARING;
DETERMINATION; PUBLICITY

The Board shall inquire into the cause of every accident on a railroad resulting in loss of life and, in its judgment, into any accident, collision, or derailment of trains not so resulting. When, in its judgment, a public investigation is necessary in the ~~interests~~ interest of public safety, it shall fix a time and place of holding the same and shall summon the person ~~or~~ corporation operating ~~such~~ the railroad, the parties known to have been injured in the accident, and, if known, a representative or friend of ~~a person~~ an individual killed ~~thereby~~ in the accident, to appear and give evidence regarding the cause of ~~such~~ the accident. The Board shall also notify the State's Attorney of the county in which the accident occurred, who shall investigate the cause of the accident, produce witnesses who can give evidence in regard to the same, and attend and represent the State at ~~such~~ the hearing. All parties summoned,

and other persons interested, may appear and be made parties thereto, may produce witnesses or other evidence, and may be represented by counsel. On notice from the Board, the person ~~or corporation~~ operating the railroad shall produce all railroad employees who can give pertinent evidence in regard to the cause of the accident, free of expense to the State. The Board shall make public its determination in regard to the cause of the accident so investigated and cause a permanent record ~~thereof~~ of its determination to be made.

Sec. 24. 5 V.S.A. § 3455 is amended to read:

§ 3455. UNLAWFUL ACTS; PETITIONS TO BOARD; HEARINGS

In a matter over which the Board has jurisdiction, a person ~~or corporation~~ that claims to be injured by the unlawful action or neglect of a railroad in this State may commence proceedings ~~thereon~~ by petition to the Board, with a copy to the Agency, ~~therein~~ briefly setting forth ~~briefly~~ the cause of complaint. The State's Attorney of the county in which a matter arises, the Attorney General, the legislative body of a municipality, or any ~~ten~~ 10 freeholders of ~~such~~ the county by such complaint may bring before the Board any ~~such~~ matter ~~wherein~~ and whereby in which they claim the public safety is endangered or the charter or statutory law regulating railroads is being violated. When it has information that any railroad in this State is operating in violation of its charter or of the statutory law, the Board shall call the same to the attention of the Attorney General or the State's Attorney of the county where the matter arises. The

Attorney General or the State's Attorney shall inquire into the same and, if in ~~his or her~~ that individual's judgment the matter should be investigated, ~~he or she~~ that individual shall bring the same before the Board by proper complaint. On receipt of ~~such~~ the complaint, the Board shall summon the person or persons complained of to appear before it and to make answer ~~thereto~~ to the complaint. When issue is taken to the facts set out in the complaint, the Board shall appoint a time and place for hearing the same in the county where the matter arises; and shall then and there hear and determine the matter complained of. Nothing in this section shall be construed to empower the Board to award monetary damages to any person or entity, except as expressly provided by law.

Sec. 25. 5 V.S.A. § 3457(b) is amended to read:

(b) Proceedings involving damaged structures or other impediments alongside or adjacent to the rights-of-way of railroads ~~which~~ that imminently imperil the safety of the passage of trains shall be commenced immediately upon notice of the peril to the Board or the Agency. Upon ~~such~~ notice, the Board or the Agency shall immediately investigate and, if it is determined that such danger does exist and cannot be timely removed through informal negotiation, order the owner of the structure or other impediment to immediately take all action necessary to abate the danger. If the owner fails to do so, or is unavailable, the Board or the Agency may, without incurring any

civil liability, take all steps necessary to abate the danger, including removal of the damaged structure or other impediment, and all incurred expenses ~~incurred~~ shall constitute a debt due the State upon the rendering of an account ~~therefor~~ for all incurred expenses to the owner and shall be recoverable from the owner in an action. Expenses incurred by the Board or the Agency may be drawn from the Transportation Fund, and any amounts recovered shall be credited to the Transportation Fund.

Sec. 26. 5 V.S.A. § 3519 is amended to read:

§ 3519. LOCATION OF ROAD TO BE RECORDED

Before a railroad corporation commences proceedings for the purpose of acquiring title to real estate or an interest ~~therein~~ in real estate, and, within two years ~~from~~ after its incorporation, it shall cause a map or plan of the location of its road defining the courses, distances, and boundaries of the same in each town through which it passes, signed by a majority of the directors, to be recorded in the respective clerk's offices of ~~such~~ the towns. If the road passes through an unorganized town or gore, the location shall be recorded in the offices in which conveyances of real estate situated ~~therein~~ in that unorganized town or gore are required by law to be recorded.

Sec. 27. 5 V.S.A. § 3523 is amended to read:

§ 3523. APPRAISAL OF DAMAGES; APPOINTMENT OF
COMMISSIONERS

When a railroad corporation has not acquired, by gift or purchase, land, real estate, or property, taken or required for the construction, maintenance, and convenient accommodation of its road, and if the parties do not agree as to the price of ~~such~~ the land and other property, any two Justices of the Supreme Court, upon application for that purpose by the corporation, shall appoint three disinterested commissioners, one of whom shall be an inhabitant of the town and all shall be inhabitants of the county in which the land or other property to be appraised is situated, to determine the damages ~~which~~ that the owners of ~~such~~ the land or property have sustained by the occupation of the ~~same~~ railroad corporation for the ~~purposes aforesaid~~ construction, maintenance, and convenient accommodation of its road.

Sec. 28. 5 V.S.A. § 3524 is amended to read:

§ 3524. NOTICE OF TIME AND PLACE OF APPRAISAL

The commissioners shall give 12 days' notice to the occupants or owners of the land of the time and place when and where they will attend to ~~such~~ the appraisal, but notice shall not be required to be given of the appraisal of unoccupied lands unless the owner resides in the State or has some known agent or attorney residing ~~herein~~ in the State. If the owner does not reside in

the State, and has a known agent or attorney residing ~~herein~~ in the State, the same notice shall be given to the agent or attorney as is directed to be given to the owner or occupant.

Sec. 29. 5 V.S.A. § 3535 is amended to read:

§ 3535. RIGHT OF ACTION ON NONPAYMENT OF DAMAGES

When a railroad corporation has entered upon and used land and real estate for the construction and accommodation of its railroad and has, by its engineers, agents, or servants, entered upon land contiguous to the railroad or the works connected ~~therewith~~ to the railroad and taken materials to use in the construction of its road, and has not paid the owner ~~therefor~~ for those materials nor, within two years from ~~such~~ entry, had the damages appraised by commissioners and an award made and delivered, a person claiming damages, within six years after ~~such~~ the entry, may bring an action ~~therefor~~ for damages before a Superior Court. An answer justifying the entry under the act incorporating the company shall not bar the action, but the plaintiff shall recover only ~~his or her~~ actual damages.

Sec. 30. 5 V.S.A. § 3539 is amended to read:

§ 3539. DIFFERENCE IN VALUE; ADJUSTMENT

When the damages awarded on the second location are less than those awarded on the first, the corporation may recover the difference, if paid, from the landowner. If the damages so awarded have not been paid, ~~such~~ the

corporation may retain the difference, and shall not be liable to pay the same.

When the damages on the first location have been assessed by the commissioners and an appeal ~~taken therefrom~~ is pending, the corporation shall pay the costs accrued in the appeal, and cause its new location to be recorded, before it takes the benefit of this section.

Sec. 31. 5 V.S.A. § 3540 is amended to read:

§ 3540. CHANGE AFTER DAMAGES ARE PAID

When the location of a railroad is changed after the payment of damages to a landowner, and a portion of the lands of such owner is not taken for the new location, the lands taken for the first location shall revert to the owner. The railroad corporation may recover from ~~such~~ the landowner the amount ~~so~~ paid as damages, ~~deducting therefrom~~ less the damages ~~which~~ that accrued to the owner in consequence of locating the railroad across ~~his or her~~ the owner's lands, which shall be ascertained by the Transportation Board. The landowner, if ~~he or she~~ the landowner chooses, may convey to the corporation the located ~~upon~~ land ~~so located upon~~, and retain the awarded sum ~~so awarded~~.

Sec. 32. 5 V.S.A. § 3546 is amended to read:

§ 3546. ADDITIONAL LANDS

~~Such~~ A railroad corporation may take ~~such~~ additional lands for the purposes mentioned in sections 3543–3545 of this title as the Transportation Board judges necessary. Unless the taken lands ~~so taken~~ are purchased or given,

compensation ~~therefor~~ for the lands shall be determined by the Transportation Board, as in other cases, and made by the railroad corporation to the owners and persons interested in the lands. When compensation is made, the same shall become part of ~~such~~ the highway, and may be held for highway purposes, and ~~such~~ the landowners and ~~such~~ railroad corporation shall have the same right of appeal as in other cases of land damages.

Sec. 33. 5 V.S.A. § 3578 is amended to read:

§ 3578. RELEASE OF CORPORATION FROM LIABILITY

The liability of the corporation shall continue although the railroad has been abandoned, unless the town's selectboard members ~~of the town~~ consent in writing that the corporation be released ~~therefrom~~ from liability, or unless the corporation or its assigns restore ~~such~~ the crossing to its original state of usefulness and permanency. ~~Such~~ The written consent shall be recorded in the record of deeds in the town clerk's office by ~~such~~ the selectboard members.

Sec. 34. 5 V.S.A. § 3587(b)(1) is amended to read:

(1) any grade crossings now existing or ~~hereinafter~~ subsequently established over the line of railroad extending through the city of Rutland between the River Street underpass and the Pine Street overpass; and

Sec. 35. 5 V.S.A. § 3593(a) is amended to read:

(a) Definitions. ~~For purposes of~~ As used in this section:

* * *

Sec. 36. 5 V.S.A. § 3612 is amended to read:

§ 3612. RAILROADS MAY CROSS OR UNITE; COMPENSATION,
POINTS, AND MANNER

A railroad corporation may cross or unite its railroad with any other railroad at any point in its route and upon the grounds of such other railroad corporation, with necessary turnouts, sidings, switches, and other conveniences. If the two corporations cannot agree upon the amount of compensation to be made ~~therefor~~ or the points and manner of such crossings and connections, the same shall be determined by the Transportation Board on petition, service, and hearing.

Sec. 37. 5 V.S.A. § 3615 is amended to read:

§ 3615. TERMS WITH TWO COMPETING ROADS ~~WHICH~~ THAT
INTERSECT

When a railroad is intersected by two or more railroads ~~which~~ that are competing lines for business to or from the road so intersected, the managers of ~~such~~ the road shall transport cars, passengers, baggage, and freight to and from each of ~~such~~ the intersecting roads on the same terms, and shall not establish rules, regulations, or terms of connection that will give to either of ~~such~~ the competing roads an unreasonable advantage over the other. If the managers of ~~such~~ the roads cannot agree upon any of the terms ~~aforsaid~~, the

same, on petition, notice, and hearing, shall be determined by the
Transportation Board.

Sec. 38. 5 V.S.A. § 3616 is amended to read:

§ 3616. CONNECTION OF PASSENGER TRAINS; BOARD MAY
DETERMINE

The Board may determine the time or times when the passenger trains of
connecting railroads shall connect with each other, having in view the
convenience of the traveling public, and may make all necessary rules ~~and~~
~~regulations~~ respecting the manner of such connections. Such determination
and order may be made on petition of either of the connecting roads, or of
twenty or more freeholders of the vicinity, duly served and heard. The Board,
at any time, may change ~~such its~~ order, on petition, service ~~thereof~~ of petition,
and hearing.

Sec. 39. 5 V.S.A. § 3639(a) is amended to read:

(a) A person ~~or corporation~~ owning or operating a railroad shall construct
and maintain farm crossings of the road for the use of the proprietors of lands
adjoining the railroad, and cattle guards at all farm and road crossings
sufficient to prevent cattle and animals from getting on the railroad. A farm
crossing may be temporarily or permanently closed or discontinued by mutual
agreement between all parties having an interest ~~therein~~ in the farm crossing.
If no ~~such~~ mutual agreement can be reached by such interested parties, then a

person ~~or corporation~~ owning or operating a railroad and desiring to close any farm crossing shall make application to the Transportation Board. The Board shall ~~thereupon~~ give notice to all interested parties ~~interested~~, in ~~such the~~ manner as the Board may direct, of the hearing on the application, the hearing to be in the county where ~~such the~~ crossing is located. After the hearing, a person ~~or corporation~~ owning or operating a railroad shall not close such farm crossing without the approval of the Transportation Board. A person aggrieved by the closing of a farm crossing after January 1, 1955 by a person ~~or corporation~~ owning or operating a railroad may notify the Transportation Board of the closing by registered or certified mail ~~of the closing~~, and ~~thereupon~~ upon receipt the Board shall conduct a hearing. Notice and place of hearing shall be as set forth in this subsection. The Transportation Board may require the reopening of any such crossing and make ~~such~~ other order as is permitted in section 3649 of this title. At any ~~such~~ hearing, the burden of proof shall rest with the person or persons effecting or seeking to effect the closing of ~~such a~~ farm crossing. Any person aggrieved by an order of the Transportation Board may, in accordance with Rule 74 of the Vermont Rules of Civil Procedure, appeal to the Superior Court, whereupon such cause shall be tried as an original action brought under the provisions of 12 V.S.A. § 402.

Sec. 40. 5 V.S.A. § 3650 is amended to read:

§ 3650. PENALTY

Unless the Board has extended the time for cause shown, a railroad corporation failing to comply with such order for more than 20 days after the time fixed ~~therefor~~ by the Board, shall be fined not more than \$25.00 for each day's failure. ~~Such~~ The corporation shall be further liable to the party aggrieved for the damages ~~he or she~~ the party sustains in consequence of ~~such~~ the failure.

Sec. 41. 5 V.S.A. § 3727 is amended to read:

§ 3727. ONLY COMPANY'S ENGINES TO BE RUN ON ROAD;

PENALTY

A locomotive, engine, or other power shall not run upon a railroad, except ~~such as those that~~ those that belong to and are controlled by the person ~~or corporation~~ owning and managing the road, unless by the person's consent ~~of such person or corporation~~. An engineer or other person violating the provisions of this section shall be liable to the person ~~or corporation~~ owning and managing the road for the damages ~~thereby~~ sustained due to the violation, and shall be fined not more than \$500.00. If a collision of trains results from the violation of this section, ~~whereby a person~~ and an individual is killed, ~~such~~ the engineer or other person shall be guilty of manslaughter. This section shall not be

enforced when it conflicts with the charter of a railroad corporation organized under the laws of this State.

Sec. 42. 5 V.S.A. § 3730 is amended to read:

§ 3730. NEGLIGENCE OF EMPLOYEE; PENALTY

An engineer, fireman, or other agent of a railroad who is guilty of negligence or carelessness, ~~whereby~~ that causes an injury ~~is done~~ to a person ~~or corporation~~, shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. This section shall not exempt a person ~~or corporation~~ from an action for damages.

Sec. 43. 5 V.S.A. § 3783 is amended to read:

§ 3783. ALTERATION, PETITION FOR; HEARINGS

The selectboard of a town within which a public highway crosses or is crossed by a railroad, or the general manager or attorney of a railroad corporation whose road crosses or is crossed by a public highway, may bring their petition in writing to the Transportation Board, alleging that public safety requires an alteration in ~~such~~ the crossing, its approaches, the method of crossing, the location of the public highway, the elimination of ~~such~~ the crossing, the closing of ~~such~~ the public highway crossing and the substitution of another ~~therefor~~, crossing not at grade, or the removal of obstructions to the sight at ~~such~~ the crossing, and praying that the same may be ordered, or ~~such~~ proceedings may be instituted by the Agency of Transportation or the Board of

its own motion and without petition. The Board shall ~~thereupon~~ appoint a time and place for hearing the petition on notice of not less than ~~ten~~ 10 days to the petitioners, the railroad, the municipality in which ~~such~~ the crossing is situated, the owners of the land adjoining ~~such~~ the crossing, and adjoining that part of the highway to be changed in grade, and to the Attorney General, who shall, ~~by himself or herself~~ as the Attorney General or through the State's Attorney of the county ~~wherein~~ where the crossing is located, represent the interests of the State at ~~such~~ the hearing. After ~~such~~ notice and the hearing, the Board shall determine what alterations, changes, or removals, if any, shall be made and by whom.

Sec. 44. 5 V.S.A. § 3785 is amended to read:

§ 3785. ALTERATIONS, CROSSINGS; ORDER BY TRANSPORTATION
BOARD

When the Transportation Board, in the absence of any application ~~therefor~~, is of the opinion that the public safety requires an alteration in any highway crossed at grade by a railroad, or by railroads belonging to or operated by more than one corporation, or an alteration in lands or buildings ~~thereon~~ on land adjoining or near ~~such~~ the highway at or near such crossing in order to afford proper view from the approaches to ~~such~~ the crossing, in each direction, of the track or tracks of ~~such~~ the railroad or railroads, after hearing had on notice of not less than ~~ten~~ 10 days to the corporation or corporations owning or

operating ~~such~~ the railroad or railroads, to the selectboard of the town within which ~~such~~ the highway is situated, to the owners of the land adjoining ~~such~~ the crossing and the owners of ~~such~~ the land or buildings ~~thereon~~ on the adjoining land, or near such highway as may be required for or materially affected by a proposed alteration, and to the Attorney General, who, ~~by himself~~ or herself as the Attorney General or through the State's Attorney of the county in which ~~such~~ the crossing is located shall represent the interests of the State, it may order ~~such~~ alterations in ~~such~~ the highway, and the removal of ~~such~~ obstructions to the view in each direction of the tracks of ~~such~~ the railroads, as it deems best, and shall determine and direct by whom, at whose expense and within what time ~~such~~ alterations and removals shall be made.

Sec. 45. 6 V.S.A. § 15(a) is amended to read:

(a) In addition to other penalties provided by law, the Secretary may assess administrative penalties, not to exceed \$1,000.00, for each violation of this title and Titles 9 and 20, unless a higher administrative penalty amount is otherwise provided for ~~therein~~ in Title 9 or Title 20.

Sec. 46. 6 V.S.A. § 32(d) is amended to read:

(d) The Secretary shall report to the General Assembly ~~no~~ not later than January 15, 1989, concerning the progress of the program.

Sec. 47. 6 V.S.A. § 173 is amended to read:

§ 173. DESIGNATION OF BRANDS, LABELS, OR TRADEMARKS

The Secretary may determine or design brands, labels, or trademarks for identifying farm products packed in accordance with official grades and standards so established and may cause to be printed ~~such~~ the brands, labels, or trademarks and may distribute the same at a reasonable price. A written application to the Secretary requesting permission to use ~~such~~ the brands, labels, or trademarks and a written acceptance ~~thereto~~ by the Secretary or a duly authorized assistant shall be a condition precedent to the use of such brands, labels, or trademarks.

Sec. 48. 6 V.S.A. § 176 is amended to read:

§ 176. INSPECTORS AND CERTIFICATES OF INSPECTION

The Secretary may employ inspectors to inspect farm products marked, branded, or labeled in accordance with official grades or standards established and ~~promulgated~~ adopted by the Secretary for the purpose of determining and certifying the quality and condition ~~thereof~~ of the farm product and other relative material facts ~~relative thereto~~. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, condition, and approximate quality of the farm products inspected, and any other pertinent facts that the Secretary may require. ~~Such~~ The certificates and all federal certificates relative to the condition or quality of

~~such~~ the farm products shall be prima facie evidence in all courts of the State of the facts required as aforesaid to be stated ~~therein~~ in the certificate.

Sec. 49. 6 V.S.A. § 177 is amended to read:

§ 177. ACCESS TO BUILDINGS OR PLACES; EXAMINATION

The Secretary, in person or by deputy, shall have free access at all reasonable hours to any building or other place ~~wherein~~ where it is reasonably believed that farm products marked, branded, or labeled in accordance with official grades established and ~~promulgated~~ adopted by the Secretary are being marketed or held for commercial purposes. ~~He or she~~ The Secretary shall also have power, in person or by deputy, to open any bags, crates, or other containers containing ~~such~~ the farm products and examine the contents ~~thereof~~ and, upon tendering the market price, may take samples ~~therefrom~~ of farm products.

Sec. 50. 6 V.S.A. § 178(a) is amended to read:

(a) After notice of the establishment of grades or standards and the determination of brands, labels, or trademarks, it shall be unlawful to use a brand, label, or trademark to identify farm products as being of ~~a~~ an established grade ~~established as aforesaid~~ before a permit is granted or after the revocation of the right to use such brand, label, or trademark by the Secretary. For the purpose of further protecting the grades as officially established and adopted by ~~him or her~~ the Secretary, or any grades established under an act of Congress

by the U.S. Department of Agriculture on the same products, it shall be unlawful to use the officially designated grade words, titles, or names for the purpose of identifying, advertising, designating, or describing any lots of such products unless such products fully meet the requirements of the official grade indicated.

Sec. 51. 6 V.S.A. § 179 is amended to read:

§ 179. ~~REGULATIONS~~ RULES; FEES

(a) The Secretary may adopt rules ~~and regulations~~ for carrying out the purposes of this chapter.

* * *

Sec. 52. 6 V.S.A. § 232 is amended to read:

§ 232. APPLICATION OF CHAPTER

The provisions of this chapter shall apply to all packages, containers, or receptacles in which apples are packed, distributed, sold, offered, or exposed for sale except as ~~herein~~ provided for in this chapter.

Sec. 53. 6 V.S.A. § 234 is amended to read:

§ 234. MARKS ON CONTAINERS

Every package, container, or receptacle of apples ~~which~~ that is packed, sold, distributed, offered, or exposed for sale or distribution in the State by any person shall be plainly and conspicuously marked with the name and address of the packer or person by whose authority the apples were packed; the true

name of the variety; the grade; the minimum size or count of apples contained ~~therein, in the package, container, or receptacle;~~ and the name of the state where the apples were grown. Any person who states or marks the price in connection with selling, displaying, or advertising apples shall also at the same time and place and by the same method state or mark in a plainly conspicuous manner the true variety, grade, and size offered at that price.

Sec. 54. 6 V.S.A. § 253a(b) is amended to read:

(b) After determining that a valid petition has been filed, the Secretary shall prepare and mail a proposed marketing rule. After an opportunity for a hearing, the Secretary shall conduct a referendum of the affected producers. The marketing rule shall be approved by at least 51 percent of the eligible producers who participate in the referendum before it may be ~~promulgated~~ adopted.

Sec. 55. 6 V.S.A. § 255(b) is amended to read:

(b) Upon receipt of signed verifications, the Secretary shall ~~forthwith~~ mail ballots to all producers who have verified their eligibility to vote. Those producers shall mark their ballots and return them to the Secretary either by hand ~~no~~ not later than 10 days after the referendum date or by mail postmarked ~~no~~ not later than 10 days after the referendum date.

Sec. 56. 6 V.S.A. § 327 is amended to read:

§ 327. ADULTERATION

* * *

(b) Any other commercial feed, feed supplement, or dosage form animal health product shall be deemed to be adulterated if:

(1) any valuable constituent has been in whole or in part omitted or ~~abstracted therefrom~~ from the commercial feed, feed supplement, or dosage form animal health product or any less valuable substance substituted ~~therefor~~ for a more valuable constituent;

* * *

(3) ~~if~~ use of the product may result in contamination of a raw agricultural product;

(4) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice and rules ~~promulgated~~ adopted by the Secretary to ensure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess; or

* * *

Sec. 57. 6 V.S.A. § 330(a) is amended to read:

(a) For the purpose of enforcing this chapter and determining whether or not an operation may be subject to these provisions, the Secretary upon

presenting appropriate credentials is authorized to engage in one or more of the following actions:

(1) to enter any premises during normal business hours where commercial feeds, feed supplements, or dosage form animal health products are manufactured, processed, packed, or held for distribution and to stop and enter any vehicle being used to transport or hold feeds;

(2) to inspect factories, warehouses, establishments, vehicles, equipment, finished and unfinished materials, containers, and labeling; or

(3) to sample commercial feed, feed ingredients, feed supplements, or dosage form animal health products.

Sec. 58. 6 V.S.A. § 333(c) is amended to read:

(c) The Secretary is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule ~~promulgated~~ adopted under this chapter notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

Sec. 59. 6 V.S.A. § 354 is amended to read:

§ 354. MARKING OF CONTAINERS

Each container containing eggs being sold, exposed, offered, or advertised for sale or exchange in this State for human consumption must be plainly and conspicuously marked with the proper designation of the size and quality

grades ~~promulgated~~ adopted by the Secretary of Agriculture, Food and Markets pursuant to the provisions of chapter 21 of this title. The container of each lot of eggs being sold by a dealer to a retailer must be plainly marked with the dealer's identification and the date of shipment. The size marking requirements of this section shall not prevent a producer from selling eggs of mixed sizes to a dealer, provided that when selling mixed sized eggs, the producer plainly marks each lot "mixed sizes" or "nest run." The size and grade marking requirements of this section shall not prevent any dealer from selling eggs, mixed as to size or quality, or both, to any other dealer, provided that the seller plainly marks each lot of mixed quality "ungraded" and each lot of mixed size "mixed sizes."

Sec. 60. 6 V.S.A. § 355 is amended to read:

§ 355. ENFORCEMENT; RULES; INSPECTORS

The Secretary of Agriculture, Food and Markets, through the Division of Business Development, shall enforce the provisions of this chapter and shall establish such rules and employ such inspectors as are deemed necessary and advisable. Such duly appointed inspectors shall have free access at all reasonable hours to any building or other place ~~wherein~~ where it is reasonable to believe eggs are being sold, offered, or exposed for sale.

Sec. 61. 6 V.S.A. § 368(a) is amended to read:

(a) No person shall distribute a misbranded fertilizer, plant amendment, plant biostimulant, soil amendment, or agricultural lime. A fertilizer, plant amendment, plant biostimulant, or soil amendment shall be deemed to be misbranded if the Secretary determines one or more of the following:

(1) ~~it~~ The labeling is false or misleading in any particular~~;~~.

(2) ~~it~~ It is distributed under the name of another fertilizer product, plant amendment, plant biostimulant, or soil amendment~~;~~.

(3) ~~it~~ It contains unsubstantiated claims~~;~~.

(4) ~~it~~ It is not labeled as required in section 365 of this title and in accordance with rules adopted under this chapter~~;~~~~or~~.

(5) ~~it~~ It is labeled, or represented, to contain a plant nutrient that does not conform to the standard of identity established by rule. In adopting rules under this chapter, the Secretary shall give consideration to definitions recommended by the Association of American Plant Food Control Officials.

Sec. 62. 6 V.S.A. § 370(b)(2) is amended to read:

(2) The Secretary shall develop the information required under this subsection and make it available to the general public in the manner deemed most effective, which may include:

(A) conspicuous posting at the point of retail sale of fertilizer containing phosphorus, according to recommendations for how that conspicuous posting may best take place;

(B) public service announcements by means of electronic media; or
(C) other methods deemed by the Secretary to be likely to be
effective.

Sec. 63. 6 V.S.A. § 381 is amended to read:

§ 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

As a condition of the permit issued to golf courses under chapter 87 of this title and rules adopted ~~thereunder~~ under that chapter, a golf course shall be required to submit to the Secretary of Agriculture, Food and Markets a nutrient management plan for the use and application of fertilizer to grasses or other lands owned or controlled by the golf course. The nutrient management plan shall ensure that the golf course applies fertilizer according to the agronomic rates for the site-specific conditions of the golf course.

Sec. 64. 6 V.S.A. § 441 is amended to read:

§ 441. PROHIBITION

No person engaged in the business of processing or storing consumer frozen foods or foods ~~which~~ that have been frozen, or transporting, selling, or offering for sale such foods shall process, store, handle, transport, advertise, display, or offer for sale such foods unless such operations are conducted in accordance with the provisions of the rules ~~and regulations promulgated~~ adopted by the Secretary of Agriculture, Food and Markets after a public hearing. “Secretary”

~~shall mean~~ means the Secretary of Agriculture, Food and Markets or his or her designated agent.

Sec. 65. 6 V.S.A. § 443 is amended to read:

§ 443. ~~REGULATIONS~~ RULES; HEARING; INSPECTIONS

(a) The Secretary may, after public hearing, revise ~~regulations~~ rules and ~~make~~ adopt additional ~~regulations~~ rules for such operations, including temperature control, sanitation, and other matters.

* * *

Sec. 66. 6 V.S.A. § 481 is amended to read:

§ 481. DEFINITIONS

As used in this chapter:

* * *

(6) “Grade” or “grades” means the standards for maple syrup ~~promulgated~~ adopted through regulation by the Secretary. Those standards shall be the official grades of maple syrup for the State of Vermont.

* * *

(17) “Produced in Vermont” shall mean only that maple syrup or other maple products ~~which~~ that are manufactured in their entirety from pure, unprocessed maple sap within the State of Vermont pursuant to standards established by this chapter and the ~~regulations promulgated hereunder~~ rules adopted under this chapter.

* * *

Sec. 67. 6 V.S.A. § 484(b) is amended to read:

(b) The Secretary or ~~his or her~~ the Secretary's inspector may enter upon the premises of a licensed dealer or processor, at reasonable times, for purposes of inspecting the premises, records, equipment, and inventory in a reasonable manner to determine whether the provisions of this chapter and the rules adopted ~~hereunder~~ under this chapter are being observed. If entry is refused, the Secretary may apply to a Superior Court judge for an administrative search warrant.

Sec. 68. 6 V.S.A. § 485(a) is amended to read:

(a) The Secretary may suspend, revoke, or decline to grant a dealer or processor license for cause; or for failure of the applicant to provide all information ~~which~~ that the Secretary may reasonably request. Before declining to grant a license, or suspending or revoking a license, the Secretary shall give at least ~~ten~~ 10 days' notice to the applicant or licensee by registered or certified mail addressed to ~~his or her~~ the applicant's last known address and afford ~~him~~ ~~or her~~ the applicant an opportunity to appear and be heard with respect ~~thereto~~ to the proposed action on the license at a time and place specified in the notice. The applicant or licensee may be heard in person or by an attorney; and offer evidence pertinent to the subject of the hearing. Within 30 days after the

hearing, the Secretary shall make findings of fact in writing and shall notify the applicant or licensee of ~~his or her~~ the Secretary's decision in writing.

Sec. 69. 6 V.S.A. § 490 is amended to read:

§ 490. LABELS

(a) Maple syrup. Every shipment, package, or container of maple syrup packed, sold, offered, or exposed for sale or distribution by any person shall be plainly marked in accordance with 9 V.S.A. § 2633(c) for packaging and labeling ~~regulations~~ rules and shall include:

* * *

(b) All other pure maple products. Every shipment, package, or container of maple products other than maple syrup packed, sold, offered, or exposed for sale or distribution by any person shall be plainly marked in accordance with 9 V.S.A. § 2633(c) for packaging and labeling ~~regulations~~ rules and shall include:

* * *

(c) Labeling maple syrup as produced in Vermont. Any labeling on bulk or packaged maple syrup ~~which that~~ indicates “State of Vermont pure maple syrup,” Vermont maple syrup, Vermont syrup, or any other words ~~which that~~ imply that the syrup so marked was produced in Vermont shall be used exclusively upon 100 percent maple syrup ~~which that~~ is entirely produced

within the State of Vermont in compliance with the terms of this chapter and the ~~regulations promulgated hereunder~~ rules adopted under this chapter.

(d) Labeling other maple products as produced in Vermont. Any labeling on all other maple products ~~which that~~ that states or implies that those products were produced in Vermont shall be used exclusively upon 100 percent pure maple products ~~which that~~ that are entirely produced within the State of Vermont in compliance with the terms of this chapter and the ~~regulations promulgated hereunder~~ rules adopted under this chapter.

Sec. 70. 6 V.S.A. § 492(a) is amended to read:

(a) Every product or package containing a product made by combining maple sap, maple sugar, or maple syrup with any other sugar or other substance packed, sold, offered, or exposed for sale or distribution by any person in this State shall be plainly marked in accordance with 9 V.S.A.

§ 2633(c) for packaging and labeling ~~regulations~~ rules and shall include the following on the principal display panel:

* * *

Sec. 71. 6 V.S.A. § 494 is amended to read:

§ 494. CONTAINERS AND EQUIPMENT; RULES; MANUFACTURER

CERTIFICATION REQUIRED IF PLASTIC RESIN USED

(a) Applicability. This section shall apply to all containers and equipment ~~which that~~ that come into contact with maple sap, maple syrup, or maple products,

~~hereinafter~~ referred to for the purposes of this section as “maple products,” to all replacement parts of such containers and equipment, and to all containers or equipment returned to the manufacturer for repair or refurbishing, whether made or assembled in whole or in part in Vermont after January 1, 1998, or sold or conveyed when new in Vermont after January 1, 1998.

* * *

(d) Rule authority. The Secretary may regulate by rule the types and uses of cleaning and sanitizing agents and processes, and the types and uses of equipment ~~which~~ that come into contact with maple products, including the collection, conveying, processing, manufacture, or storage of maple products. The Secretary shall work with interested persons and entities to develop and ~~promulgate~~ adopt these rules.

* * *

Sec. 72. 6 V.S.A. § 496 is amended to read:

§ 496. ~~REGULATIONS~~ RULES; POWERS

(a) The Secretary may adopt and enforce all rules ~~and regulations which he or she~~ that the Secretary deems necessary to enforce this chapter.

(b) When the Secretary determines that there is reasonable cause to believe that a maple product is in violation of this chapter or any ~~regulations promulgated hereunder~~ rules adopted under this chapter, ~~he or she~~ the Secretary may embargo the sale, transportation, or use of the product. Within

30 days ~~of~~ after the embargo, the Secretary shall cause to be instituted in the Superior Court of the county in which the violator resides, has a place of business, or commits the violation a petition for an order for disposal of the product. Prior to the petition or pending court directions, the Secretary may agree with the owner of the product for its disposal, provided the disposal is not in violation of law. The court shall have power to condemn any maple product sold, stored, held, offered, exposed, or advertised for sale or possessed in violation of this chapter, and may authorize its disposal.

Sec. 73. 6 V.S.A. § 497(4) is amended to read:

(4) possess or serve in any public eating place, any maple product, maple flavored product, or artificial maple flavored product in violation of the provisions of this chapter, or any embargo or rule ~~promulgated~~ adopted by the Secretary under the provisions of this chapter.

Sec. 74. 6 V.S.A. § 498(a) is amended to read:

(a) The Secretary may suspend or revoke the license of a dealer or processor for any violation of this chapter or the ~~regulations~~ rules adopted pursuant to this chapter.

Sec. 75. 6 V.S.A. § 499(b) is amended to read:

(b) The provisions of this chapter are severable. If any provision of this chapter, any exemption ~~therefrom~~ under this chapter, or any application ~~thereof~~ of this chapter to any person or circumstance is invalid, the invalidity shall not

affect other provisions, exemptions, or applications ~~which~~ that can be given effect without the invalid provision, exemption, or application.

Sec. 76. 6 V.S.A. § 551(b) is amended to read:

(b) “Grade” or “grades” ~~shall mean~~ means the standards for potatoes established by the U.S. Department of Agriculture and those ~~promulgated~~ adopted by the Secretary of Agriculture, Food and Markets as the official grades on potatoes for Vermont under the authority provided in chapter 21 of this title.

Sec. 77. 6 V.S.A. § 552 is amended to read:

§ 552. APPLICATION OF CHAPTER

The provisions of this chapter shall apply to all shipments, packages, containers, or displays in which potatoes are packed, distributed, sold, offered, or exposed for sale except as ~~herein~~ provided in this chapter.

Sec. 78. 6 V.S.A. § 553 is amended to read:

§ 553. MARKING OF CONTAINERS

Every shipment, package, or container containing potatoes ~~which~~ that are packed in the State, sold in the State, distributed in the State, offered, or exposed for sale or distribution in the State by any person shall be plainly and conspicuously marked with the name and address of the packer, or the person by whose authority the potatoes are packed or distributed, and the proper grade of the potatoes contained ~~therein~~ in the shipment, package, or container. The

party possessing the potatoes at any time shall be deemed responsible for the proper marking of the potatoes. On display racks or bins from which potatoes are sold in retail quantities, the proper grade must be plainly and conspicuously shown, but the provision as to markings of name and address or person by whose authority the potatoes were packed shall not apply.

Sec. 79. 6 V.S.A. § 556 is amended to read:

§ 556. ENFORCEMENT; ~~REGULATIONS~~ RULES

The Secretary of Agriculture, Food and Markets shall diligently enforce all of the provisions of this chapter. ~~He or she~~ The Secretary, either in person or by a duly authorized representative, shall have free access, ingress, and egress during business hours to any place or any building ~~wherein~~ where potatoes are packed, stored, transported, sold, offered, or exposed for sale or for transportation. ~~He or she~~ The Secretary may also, in person or by duly authorized representative, open any box, barrel, or other container, and examine the contents thereof, and may, upon tendering the market price, take samples ~~therefrom~~ from the contents of the box, barrel, or other container. The Secretary shall make and publish uniform rules ~~and regulations~~ for carrying out the provisions of this chapter.

Sec. 80. 6 V.S.A. § 613 is amended to read:

§ 613. ASSISTANTS

The Secretary shall employ assistants to enable ~~him or her~~ the Secretary to make inspections of potato or other fields enrolled under the rules ~~and regulations~~ referred to.

Sec. 81. 6 V.S.A. § 614 is amended to read:

§ 614. CERTIFICATES; TAGS FOR CONTAINERS; SHIPPING
INSPECTORS

When the inspections are completed, the Secretary shall issue to growers whose fields qualify for certification under the adopted standards, and rules, ~~and regulations adopted~~ a certificate showing the percentage of objectionable diseases found at the time of each inspection and any other information deemed necessary. This certificate shall also contain the standards, and rules, ~~and regulations~~ in accordance with which it is issued and shall be signed by the Secretary and the inspectors who made the inspections. At the expense of the owner, the Secretary may issue appropriate tags for use on containers in which certified seed is packed. The Secretary may appoint such persons as he or she deems necessary to serve as shipping inspectors of certified seed potatoes or other certified seeds.

Sec. 82. 6 V.S.A. § 616(c)(1) is amended to read:

(1) The application for certification shall be accompanied by 60 percent of the certification fee. The balance, or 40 percent of the certification fee, shall

be payable ~~no~~ not later than 90 days after the bill is rendered. Certification shall be withheld until all fees have been paid.

Sec. 83. 6 V.S.A. § 617 is amended to read:

§ 617. DENIAL OF USE OF CERTIFICATION SERVICE

The Secretary shall also have authority to deny further use of the certification service to a person who, in ~~his or her~~ the Secretary's judgment, has violated the provisions of this subchapter relating to certification of seeds and seed potatoes or ~~regulations made~~ rules adopted in accordance therewith. Failure upon the part of a grower or shipper of certified seed potatoes or of potatoes enrolled for certification or of other certified seeds to pay for inspections may be considered as a violation within the meaning of this section.

Sec. 84. 6 V.S.A. § 683(3) is amended to read:

(3) in accord with ~~regulations~~ rules adopted by the Secretary.

Sec. 85. 6 V.S.A. § 685 is amended to read:

§ 685. SECRETARY'S POWERS

The Secretary shall:

* * *

(6) Adopt any other ~~regulations~~ rules necessary to effectuate the provisions of this chapter, in accordance with the best interests of consumers.

(7) Adopt ~~regulations~~ rules addressing the method of price disclosure in the sale of home food service plans, including not only the price of the commodities sold, but the service costs or membership fees associated with such a purchase. These ~~regulations~~ rules shall take precedence over any uniform regulation adopted by the National Conference on Weights and Measures and published by the National Institute of Standards and Technology.

Sec. 86. 6 V.S.A. § 762(b) is amended to read:

(b) The Secretary may deny any application for a livestock dealer, packer, or transporter license, after notice and an opportunity for a hearing, whenever the applicant is a person or a representative of a person who has had a livestock dealer, packer, or transporter license suspended or revoked by any state, including Vermont, or any foreign country during the preceding five years or who has been convicted of violating statutes, rules, or regulations of any state or the federal government pertaining to the sale or transportation of livestock or the control of livestock disease. The applicant shall be informed of any denial by letter, which shall include the specific reasons for the denial. The applicant shall have 15 days in which to petition the Secretary for reconsideration. The petition shall be submitted in writing, and the Secretary in ~~his or her~~ the Secretary's discretion may hold a further hearing on the petition for reconsideration. Thereafter, the Secretary shall issue or deny the

license and shall inform the applicant in writing of ~~his or her~~ the Secretary's decision and the reasons ~~therefor~~ for the decision.

Sec. 87. 6 V.S.A. § 770 is amended to read:

§ 770. PENALTY

Any livestock dealer, transporter, or packer who buys, sells, or transports livestock in this State or operates a livestock auction or sales ring without having a license so to do, issued either to such person or to the firm or corporation that ~~he or she~~ the person represents in conducting ~~such~~ the business, ~~as herein required~~, shall be assessed an administrative penalty under section 15 of this title.

Sec. 88. 6 V.S.A. § 793(b) is amended to read:

(b) The Council may engage in education and outreach activities related to the laws and ~~regulations~~ rules for the care and handling of livestock. The Council may accept funds from public or private sources in compliance with 32 V.S.A. § 5.

Sec. 89. 6 V.S.A. § 852(c)(1) is amended to read:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted ~~thereunder~~ under that act;

Sec. 90. 6 V.S.A. § 854 is amended to read:

§ 854. RECORDS

The owner or operator of a produce farm shall maintain records required by the federal Food Safety Modernization Act, rules adopted ~~thereunder~~ under that act, and rules adopted under this chapter and shall make those records available to the Agency upon request.

Sec. 91. 6 V.S.A. § 892 is amended to read:

§ 892. REQUIREMENTS

Before licensing such places, the Secretary shall satisfy himself or herself as to the condition of the building, sanitation, refrigeration, and the general safety of the stored goods ~~stored therein~~ under ~~regulations~~ the rules and requirements ~~which~~ that he or she may deem proper.

Sec. 92. 6 V.S.A. § 915 is amended to read:

§ 915. ~~REGULATIONS~~ RULES

The Secretary, after due public hearing, may make appropriate rules ~~and regulations~~ for carrying out the provisions of this chapter, including rules ~~and regulations~~ providing for the collection and examination of samples of economic poisons.

Sec. 93. 6 V.S.A. § 916 is amended to read:

§ 916. COOPERATION WITH STATE AND FEDERAL AGENCIES

The Secretary is authorized and empowered to cooperate with, and enter into agreements with, any other agency of this State, the U.S. Department of Agriculture or Environmental Protection Agency, and any other state or agency

thereof for the purpose of carrying out the provisions of this chapter and securing uniformity of ~~regulations~~ rules.

Sec. 94. 6 V.S.A. § 917 is redesignated to read:

§ 917. UNIFORMITY BETWEEN STATE REQUIREMENTS AND
FEDERAL REGULATIONS

Sec. 95. 6 V.S.A. § 919(4) is amended to read:

(4) The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate, unless they have been distinctly colored or discolored as provided by ~~regulations~~ rules issued in accordance with this chapter, or any other white powder economic poison which the Secretary, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by ~~regulation~~ rule, require to be distinctly colored or discolored; unless it has been so colored or discolored; provided, that the Secretary may exempt any economic poison, to the extent that it is intended for a particular use or uses, from the coloring or discoloring required or authorized by this section, if ~~he or she~~ the Secretary determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

Sec. 96. 6 V.S.A. § 920(a) is amended to read:

(a) It shall be unlawful for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter or ~~regulations promulgated hereunder~~ rules adopted under this chapter, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this chapter.

Sec. 97. 6 V.S.A. § 981 is amended to read:

§ 981. ADOPTION OF COMPACT

The Pest Control Compact is hereby enacted into law and entered into with all other jurisdictions legally joining ~~therein~~ the Compact in the form substantially as follows:

* * *

Sec. 98. 6 V.S.A. § 983 is amended to read:

§ 983. FILING OF BYLAWS AND AMENDMENTS

Pursuant to 6 V.S.A. § 981, Article IV(h) of the compact, copies of bylaws and amendments ~~thereto~~ shall be filed with the Agency of Agriculture, Food and Markets.

Sec. 99. 6 V.S.A. § 985 is amended to read:

§ 985. REQUEST FOR ASSISTANCE FROM INSURANCE FUND

Within the meaning of 6 V.S.A. § 981, Article VI(b) or Article VIII(a), a request or application for assistance from the Insurance Fund may be made by the Secretary of Agriculture, Food and Markets or designee whenever in ~~his or~~

~~her~~ the Secretary's judgment the conditions qualifying this State for ~~such~~ the assistance exist and it would be in the best ~~interest~~ interests of this State to make such request.

Sec. 100. 6 V.S.A. § 1083(a)(2) is amended to read:

(2) Map each section so surveyed, indicate all mosquito or other biting arthropod breeding places ~~therein~~, and determine methods best adapted for mosquito or other biting arthropod abatement in ~~such~~ the areas by drainage, oiling, or other means.

Sec. 101. 6 V.S.A. § 1103(b) is amended to read:

(b) Management program. By January 1, 1993, the Secretary, in conjunction with the committee described in this section, shall make recommendations to the Vermont ~~legislature~~ General Assembly regarding a management program for unwanted, obsolete, and waste quantities of pesticides. These recommendations shall be of a nature that, if implemented, will provide for the proper management of these pesticides and address all pesticides sold into the State of Vermont. These recommendations shall include recommendations for funding.

Sec. 102. 6 V.S.A. § 1107 is amended to read:

§ 1107. PENALTY

Any person who violates any provision of this chapter, the rules ~~promulgated herein~~ adopted under this chapter, or the terms or conditions of

any permit, license, or certificate issued by the Secretary, shall be subject to a fine not to exceed \$25,000.00 or imprisonment for not more than six months, or both. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, the fine for each day's continuance ~~thereof~~ of the violation shall be increased by 10 percent over the amount accrued during the previous day, starting from the day the violator is served with notice of the violation. The service shall be by hand or by certified mail, return receipt requested.

Sec. 103. 6 V.S.A. § 1469(a) is amended to read:

(a) A person engaged in a commercial enterprise who violates a provision of this chapter, the rules adopted ~~thereunder~~ this chapter, a permit issued pursuant to this chapter, or an order issued pursuant to this chapter may be assessed an administrative penalty under section 15 of this title.

Sec. 104. 6 V.S.A. § 1472 is amended to read:

§ 1472. TEST; CERTIFICATE

(a) A person wishing to export a domestic animal may obtain a certificate of veterinary inspection in the following manner. The applicant shall have the animal to be exported tested for such contagious disease or other condition as may be required by the state or country to which the animal is to be shipped. ~~Such~~ The test shall be made at the expense of the applicant by a veterinarian licensed in this State and accredited by the U.S. Department of Agriculture to

sign certificates of veterinary inspection. The testing may also be conducted by a veterinarian resident of any other state in which a test is conducted who is certified by the authority charged with the control of animal health matters in the state ~~wherein~~ where such veterinarian resides to be licensed as a veterinarian in that state and accredited by the U.S. Department of Agriculture to sign certificates of veterinary inspection. ~~Such~~ The test shall be made in accordance with ~~such~~ the reasonable rules and regulations as the Secretary shall prescribe, and the result of the test shall be reported to the Secretary within five days ~~from~~ following the time it is completed.

(b) If the testing discloses that the animal tested is free of the disease or condition tested for and the Secretary shall be satisfied that the testing was performed in accordance with the applicable rules ~~and regulations~~, the Secretary shall issue to the owner a certificate evidencing the date and the result of ~~such~~ the test as shown by the report of the veterinarian who conducted the test and the fact that the test has been performed in accordance with the laws of this State. The Secretary shall also include a certification as to the status of the licensing and accreditation of the veterinarian making the test.

(c) In cases covered by this section and section 1471 of this title, a veterinarian whose licensing and accreditation are certified to by the authority charged with the control of animal health matters in the State ~~wherein~~ such where the veterinarian resides may be certified by the Secretary as licensed and

accredited, unless it shall affirmatively appear that ~~such~~ the veterinarian is not licensed or accredited. Veterinarians conducting tests or examinations in Vermont must be licensed in Vermont or otherwise authorized to do so.

* * *

Sec. 105. 6 V.S.A. § 1676 is redesignated to read:

§ 1676. ~~REGULATIONS~~ RULES; COOPERATION WITH UNITED
STATES

Sec. 106. 6 V.S.A. § 1677 is amended to read:

§ 1677. PENALTIES

A person who violates any of the provisions of or who fails to perform any duty imposed by this chapter or who violates any rule adopted under this chapter shall be assessed an administrative penalty under section 15 of this title. Each day upon which ~~such~~ the violation occurs constitutes a separate offense. In addition ~~thereto~~ to an administrative penalty, the person may be enjoined from further violation.

Sec. 107. 6 V.S.A. § 2671 is amended to read:

§ 2671. PURPOSE

(a) It is the policy of the State of Vermont to protect and promote the public interest by:

* * *

(2) Establishing ~~such~~ the appropriate dairy laws, ~~regulations~~ rules, and administrative procedures, as will protect the public health and welfare.

* * *

(b) It is essential, in order to ~~assure~~ ensure the continued production of milk and its handling and distribution, that prices to producers be such as to return reasonable cost of production and at the same time ~~assure~~ ensure an adequate supply of milk and dairy products to consumers at reasonable prices; and to these ends, it is essential that consumers and others be adequately informed as to the dietary needs and advantages of milk and dairy products and as to the economics resulting from the use of milk and dairy products, and to command for milk and dairy products consumer attention and demand consistent with their importance and value. It is further declared that continued decline in the consumption of fluid milk and some other dairy products will jeopardize the production of adequate supplies of milk and dairy products because of increasing surpluses necessarily returning less to producers; and that continued adequate supplies of milk and dairy products is a matter of vital concern as affecting the health and general welfare of the people of this State. It is therefore declared to be the legislative intent and policy of the State:

* * *

(3) to this end, to eliminate the possible impairment of the purchasing power of the milk producers of this State and to ~~assure~~ ensure an adequate supply of milk for consumers at reasonable prices.

Sec. 108. 6 V.S.A. § 2672 is amended to read:

§ 2672. DEFINITIONS

As used in this chapter, ~~the following terms have the following meanings:~~

* * *

(5) “Milk handler” or “handler” is a person, firm, unincorporated association, or corporation engaged in the business of buying, selling, assembling, packaging, or processing milk or other dairy products, for sale within ~~or without~~ the State of Vermont or outside the State. “Milk handler” or “handler” ~~shall~~ does not mean a milk producer.

* * *

(9) “Dairy product” is milk, or a product derived ~~therefrom~~ from milk, ~~which~~ that conforms to the appropriate legal standard or definition for the specific product as defined in this part and ~~regulations made~~ rules adopted under this part.

(10) “Fluid dairy products” are milk and fluid dairy products derived from milk, including cultured products, as defined by regulations adopted by federal entities and published in the Code of Federal Regulations.

* * *

(15) "Charitable use" means the distribution of milk among ~~poor and~~
~~needy~~ persons with low income without charge or compensation ~~therefor~~.

* * *

Sec. 109. 6 V.S.A. § 2677 is amended to read:

§ 2677. FLUID DAIRY PRODUCTS FOR LIVESTOCK FEED

A milk plant or handler shall not dispense or deliver fluid dairy products
other than whey for livestock feed including poultry except under ~~regulations~~
rules as may be ~~promulgated~~ adopted by the Secretary.

Sec. 110. 6 V.S.A. § 2678 is amended to read:

§ 2678. PENALTIES

Any handler, producer, or other person who violates any of the provisions
of this part or the ~~regulations promulgated thereunder~~ rules adopted under this
part, shall be fined not less than \$25.00 or more than \$1,000.00 or imprisoned
for not more than one year, or both.

Sec. 111. 6 V.S.A. § 2704 is amended to read:

§ 2704. TRUSTEE OF HANDLERS' BONDS

All bonds or other securities required and furnished under the provisions of
this part shall be given to the Secretary as trustee for each and all of the
producers in this State and shall be conditioned for the faithful performance by
the handler of all the acts prescribed and all the conditions imposed upon the
handler by this part, and for compliance by the handler of all the general laws

of this State now in force or hereafter enacted and ~~regulations pursuant thereto~~
rules adopted under those general laws.

Sec. 112. 6 V.S.A. § 2705 is amended to read:

§ 2705. REVOCATION OF LICENSES

(a) The Secretary may after due notice and hearing revoke a handler's license if after due investigation made by ~~him or her~~ the Secretary the handler is deemed to be in violation of any provisions of this part or the ~~regulations promulgated thereunder~~ rules adopted under this part. The Secretary is charged with the administration and enforcement of this part.

(b) If the Secretary is unable to secure compliance with the provisions of this part and the rules adopted ~~thereunder~~ under this part, ~~he or she~~ the Secretary shall report the matter to the Attorney General, together with all relevant information. Except as provided in section 2881 of this title, the Attorney General shall take such action as the public interest requires, including injunctions or prosecution in any court of competent jurisdiction.

Sec. 113. 6 V.S.A. § 2722 is amended to read:

§ 2722. APPLICATION

Applications shall be completely filled out and sworn to by the applicant or a partner or officer ~~thereof~~ of the applicant and in case of renewal shall be filed with the Secretary on or before July 15 of each year. New handlers may apply for a license at any time. Renewal applications not received on or before

August 15 shall be assessed a late fee of \$100.00. The application for a handler's license shall provide the following information and such other information as the Secretary by regulation shall reasonably require:

* * *

(3) In the case of a new application, the applicant shall provide the following information:

* * *

(E) The results of health tests certified by an appropriate public agency as the Secretary shall by regulation require. The Secretary may issue ~~regulations~~ rules establishing what tests shall be administered and by whom they shall be certified.

* * *

(G) A statement that the handler will comply with all the provisions of this part and the ~~regulations~~ rules adopted ~~thereunder~~ under this part.

Sec. 114. 6 V.S.A. § 2743(c) is amended to read:

(c) In the event that an approved dairy laboratory in which tests are made does not comply with the provisions of this part or ~~regulations issued thereunder~~ rules adopted under this part, the Secretary may forbid its use until subsequent inspection indicates compliance.

Sec. 115. 6 V.S.A. § 2744 is amended to read:

§ 2744. ENFORCEMENT

(a) Enforcement of dairy sanitation ~~regulations~~ rules in milk plants. In the event that inspection of a milk plant discloses conditions not meeting the standards established in this part or the ~~regulations promulgated thereunder~~ rules adopted under this part, the handler shall be directed how to secure compliance with the terms of this part and the ~~regulations promulgated thereunder~~ rules adopted under this part. The Secretary shall allow a reasonable time to correct the unsatisfactory conditions. At the expiration of the time granted for correction, another inspection shall be made. If conditions are then found in violation of this part or the ~~regulations promulgated thereunder~~ rules adopted under this part, the Secretary shall require the appearance of the handler before the Secretary to show cause why ~~his or her handler~~ the handler's license should not be suspended or terminated. In this event, the handler shall give the Secretary a list of producers supplying ~~him or her~~ the handler milk, and the Secretary shall give notice to producers of the pending suspension.

(b) Enforcement of dairy sanitation ~~regulations~~ rules on dairy farms. In the event that inspection of a dairy farm discloses conditions not meeting the standards established in this part or the ~~regulations promulgated thereunder~~ rules adopted under this part, the producer and the handler concerned shall be

notified in writing clearly stating the unsatisfactory conditions. The producer shall be advised as how to secure compliance with the terms of this part and the ~~regulations thereunder~~ rules adopted under this part. The Secretary shall allow the producer a reasonable time to correct the unsatisfactory conditions. At the expiration of this time granted for correction or as soon as feasible thereafter, another inspection shall be made. If conditions are then found in violation of this part or the ~~regulations thereunder~~ rules adopted under this part, the Secretary shall require the producer to appear before ~~him or her~~ the Secretary to show cause why ~~his or her~~ the producer's right to sell milk should not be suspended or terminated. If the producer's right to sell milk is suspended or terminated, the Secretary shall then notify the appropriate handler to stop handling the milk from this producer. No other handler processing or packing fluid dairy products shall handle milk from this producer. In the event that a producer corrects the unsatisfactory conditions to the satisfaction of the Secretary as determined by inspection, the Secretary shall immediately notify the appropriate handlers.

* * *

Sec. 116. 6 V.S.A. § 2752 is amended to read:

§ 2752. REFUSAL TO PURCHASE; HEARING; SECRETARY'S ORDER

(a) A handler doing business in this State who has a contract either verbal or written with a producer residing in this State for the purchase of ~~such~~ the

producer's dairy products shall not refuse to purchase them from the producer except for violations of the sanitary ~~regulations~~ rules or standards applicable to the market in which the dairy product is sold or marketed, without being deemed guilty of unfair discrimination. In the event that the refusal is to be based upon reasons of ~~over-supply~~ oversupply or other reasonable grounds, the refusal shall not become operative until the purchaser has given the producer at least ~~ninety~~ 90 days' notice of intention to refuse the producer's product on ~~such~~ these grounds, which shall be particularly set forth in writing so that the producer may be fully appraised ~~thereof~~ of the refusal.

* * *

(c) The decision of the Secretary as to whether or not the grounds relied upon by the purchaser are reasonable in fact shall be final. Either party shall have the right to appeal any question of law to the Superior Court where the producer resides. If the Secretary, or the Superior Court on appeal ~~therefrom~~, does not sustain the action of the purchaser, the purchaser shall be deemed guilty of unfair discrimination.

* * *

(e) A contract shall exist between the producer and the purchaser, when the purchaser receives the producer's dairy product regularly and pays ~~him~~ the producer the going price ~~therefor~~ for the product.

Sec. 117. 6 V.S.A. § 2762(2)(A) is amended to read:

(A) The milk handler shall, by affidavit, notify the Secretary of the handler's practices adopted to ~~assure~~ ensure that milk from cows not treated with rbST is kept separate from other milk throughout the collection, transportation, and processing steps until the finished milk or dairy product is in final packaged form in a labeled container, and swears that ~~he or she~~ the handler will notify the Secretary at least 90 days before ceasing use of such practices.

Sec. 118. 6 V.S.A. § 2801 is amended to read:

§ 2801. ADULTERATION PROHIBITED

It is prohibited to sell, transfer, or offer for sale any adulterated dairy product ~~which~~ that does not conform to Vermont statutes and ~~regulations~~ rules adopted ~~thereunder~~ under the statutes. Nothing herein shall be construed to prohibit the salvage of milk solids for human consumption under ~~regulations~~ rules adopted by the Secretary.

Sec. 119. 6 V.S.A. § 2851(a) is amended to read:

(a) "Frozen desserts" means all ice cream, frozen custards, ice milks, fruit sherbets, water ices, quiescently frozen confections, and frozen whipped creams and other like products defined by ~~regulations made~~ rules adopted under this chapter.

Sec. 120. 6 V.S.A. § 2852 is amended to read:

§ 2852. ~~REGULATIONS~~ RULES

The Secretary of Agriculture, Food and Markets may ~~make regulations~~ adopt rules establishing, for frozen desserts and frozen dessert mixes, reasonable standards as to identity, quality, and fill of container. The Secretary may ~~make regulations~~ adopt rules setting bacteriological standards and governing the sanitary requirements relative to the manufacture, distribution, and sale of all such food products. No ~~regulations~~ rules may be ~~made~~ adopted without due notice and public hearing.

Sec. 121. 6 V.S.A. § 2854 is amended to read:

§ 2854. CONFORMITY TO STANDARDS

Any food ~~which~~ that is purported to be, or made in the likeness of, a frozen dessert, or mix thereof, for which a standard has been prescribed under this chapter shall not be sold or offered for sale unless under ~~regulations~~ rules established by the Secretary:

* * *

(2) Its label bears the name of the food specified in the definition and standard, and insofar as may be required by such ~~regulations~~ rules, the common names of optional ingredients present in such foods; and

* * *

Sec. 122. 6 V.S.A. § 2881(a) is amended to read:

(a) Except as provided in section 2882 of this title, no handler shall purchase milk from a Vermont producer or milk cooperative, either directly or through a marketing service owned by one or more cooperatives, and the Secretary shall not issue a handler's license, unless the handler furnishes the Secretary a good and sufficient surety bond, executed by a surety company duly authorized to transact business in this State in an amount equal to 50 percent for all species other than cattle, and 100 percent for cattle, of the maximum amount due all milk producers in the State who sold milk to the handler for a 41-day period during the previous 12 months. The Secretary may accept, in lieu of such bond, a guaranteed irrevocable letter of credit. The bonds shall be taken for the benefit of Vermont milk producers and milk cooperatives in this State. At any time in ~~his or her~~ the Secretary's discretion, the Secretary may require ~~such handlers~~ the handler to file detailed statements of the business transacted by them in this State; and at any time may require them to give such additional bonds as he or she deems necessary. If the handler refuses or neglects to file the detailed statements or to give bonds required by the Secretary, the Secretary may suspend the license of the handler until he or she complies with the Secretary's orders. The Secretary shall report to the Attorney General the name of any handler doing business in this State without a license, or after suspension of its license by the Secretary, and the

Attorney General shall ~~forthwith~~ bring injunction proceedings against the handler. Renewals of bonds specified in this section shall be furnished the Secretary 60 days before the effective date of the bond. If the handler fails to file the bonds as required, the Secretary shall ~~forthwith~~ publish the name of the handler in four newspapers of general circulation in the State for a period of three consecutive days and notify, by registered mail, producers supplying ~~such~~ the handler.

Sec. 123. 6 V.S.A. § 2901(2) is amended to read:

(2) A duly recorded mortgage, deed, or other conveyance to the extent that consideration ~~therefor~~ has been paid in good faith before the recording of a notice of such producer's lien as provided in section 2902 of this title.

Sec. 124. 6 V.S.A. § 2905 is amended to read:

§ 2905. FORECLOSURE AND SALE

Within 90 days after the date of judgment in the suit to perfect the lien or liens, the plaintiff may cause a certified copy ~~thereof~~ of the lien to be recorded in the office of the clerk of the town in which the notice of lien was originally filed. ~~Such~~ The judgment order shall state the period, not exceeding one year, in which the right of the defendant to redeem the property may be exercised, or, alternatively, shall provide for the time, place, manner, and notice of a sale of the property and application of the proceeds ~~therefrom~~ from the sale in payment of the producer's liens and the lawful claims of others in the property.

Sec. 125. 6 V.S.A. § 2925(d) is amended to read:

(d) Nothing ~~herein~~ in this section shall be construed to prohibit a producers cooperative from blending the proceeds from the sale of its milk in all markets and all classifications, and distributing such to its members in accordance with the contract with its members, or from making deductions from sums due members of such sums as may be authorized by the membership to be so deducted.

Sec. 126. 6 V.S.A. § 2927 is amended to read:

§ 2927. INTERSTATE CONFERENCES AND COMPACTS

The Commission shall have power to confer and agree with legally constituted similar boards or authorities of other states, or agencies of the federal government, and to adopt necessary ~~regulations~~ rules to effect a uniformity in regulation and ~~assure~~ ensure an adequate and proper supply of fluid dairy products in Vermont; also to confer with similar boards or other authorities of other states or of the United States with respect to uniform milk control of milk produced in this State and handled in interstate commerce and may exercise all the powers ~~hereunder~~ set forth in this section for such purpose as well as, but not limited by, the following powers:

(1) To conduct joint investigations and hearings and to issue joint or concurrent orders or enter into agreements or compacts subject to congressional approval and amendments ~~thereto~~ to agreements or compacts.

Also to employ or designate a joint agent or agencies to enforce such order or compacts. No such compact or order or any amendment to such order shall be effective, however, until the Commission finds that it is approved by two-thirds of the producers of this State whose milk is consumed in whole or in part in an area designated by the compact.

(2) To make ~~regulations~~ rules and orders and prescribe procedures for ascertaining approval of producers, where required, by stipulation, direct referendum, or otherwise as the commission may determine.

* * *

(4) To provide for classification of milk in accordance with the form in which it is used or moved with uniform minimum prices or methods of fixing such prices for each class; for payment to all producers and associations of producers delivering milk to handlers of uniform prices irrespective of the use made by the handler to whom delivered, subject to adjustments for grade, location, and butterfat content; for adjustment by the handlers with the joint agent in order to ensure uniformity in and equalization of prices as between producers and handlers; compensation for services to producers; and to make such joint ~~regulations~~ rules by compact or otherwise as may be incidental to the foregoing and not inconsistent thereto and as may be necessary to effectuate the powers enumerated in this section.

Sec. 127. 6 V.S.A. § 2929 is amended to read:

§ 2929. POWER TO MAKE ORDERS AND CONDUCT HEARINGS;

~~REGULATIONS~~ RULES

(a) In administering this chapter, the Commission shall have the power to make orders ~~hereunder~~ under this section, conduct hearings, subpoena, and examine under oath producers, handlers, and distributors, their books, records, documents, correspondence, and accounts, and any other person it deems necessary to carry out the purposes and intent of this chapter.

(b) Any order issued under this chapter shall only be made final after a public hearing and after publication of a proposed order for public review and comment for 30 days following the publication of the proposed order.

* * *

(2) Interested persons shall not be considered “parties” and, except as otherwise specifically provided by subsection (c) of this section, the provisions of 3 V.S.A. chapter 25 relating to contested cases shall not apply to the procedure for the conduct of the hearing, the issuance of a proposed pricing order, or the promulgation of a final order. The hearing on the proposed order shall be held in accordance with the applicable provisions of 3 V.S.A. § 840(c) and (d), other than the provisions ~~therein~~ relating to notice and the requirements of 3 V.S.A. § 832a. The hearing procedure shall provide for the establishment of a formal record of sworn evidence received, matters officially

noticed, questions and offers of proof submitted by interested persons, and any proposed findings presented.

* * *

Sec. 128. 6 V.S.A. § 2931 is amended to read:

§ 2931. REHEARING OF ORDERS AND DECISIONS

(a) Within 20 days after any final order or decision has been made by the Commission, any party to the action or proceeding before the Commission, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor. The Commission may grant ~~such~~ the rehearing if in its opinion good reason ~~therefore for rehearing~~ is stated in ~~such~~ the motion.

(b) The motion shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the Commission shall be taken unless the appellant shall have made application for rehearing as ~~herein~~ provided in this section. When the application has been made, no ground not set forth ~~therein~~ in the application shall be urged, relied on, or given any consideration by the court, unless the court for good cause shown allows the appellant to specify additional grounds.

Sec. 129. 6 V.S.A. § 2972 is amended to read:

§ 2972. POWERS AND DUTIES

* * *

(b) Included among the powers of the Council in connection with the enforcement of this chapter are the powers to require reports from any person subject to this chapter; to adopt, rescind, modify, and amend all proper and necessary rules, ~~regulations~~, and orders to administer this chapter, which rules, ~~regulations~~, and orders shall be ~~promulgated~~ adopted by publication in the manner prescribed ~~therefor~~ by the Council and shall have the force and effect of law when not inconsistent with existing laws; to administer oaths, subpoena witnesses, take depositions, and certify to official acts; to require any dealer to keep such true and accurate records and to make such reports covering purchases, sales, and receipts of dairy products and related matters as the Council deems reasonably necessary for effective administration, which records shall be open to inspection by the Secretary of Agriculture, Food and Markets at any reasonable time and as often as may be necessary, but information thus obtained shall not be published or be open to public inspection in any manner revealing any individual dealer's identity, except as required in proceedings to enforce compliance; to keep accurate books, records, and accounts of all of its dealings, and to make annually a full report of its doings to the House and Senate Committees on Agriculture and the

Governor, which shall show the amount of money received and the expenditures thereof. The report shall be submitted on or before January 15. The Vermont Agency of Agriculture, Food and Markets shall perform the administrative work of the Council as directed by the Council. The Council shall reimburse the Agency of Agriculture, Food and Markets for the cost of services performed by the Agency.

* * *

(d) The Council in allocating the monies it spends for the promotional purposes ~~herein~~ set forth in this chapter shall consider the sources from which the milk comes, the areas into which the milk goes, and the nature of the population that consumes the milk, so that funds may be allocated proportionately if desired.

* * *

Sec. 130. 6 V.S.A. § 2987(a) is amended to read:

(a) No expense of the Council shall be paid out of any funds of the State except from the Dairy Promotion Fund, which Fund shall be subject at all times to the accounting controls of the State. The Dairy Promotion Fund may be used only for the costs of the collection of taxes imposed ~~hereunder~~, under this chapter and for the administration of this chapter, and the State Treasurer shall pay over to the Council upon order of the Council such funds as the Council may require.

Sec. 131. 6 V.S.A. § 3131 is amended to read:

§ 3131. DEFINITIONS

As used in this chapter:

* * *

(6) “Humane method” means either:

(A) A method ~~whereby~~ by which the animal is rendered insensible to pain by mechanical, electrical, chemical, or other means that is rapid and effective before being shackled, hoisted, thrown, cast, or cut.

(B) A method in accordance with ritual requirements of the Jewish faith or any other religious faith ~~whereby~~ under which the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

Sec. 132. 6 V.S.A. § 3133 is amended to read:

§ 3133. ADMINISTRATION; RULES ~~AND REGULATIONS~~

The Secretary shall administer this chapter; and shall adopt and from time to time revise rules ~~and regulations~~ to affect its purpose. The rules ~~and regulations~~ shall conform substantially with those promulgated by the Secretary of Agriculture of the United States under the Federal Humane Slaughter Act of 1958, ~~Public Law~~ Pub. L. No. 85-765, 72 ~~Statute~~ Stat. 862, as from time to time amended, but may be modified to meet local conditions.

Sec. 133. 6 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

As used in this chapter, ~~except as otherwise specified, the following terms shall have the meanings stated below:~~

* * *

(24) “Meat food product” and “meat product” mean any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, excepting products that are exempted from definition as a meat food product by the Secretary under conditions that ~~he or she~~ the Secretary may prescribe to ~~assure~~ ensure that the meat or other portions of carcass contained in products are unadulterated and that products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, and goats.

(25) “Misbranded” shall apply to any livestock product or poultry product under one or more of the following circumstances:

* * *

(L) if it fails to have, directly on its containers, as the Secretary may by rules prescribe, the official inspection legend and establishment number of the establishment where the product was prepared, and, unrestricted by any of

the foregoing, such other information as the Secretary may require in rules to ~~assure~~ ensure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the product in a wholesome condition.

* * *

(34) “Poultry product” means any poultry carcass or part of a carcass; or any product ~~which~~ that is made wholly or in part from any poultry carcass or part of a carcass, excepting products ~~which~~ that are exempted by the Secretary from definition as a poultry product under conditions ~~which he or she~~ that the Secretary may prescribe to ~~assure~~ ensure that the poultry ingredients in products are not adulterated; and that these products are not represented as poultry products.

* * *

Sec. 134. 6 V.S.A. § 3304(4) is amended to read:

(4) by rules require that when livestock products and poultry products leave official establishments they shall bear directly on the products or on their containers, or both, as ~~he or she~~ the Secretary may require, all information required under subdivision 3302(25) of this title; and require approval of all labeling and containers to be used for the products when sold or transported in intrastate commerce to ~~assure~~ ensure that they comply with the requirements of this chapter;

Sec. 135. 6 V.S.A. § 3305 is amended to read:

§ 3305. ADDITIONAL POWERS OF THE SECRETARY

In order to accomplish the objectives stated in section 3303 of this title, the Secretary may:

* * *

(2) Refuse to provide inspection service under this chapter with respect to any establishment for reasons specified in section 401 of the Federal Meat Inspection Act or section 18 of the Federal Poultry Products Inspection Act or for any other violation of this chapter and the ~~regulations promulgated~~ rules adopted under it.

* * *

(5) By rules, prescribe conditions for storage and handling of livestock products and poultry products by persons engaged in the business of buying, selling, freezing, storing, or transporting these products in or for intrastate commerce to ~~assure~~ ensure that these products will not be adulterated or misbranded when delivered to the consumer.

* * *

(8) Adopt rules as necessary for the efficient execution of the provisions of this chapter, including rules of practice providing opportunity for hearing in connection with issuance of orders under subdivision 3304(5) or subdivision (1), (2), or (3) of this section and establishing a procedure for proceedings in

these cases. This shall not preclude a requirement that a label or container be withheld from use, or a refusal of inspection under subdivision 3304(5) or subdivision (1) or (3) of this section pending issuance of a final order in any proceeding. The federal meat inspection regulations and federal poultry inspection regulations of the U.S. Department of Agriculture, Title 9, Code of Federal Regulations, Chapter 3, 9 ~~CFR~~ C.F.R. §§ 300.1 et seq., together with any amendments, supplements, or revisions ~~thereto~~ to the regulations, are adopted as part of this chapter.

* * *

(18) Sell or lease a mobile slaughtering unit, and may retain any proceeds ~~therefrom~~ from the sale in a fund designated for the purpose of purchasing additional mobile slaughtering units or providing matching grants for capital investments to increase poultry slaughter or poultry processing capacity.

Sec. 136. 6 V.S.A. § 3306(j) is amended to read:

(j) Commercial slaughter facilities issued a license by the Agency of Agriculture, Food and Markets shall submit to the Secretary or designee within five days ~~of~~ after receipt of any documentation received from the U.S. Department of Agriculture (USDA) related to violations of the Federal Humane Slaughter Act and rules adopted ~~thereunder~~ under that Act. The Secretary shall review the documentation submitted under this subdivision for

potential action under this chapter or chapter 201 of this title. A failure to submit documentation required under this subdivision shall be a violation of this chapter subject to an administrative penalty under chapter 15 of this title.

Sec. 137. 6 V.S.A. § 3307 is amended to read:

§ 3307. PERIODIC REVIEW OF NONINSPECTED LICENSED
ESTABLISHMENTS

(a) The Secretary may cause establishments ~~which that~~ are required to be licensed under section 3306 of this title, but exempt from inspection under subdivision 3305(13) of this title, to be periodically reviewed by inspectors to ~~assure~~ ensure that the provisions of this chapter and the rules ~~promulgated~~ adopted pursuant to this chapter are complied with, and that the public health, safety, and welfare is protected.

(b) Any periodic review shall include an examination of the licensed establishment's sanitation practices; sanitation of the areas where meat and poultry products are prepared, stored, and displayed; the adequacy of any refrigeration system used for meat food products and poultry products; labeling; and meat food products, or poultry products for wholesomeness and adulteration. In addition, the inspector conducting the periodic review may conduct any other examination necessary to ~~assure~~ ensure compliance with this chapter and the rules adopted pursuant to this chapter.

* * *

Sec. 138. 6 V.S.A. § 3310(c) is amended to read:

(c) No person engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died other than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation in commerce, any dead, dying, disabled, or diseased livestock or poultry or the products of any of these animals that died other than by slaughter, unless the transaction or transportation is made in accordance with rules ~~which~~ that the Secretary may prescribe to ~~assure~~ ensure that the animals, or the unwholesome parts or products, will be prevented from being used for human food purposes.

Sec. 139. 6 V.S.A. § 3311 is amended to read:

§ 3311. SPECIFIC OFFENSES; PENALTIES

(a) Any person that gives, pays, or offers, directly or indirectly, any money or other thing of value to any officer or employee of this State authorized to perform any duties prescribed by this chapter or rules ~~promulgated~~ adopted under this chapter, with intent to influence the officer or employee in the discharge of any duty, shall, upon conviction, be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than five years, or both. Any officer or employee of this State authorized to perform the duties prescribed by this chapter or rules ~~promulgated~~ adopted under this chapter, who accepts any money, gift, or other thing of value from any persons, given

with intent to influence his or her official action, or who shall receive or accept from any person engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be subject to the penalties provided in 13 V.S.A. § 1102.

(b) Any person that forcibly assaults, resists, or intimidates any inspector, or other person, engaged in the performance of his or her official duties under this chapter or rules ~~promulgated~~ adopted under this chapter, shall be subject to the penalties provided in 13 V.S.A. § 1023. Any person who impedes, interferes, or hinders any inspector, or other person, engaged in the performance of his or her official duties under this chapter or rules ~~promulgated~~ adopted under this chapter, shall be subject to the penalties provided in 13 V.S.A. § 3001. Whoever in the commission of these acts uses a deadly or dangerous weapon, or who purposely or knowingly causes serious bodily injury to an inspector or other person engaged in the performance of his or her official duties under this chapter or rules ~~promulgated~~ adopted under this chapter, shall be subject to the penalties provided in 13 V.S.A. chapter 53. Any person engaged in official duties under this chapter or rules ~~promulgated~~ adopted under this chapter shall be considered a law enforcement officer for purposes of determining a penalty under 13 V.S.A. chapter 53.

Sec. 140. 6 V.S.A. § 3315(a)(1) is amended to read:

(1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or the rules ~~promulgated~~ adopted under it; or

Sec. 141. 6 V.S.A. § 3317(a) is amended to read:

(a) Any person who violates any provision of this chapter, or the rules ~~promulgated~~ adopted under this chapter, for which no other criminal penalty is provided by this chapter shall upon conviction be subject to imprisonment for not more than one year; or a fine of not more than \$1,000.00, or both.

However, if the violation involves intent to defraud, or any distribution or attempted distribution of a product that is adulterated except as defined in subdivision 3302(1)(K) of this title, the person shall be subject to imprisonment for not more than three years or a fine of not more than \$10,000.00, or both.

Sec. 142. 6 V.S.A. § 4013(b) is amended to read:

(b) The Secretary shall maintain a record of all marks or brands in use, the name of the user, and the date of recording. The records shall be open to public inspection and shall be prima facie evidence of the recorded facts ~~therein recorded~~.

Sec. 143. 6 V.S.A. § 4029(b) is amended to read:

(b) A person who violates any provisions of this chapter or a rule adopted under this chapter shall be fined not more than \$100.00 for the first offense and not more than \$500.00 for each subsequent offense. The Secretary may seek and obtain preliminary and permanent injunctive relief for any violation of this chapter or the rules ~~promulgated~~ adopted under this chapter.

Sec. 144. 6 V.S.A. § 4603(22) is amended to read:

(22) ~~Regulations~~ Rules for forest product enterprises need to reflect a balance between economic development and responsible land use practices. There is a need to assess ~~regulations~~ rules involving the primary processing and transportation elements of the forest product sector.

Sec. 145. 6 V.S.A. § 4607(b)(5) is amended to read:

(5) to serve as a resource for and make recommendations to the Administration and the General Assembly on ways to improve Vermont's laws, ~~regulations~~ rules, and policies in order to attain the goals set forth in section 4604 of this title;

Sec. 146. 6 V.S.A. § 4991(7) is amended to read:

(7) pursuing other action, such as consulting with a farmer, within the authority of the Secretary to ~~assure~~ ensure discontinuance of the violation and remediation of any harm caused by the violation.

Sec. 147. 6 V.S.A. § 4995 is amended to read:

§ 4995. CIVIL ENFORCEMENT

(a) The Secretary may bring an action in the Civil Division of the Superior Court to enforce the requirements of this chapter, or rules adopted under this chapter, or any permit or certification issued under this chapter, to ~~assure~~ ensure compliance, and to obtain penalties in the amounts described in subsection (b) of this section. The action shall be brought by the Attorney General in the name of the State.

(b) The court may grant temporary and permanent injunctive relief, and may:

* * *

(3) Order the design, construction, installation, operation, or maintenance of facilities designed to mitigate or prevent a violation of this chapter or to protect human health or the environment or designed to ~~assure~~ ensure compliance.

* * *

Sec. 148. 6 V.S.A. § 4996(b) is amended to read:

(b) If the Secretary issues an emergency order under this chapter, the person subject to the order may request a hearing before the Civil Division of Superior Court. Notice of the request for hearing under this subdivision shall be filed with the Civil Division of Superior Court and the Secretary within five

business days ~~of~~ after receipt of the order. A hearing on the emergency order shall be held at the earliest possible time and shall take precedence over all other hearings. The hearing shall be held within five business days ~~of~~ after receipt of the notice of the request for hearing. A request for hearing on an emergency order shall not stay the order. The Civil Division of the Superior Court shall issue a decision within five business days from the conclusion of the hearing, and ~~no~~ not later than 30 days from the date the notice of request for hearing was received by the person subject to the order.

Sec. 149. 6 V.S.A. § 5002(b)(3) is amended to read:

(3) prepare an annual report of its activities, including a financial statement, and make the report available to the Agency of Agriculture, Food and Markets and other interested parties ~~no~~ not later than April 1 of each year.

Sec. 150. 7 V.S.A. § 2(25) is amended to read:

(25) “Malt beverages” means all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any malt substitute ~~therefor~~, known as, among other things, beer, ale, or lager, containing not less than one percent nor more than 16 percent alcohol by volume at 60 degrees Fahrenheit.

Sec. 151. 7 V.S.A. § 108 is redesignated to read:

§ 108. ENFORCEMENT BY BOARD; ~~REGULATIONS~~ RULES; FORMS
AND REPORTS

Sec. 152. 7 V.S.A. § 707(b) is amended to read:

(b) In the event the certificate of approval holder or manufacturer wishes to resist the proposed sale or transfer to the proposed transferee, the certificate of approval holder or manufacturer shall petition the Superior Court for a hearing ~~no~~ not later than 60 days prior to the date of the proposed sale or transfer. The petition shall clearly state the certificate of approval holder's or manufacturer's reasons for resisting the proposed sale or transfer.

Sec. 153. 7 V.S.A. § 881 is amended to read:

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(7) of this subsection.

* * *

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than 50 milligrams of THC, except in the case of:

* * *

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and ~~regulations issued~~ rules adopted pursuant to that chapter;

(B) requirements that cannabis products are labeled in a manner that states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of five milligrams per serving, except:

* * *

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and ~~regulations issued~~ rules adopted pursuant to that chapter;

* * *

Sec. 154. 7 V.S.A. § 903(c) is amended to read:

(c) ~~No later than~~ On or before September 1, 2021, the Board shall begin working with the Department of Labor, Agency of Commerce and Community Development, the Department of Corrections, and the Director of Racial Equity to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition.

Sec. 155. 7 V.S.A. § 979(a)(2)(C) is amended to read:

(C) the cultivation, drying, or processing of cannabis is done by a ~~licensee~~ licensee on 1,000 square feet or less of agricultural land; and

Sec. 156. 8 V.S.A. § 4080(b)(4) is amended to read:

(4)(A) No cost sharing for preventive services.

(A) A group insurance policy shall not impose any co-payment, coinsurance, or deductible requirements for:

* * *

Sec. 157. 8 V.S.A. § 4143 is amended to read:

§ 4143. LAW GOVERNING FOREIGN FIDELITY, SURETY, AND
ANNUITY COMPANIES

The companies specified in section 4141 of this title ~~shall be~~ are governed by and subject to the laws of this State relating to foreign insurance companies and their admission to do business in this State ~~insofar as the same are applicable thereto,~~ as applicable.

Sec. 158. 8 V.S.A. § 4145 is amended to read:

§ 4145. FIDELITY COMPANIES MAY ACT AS SOLE SURETY

Where by law two or more sureties are required upon an obligation ~~such company~~ that a fidelity insurance company is authorized to insure, ~~it the~~ fidelity insurance company may act as sole surety ~~thereon~~ upon the obligation and may be accepted as such by the court; or other person authorized to approve the sufficiency of ~~such the~~ the bond or undertaking. Any ~~provisions of the laws of this State~~ law requiring sureties on bonds to be residents of this State shall not be construed to forbid the acceptance of a qualified foreign company as joint and sole surety upon any such bond.

Sec. 159. 8 V.S.A. § 4153(b)(2)(J) is amended to read:

(J) any policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to Medicare Part C ~~or~~

~~Part D of subchapter XVIII, Chapter 7 of Title 42 of the United States Code,~~
42 U.S.C. §§ 1395w-21 to 1395w-29, or Medicare Part D, 42 U.S.C.
§§ 1395w-101 to 1395w-154, or any regulations issued pursuant thereto to
those sections.

Sec. 160. 8 V.S.A. § 4155(10) is amended to read:

(10) “Premiums” means amounts received on covered policies or contracts less any returned premiums, considerations, and deposits ~~returned thereon~~, and less any dividends and experience credits ~~thereon~~. “Premiums” does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under subsection 4153(b) of this title except that assessable premium shall not be reduced on account of subdivisions 4153(b)(2)(C) of this title, relating to interest limitations, and 4158(8) of this title, relating to limitations with respect to any one individual, any one participant, and any one contract holder; provided that “premiums” shall not include any premiums in excess of \$5,000,000.00 on any unallocated annuity contract not issued under a governmental retirement plan established under ~~Section 401, subsection 403(b) or Section 457 of the United States Internal Revenue Code~~ 26 U.S.C. § 401, 403(b), or 457.

Sec. 161. 8 V.S.A. § 4158 is amended to read:

§ 4158. POWERS AND DUTIES OF THE ASSOCIATION

In addition to the powers and duties enumerated in other sections of this subchapter:

(1) If a member insurer is an impaired insurer, the Association, in its discretion and subject to any conditions imposed by the Association that do not impair the contractual obligations of the impaired insurer and that are approved by the Commissioner, may:

* * *

(B) provide such monies, pledges, loans, notes, guarantees, or other means as are proper to effectuate subdivision (A) of this subdivision (1) and ~~assure~~ ensure payment of the contractual obligations of the impaired insurer pending action under subdivision (A) of this subdivision (1).

(2) If a member insurer is an insolvent insurer, the Association, in its discretion, shall either:

(A)(i)(I) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies or contracts of the insolvent insurer; or

(II) ~~Assure~~ ensure payment of the contractual obligations of the insolvent insurer; and

* * *

(B) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to life and health insurance policies and annuities, ~~assure~~ ensure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

* * *

(viii) When proceeding under subdivision (B) with respect to a policy or contract carrying guaranteed minimum interest rates, the Association shall ~~assure~~ ensure the payment or crediting of a rate of interest consistent with subdivision 4153(b)(2)(C) of this title.

(3)(A) In carrying out its duties under subdivisions (1)(B) and (2) of this section, the Association may request that there be imposed policy liens, contract liens, moratoriums on payments, or other similar means, and such liens, moratoriums, or similar means may be imposed if the Commissioner:

(i) Finds that the amounts ~~which~~ that can be assessed under this subchapter are less than the amounts needed to ~~assure~~ ensure full and prompt performance of the impaired or insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are

sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest; and

* * *

(5) The Association may render assistance and advice to the Commissioner, upon ~~his or her~~ the Commissioner's request, concerning rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

* * *

(7)(A) Any person receiving benefits under this subchapter shall be deemed to have assigned ~~his or her~~ the person's rights under the covered policy to the Association to the extent of the benefits received because of this subchapter whether the benefits are payments of contractual obligations or continuation of coverage. The Association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this subchapter upon such person. The Association shall be subrogated to these rights against the assets of any impaired or insolvent insurer.

* * *

(10)(A)(i) At any time within 180 days ~~of~~ after the date of the order of liquidation, the Association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies or annuities covered, in whole or in part, by the Association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the Association. Any such assumption shall be effective as of the date of the order of liquidation. The election shall be effected by the Association or the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) on its behalf sending written notice, return receipt requested, to the affected reinsurers.

* * *

(D) When policies or annuities, or covered obligations with respect ~~thereto~~ to those policies or annuities, are transferred to an assuming insurer, reinsurance on the policies or annuities may also be transferred by the Association, in the case of contracts assumed under subdivision (A) of this subdivision (10), subject to the following:

* * *

Sec. 162. 8 V.S.A. § 4160(a)(1) is amended to read:

(a)(1) The Association shall submit to the Commissioner a plan of operation and any amendments ~~thereto~~ to the plan necessary or suitable to ~~assure~~ ensure the fair, reasonable, and equitable administration of the

Association. The plan of operation and any amendments ~~thereto~~ to the plan shall become effective upon approval in writing by the Commissioner.

Sec. 163. 8 V.S.A. § 4167(c) is amended to read:

(c) Any sums acquired by refund, pursuant to subsection 4159(f) of this title, from the Association ~~which that~~ that have ~~theretofore~~ been written off by contributing insurers and offset against premium taxes as provided in subsection (b) of this section, and ~~is~~ are not then needed for purposes of this subchapter, shall be paid by the insurer to the Commissioner ~~and by him or her deposited, who shall deposit~~ them with the State Treasurer for credit to the General Fund.

Sec. 164. 8 V.S.A. § 4201 is amended to read:

§ 4201. FILING AND APPROVAL OF POLICIES; REVIEW

A policy of insurance covering against loss or damage resulting from accident to, or injury suffered by an employee or other person, and for which the insured is liable, shall not be issued or delivered to a person, firm, or corporation resident of, or doing business in this State, until a copy of the form ~~thereof of the policy~~ has been filed with the Commissioner; and it shall not be issued or delivered unless approved by ~~him or her~~ the Commissioner. If ~~he or she~~ adjudges the Commissioner determines that ~~such~~ the form does not comply with the requirements of law, ~~he or she~~ the Commissioner shall ~~forthwith~~ immediately give written notice to the insurer who filed ~~such~~ the form,

specifying the reasons for ~~his or her action~~ the Commissioner's determination, and it shall then be unlawful ~~thereafter~~ for ~~such~~ the insurer to issue a policy in such form. The ~~action of the Commissioner in this regard shall be~~ Commissioner's determination is subject to review by writ of certiorari pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

Sec. 165. 8 V.S.A. § 4202 is amended to read:

§ 4202. FORM AND CONTENTS OF POLICY

~~Such~~ A policy shall not be ~~so~~ issued or delivered under this chapter unless:

- (1) every printed portion ~~thereof~~ of the policy and any endorsement or attached papers ~~shall be~~ are plainly printed;
- (2) a brief description ~~thereof~~ of the policy is plainly printed on the first page; and
- (3) the exceptions of the policy are printed with the same prominence as the benefits to which they apply.

Sec. 166. 8 V.S.A. § 4203 is amended to read:

§ 4203. REQUIRED CONDITIONS

Each policy ~~so~~ issued and delivered under this chapter shall contain in substance the following conditions:

- (1) The company shall pay and satisfy any judgment that may be recovered against the insured upon any claim covered by this policy to the extent and within the limits of liability assumed thereby; and shall protect the

insured against the levy of any execution issued upon any such judicial judgment or claim against the insured. No limitation of liability in ~~this~~ the policy shall be valid if, after a judgment has been rendered against the insured in respect to his or her legal liability for damages in a particular instance, the company continues the litigation by an appeal or otherwise, unless the insured ~~shall stipulate~~ stipulates with the company, agreeing to continue such litigation.

* * *

(4) Payment of any judicial judgment or claim by the insured for any of the company's liability ~~hereunder~~ under the policy shall not bar the insured from any action or right of action against the company. In case of payment of loss or expense under ~~this~~ the policy, the company shall be subrogated to all rights of the insured against any party, as respects such loss or expense, to the amount of such payment, and the insured shall execute all papers required and shall cooperate with the company to secure to the company such rights.

* * *

Sec. 167. 8 V.S.A. § 4204 is amended to read:

§ 4204. ILLEGAL PROVISIONS

~~Such~~ A policy shall not be ~~so~~ issued or delivered under this chapter if it contains a provision contradictory, in whole or in part, to any of the provisions of sections 4201–4203 and 4205–4209 of this title; nor shall any endorsements

or attached papers vary, alter, extend, be used as a substitute for, or in any way conflict with such provisions. ~~Such~~ A policy shall not be ~~so~~ issued or delivered under this chapter if it contains any provision purporting to make any portion of the charter, articles of association, Constitution, or bylaws of the insurer a part of the policy unless such portion of the charter, articles, Constitution, or bylaws ~~shall be~~ is set forth in full in the policy.

Sec. 168. 8 V.S.A. § 4205 is amended to read:

§ 4205. EFFECT OF FALSE STATEMENT IN APPLICATION

The falsity of a statement in the application for a policy covered by ~~such provisions~~ the provisions of this chapter shall not bar the right to recovery ~~thereunder~~ under the policy unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by insurer.

Sec. 169. 8 V.S.A. § 4206 is amended to read:

§ 4206. ACTS NOT CONSTITUTING WAIVERS

The acknowledgment by an insurer of the receipt of notice given under a policy covered by ~~such provisions~~ the provisions of this chapter, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of a claim ~~thereunder~~ under the policy shall not operate as a waiver of any of the rights of the insurer in defense of a claim arising under ~~such~~ the policy.

Sec. 170. 8 V.S.A. § 4208 is amended to read:

§ 4208. CONSTRUCTION OF ILLEGAL POLICIES

A policy issued in violation of ~~such~~ the provisions of this chapter shall be held valid, but shall be construed as provided in ~~such~~ the provisions of this chapter. When a provision in ~~such~~ a policy is in conflict with ~~such~~ the provisions of this chapter, the rights, duties, and obligations of the insurer, the policyholder, and the beneficiary shall be governed by ~~such~~ the provisions of this chapter.

Sec. 171. 8 V.S.A. § 4209 is amended to read:

§ 4209. PENALTIES

A company, corporation, association, society, or other insurer or any officer or agent thereof that issues or delivers to a person, ~~firm, or corporation~~ in this State a policy in ~~willful~~ willful violation of the provisions of this chapter shall pay an administrative penalty of not more than \$2,000.00 for each offense.

The Commissioner may revoke the license of a company, corporation, association, society, or other insurer of another state or country, or of the agent thereof, that willfully violates such provisions.

Sec. 172. 8 V.S.A. § 4222(1) is amended to read:

(1) "Policy" means an automobile liability policy providing bodily injury liability, property damage liability, medical payments, and uninsured motorist coverage, or any combination thereof, delivered or issued for delivery

in this State, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles ~~therein~~ designated under the policy are of the following types only:

* * *

Sec. 173. 8 V.S.A. § 4223(a) is amended to read:

(a) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

* * *

(2) fraud or material misrepresentation affecting the policy or in the presentation of a claim ~~thereunder~~ under the policy, or violation of any of the terms or conditions of the policy; or

(3) the driver's license of the named insured or of any operator either resident in the same household or who customarily operates an automobile insured under the policy has ~~had his or her driver's license~~ been suspended or revoked pursuant to law during the policy period, or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date.

Sec. 174. 8 V.S.A. § 4243(d) is amended to read:

(d) After approval, the original Plan, or changes in the original Plan, may be disapproved for failure to conform to any of the standards of section 4242 of this title. If ~~he or she~~ the Commissioner disapproves the Plan, the

Commissioner shall give 10 ~~days~~ days' written notice to each insurer, and advisory or service organization affected, of a hearing at which evidence in support of the proposed change shall be submitted. If the Commissioner determines after hearing, that the evidence does not justify the proposed ~~plan~~ Plan or change, ~~he or she~~ the Commissioner shall order the Plan or change ineffective after a certain date, which shall be not less than 60, nor more than 120 days after the date of the order. The order shall not affect policies issued prior to the date on which the Plan or change becomes ineffective.

Sec. 175. 8 V.S.A. § 4250 is amended to read:

§ 4250. EXAMINATIONS

For the purpose of determining the provider's financial stability and protecting consumer interests, the Commissioner may conduct an examination of a provider concerning service contracts sold in this State to enable the Commissioner to determine compliance or noncompliance with this ~~act~~ subchapter. The expenses of examinations shall be paid to the State by the company or companies examined, and the Commissioner of Finance and Management shall issue ~~his or her~~ warrants for the proper charges incurred in all examinations.

Sec. 176. 8 V.S.A. § 4252 is amended to read:

§ 4252. OBLIGATIONS OF PROVIDERS AND INSURERS

(a) A provider is considered to be the agent of an insurer ~~which~~ that issued a service contract reimbursement insurance policy and therefore is required to act as a fiduciary in regard to premiums, return of premiums, or other sums of money received. However, nothing in this ~~act~~ subchapter shall be construed to make such provider subject to the insurance agent licensure requirements set forth in this title.

(b) Providers shall keep accurate accounts, books, and records concerning transactions regulated under this subchapter for at least three years after the specified period of coverage has expired. Records required by this ~~act~~ subchapter may be maintained solely in an electronic, optical, or other storage medium ~~as long as,~~ provided they are capable of being accurately reproduced upon request. These accounts, books, and records shall include:

* * *

Sec. 177. 8 V.S.A. § 4253(d) is amended to read:

(d) Nothing in this subchapter shall be construed to impair or in any way affect any rule of law applicable to or governing service contracts not otherwise subject ~~hereto~~ to this subchapter.

Sec. 178. 8 V.S.A. § 4361 is amended to read:

§ 4361. MUTUAL ASSOCIATIONS AUTHORIZED

Employers who ~~have accepted the provisions of the workers' compensation law and are bound to pay compensation to their employees thereunder~~ are subject to the requirements of 21 V.S.A. chapter 9 may, with the approval of the Commissioner, may associate themselves in accordance with the law for the formation of corporations without capital stock for the purpose of establishing and maintaining mutual associations to insure their liabilities ~~under such provisions~~ 21 V.S.A. chapter 9.

Sec. 179. 8 V.S.A. § 4362 is amended to read:

§ 4362. COMMISSIONER'S APPROVAL REQUIRED

The Commissioner may require the incorporators of ~~such an~~ an association formed pursuant to section 4361 of this subchapter to include in ~~their~~ its proposed certificate of incorporation ~~such any~~ any lawful provisions for the regulation of the affairs of the association and the definition of its powers and the powers of its officers, directors, and incorporators as ~~shall satisfy~~ the Commissioner may deem necessary to ensure that it is well designed and wisely adapted to its proposed purposes. When ~~such a certificate in form and substance acceptable to the Commissioner has been approved by~~ the certificate and it has been filed with the Secretary of State, the incorporators shall

~~forthwith cause copies thereof to be filed in~~ promptly submit copies of it to the
Office of the Commissioner and of the Commissioner of Labor.

Sec. 180. 8 V.S.A. § 4364 is amended to read:

§ 4364. CONTROL OF ASSOCIATION

~~Except as herein otherwise provided such~~ as otherwise provided pursuant to
this subchapter, an association shall be subject to the same regulations rules
and control as ~~is or may be imposed by law upon~~ other corporations or
associations taking similar risks in this State, and the Commissioner shall have
~~such~~ jurisdiction and power over ~~such~~ the association as ~~may be now or~~
~~hereafter given~~ provided by the insurance laws of this State.

Sec. 181. 8 V.S.A. § 4367 is amended to read:

§ 4367. POWER TO PRESCRIBE AND ENFORCE SAFETY RULES

~~Such~~ An association formed pursuant to the provisions of this subchapter
shall have power to prescribe and enforce reasonable rules for safety
~~regulations~~ on the premises of its members, subject, however, to the approval
of the Commissioner of Labor, ~~and for that purpose, its~~. The association's
inspectors shall have free access to all ~~such~~ members' premises during regular
working hours to ensure the safety of those premises.

Sec. 182. 8 V.S.A. § 4368 is amended to read:

§ 4368. PREMIUM RATES

~~Such~~ An association formed pursuant to this subchapter shall have power to determine the premium rates for each occupation or risk insured by it and to prescribe rates of cash premiums sufficient to cover losses incurred and current cost. The premium rate on each policy shall prevail for a full year but annually may be changed by the directors. ~~The~~ As used in this section, “current cost” ~~herein specified shall be such~~ means an amount ~~as is~~ sufficient to cover the losses and expenses incurred and a premium reserve equal to 50 percent of all premiums and assessments levied or paid.

Sec. 183. 8 V.S.A. § 4369 is amended to read:

§ 4369. RESERVE REQUIREMENTS

Members of ~~such~~ an association formed pursuant to the provisions of this subchapter shall be required to pay yearly in advance cash premiums and in addition thereto an amount in negotiable notes or cash sufficient to maintain a reserve equal to that required of other companies doing the same class of business. Notes shall be payable in whole or in part on the vote of the directors of the association as such payments may be required to meet estimated losses or expenses in excess of the current cost and to meet claims covering losses not payable within the same fiscal year within which the claim originated. The directors may fix rates of interest on either notes or balances.

Sec. 184. 8 V.S.A. § 4373 is amended to read:

§ 4373. BYLAWS AND REGULATIONS

~~¶~~ The association may also make and amend bylaws or regulations consistent with its certificate of incorporation, for the prompt, economical, and safe conduct of its affairs. All bylaws and regulations of ~~such an~~ an association, except safety rules made under the provisions of section 4367 of this ~~title~~ subchapter, shall be filed with the Commissioner and shall be subject to ~~his or her~~ the Commissioner's approval.

Sec. 185. 8 V.S.A. § 4461(b) is amended to read:

(b) As used in this chapter, ~~the word~~:

(1) ~~“society,” unless the context clearly indicates the contrary, refers to~~ “Society” means a fraternal benefit society.

(2) “Commissioner” means the Commissioner of Financial Regulation.

Sec. 186. 8 V.S.A. § 4464 is amended to read:

§ 4464. ORGANIZATION

The organization of a society shall be governed as follows:

* * *

(2) The articles of incorporation, duly certified copies of the constitution, laws, and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the

organization is not completed within one year shall be filed with the Commissioner of ~~Financial Regulation~~, who may require such further information as ~~he or she~~ the Commissioner deems necessary. The bond with sureties approved by the Commissioner of ~~Financial Regulation~~ shall be in such amount, not less than \$5,000.00 nor more than \$25,000.00 as required by the Commissioner of ~~Financial Regulation~~. All documents filed shall be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the Commissioner of ~~Financial Regulation~~ shall so certify, retain, and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as ~~hereafter~~ provided in this section.

(3) ~~No~~ A preliminary certificate granted under the provisions of this section shall be valid ~~after one year from its date~~ for one year or ~~after such~~ for a further period, not exceeding one year, as may be authorized by the Commissioner of ~~Financial Regulation~~ upon cause shown, unless the 500 applicants ~~hereinafter~~ required by ~~this section~~ have been secured and the organization has been completed as ~~herein~~ provided in this section. The articles of incorporation and all other proceedings thereunder shall become null and void ~~in~~ one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society has completed its

organization and received a certificate of authority to do business as ~~hereinafter~~ provided in this section.

(4) Upon receipt of a preliminary certificate from the Commissioner ~~of~~ ~~Financial Regulation~~, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society may incur any liability other than for the return of the advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

* * *

(E) there has been submitted to the Commissioner ~~of Financial~~ ~~Regulation~~ under oath of the president or secretary, or corresponding officer of the society, a list of the applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(F) it has been shown to the Commissioner ~~of Financial Regulation~~, by sworn statement of the treasurer, or corresponding officer of the society, that at least 500 applicants have each paid in cash at least one regular monthly

premium as ~~herein~~ provided in this section, which premiums in the aggregate shall amount to at least \$2,500.00, all of which have been credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. The advance premiums shall be held in trust during the period of organization, and if the society has not qualified for a certificate of authority within one year, as ~~herein~~ provided in this section, the premiums shall be returned to the applicants.

* * *

Sec. 187. 8 V.S.A. § 4468(d) is amended to read:

(d) Upon the consolidation or merger becoming effective as ~~herein~~ provided in this section, all the rights, franchises, and interests of the consolidated or merged societies in and to every species of property real, personal, or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this State in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger but shall vest absolutely in the society resulting from or remaining after the consolidation or merger.

Sec. 188. 8 V.S.A. § 4470(b) is amended to read:

(b) A person admitted before becoming 18 years of age ~~shall be~~ is bound by the terms of the application and certificate and by all the laws and rules of the society and ~~shall be~~ is entitled to all the rights and privileges of membership ~~therein~~ to the same extent as though the age of majority had been reached at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

Sec. 189. 8 V.S.A. § 4471 is amended to read:

§ 4471. ARTICLES OF INCORPORATION, CONSTITUTION, AND
LAWS; AMENDMENTS

(a) A domestic society may amend its articles of incorporation, constitution, or laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting ~~thereof~~ of the society or, if its articles of incorporation, constitution, or laws so provide, by referendum. The referendum may be held in accordance with the provisions of its articles of incorporation, constitution, or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members, or by the vote of local lodges or branches. No amendment submitted for adoption by referendum may be adopted unless, within six months from the date of its submission ~~thereof~~, a majority of all of the voting

members of the society ~~shall~~ have signified their consent to the amendment by one of the methods ~~herein~~ specified in this section.

(b) No amendment to the articles of incorporation, constitution, or laws of any domestic society may take effect unless approved by the Commissioner of ~~Financial Regulation~~ who shall approve the amendment if ~~he or she~~ the Commissioner finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this State or with the character, objects, and purposes of the society. Unless the Commissioner of ~~Financial Regulation~~ disapproves an amendment within 60 days after ~~the~~ its filing ~~of it~~, the amendment shall be considered approved. The approval or disapproval of the Commissioner of ~~Financial Regulation~~ shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. If ~~he or she~~ the Commissioner disapproves the amendment, the ~~reasons therefor shall be stated~~ Commissioner shall state the reasons for the disapproval in the written notice.

* * *

Sec. 190. 8 V.S.A. § 4475 is amended to read:

§ 4475. BENEFITS ON LIVES OF CHILDREN

(a) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than 18 years of age at the time of application ~~therefor~~ for such benefits, upon the application of ~~some~~ an

adult person who has an insurable interest, as its laws or rules may provide, which benefits shall be in accordance with the provisions of subsection 4474(a) of this title. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

(b) A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for the benefits and to provide in all other respects for the regulation, government, and control of the certificates and all rights, obligations, and liabilities ~~incident thereto and connected therewith~~ of and connected with the certificates.

Sec. 191. 8 V.S.A. § 4476(b)(2) is amended to read:

(2) the sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to two and one-half percent of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided ~~therein~~ under the certificate are graded.

Sec. 192. 8 V.S.A. § 4477 is amended to read:

§ 4477. BENEFICIARIES

* * *

(b) A society may provide for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear

to be due to any person equitably entitled ~~thereto~~ to such benefits by reason of having incurred expense occasioned by the burial of the member, provided the portion ~~so~~ paid shall not exceed the sum of \$500.00.

(c) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits ~~shall be~~ are payable, the amount of the benefits, except to the extent that funeral benefits may be paid as ~~hereinbefore~~ provided in this section, shall be payable to the personal representative of the deceased member.

Sec. 193. 8 V.S.A. § 4479(a) is amended to read:

(a) Every society authorized to do business in this State shall issue to each benefit member a certificate specifying the amount of benefits provided ~~thereby~~ under the certificate. The certificate, together with any attached riders or endorsements ~~attached thereto~~, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

Sec. 194. 8 V.S.A. § 4480 is amended to read:

§ 4480. PROVISIONS, STANDARD AND PROHIBITED

* * *

(b) The certificate shall contain in substance the following standard provisions, or in lieu thereof, provisions ~~which~~ that are more favorable to the member:

* * *

(9) a provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service, and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions ~~which~~ that grant additional insurance specifically against death by accident or accidental means, may also be accepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of two years from date of issue. The certificate may provide as to statements made to procure reinstatement, that the society ~~shall have~~ has the right to contest a reinstated certificate within a period

of two years from date of reinstatement with the same exceptions as ~~herein~~
provided in this section;

* * *

(11) a provision or provisions ~~which that~~ recite fully, or ~~which that~~ set forth the substance of, all sections of the charter, constitution, laws, rules, or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate;

* * *

Sec. 195. 8 V.S.A. § 4481(b) is amended to read:

(b) The Commissioner of ~~Financial Regulation~~ may ~~from time to time~~ adopt rules ~~make, alter, and supersede reasonable regulations~~ prescribing the required, optional, and prohibited provisions in the contracts, and the ~~regulations~~ rules shall conform, as far as practicable, to the provisions of chapter 107 of this title. Where the Commissioner of ~~Financial Regulation~~ deems inapplicable, either in part or in their entity, the provisions of ~~the foregoing sections~~ this chapter, ~~he or she~~ the Commissioner may prescribe the portions or summary ~~thereof~~ of the portions of the contract to be printed on the certificate issued to the member.

Sec. 196. 8 V.S.A. § 4486 is amended to read:

§ 4486. INJUNCTION; LIQUIDATION; RECEIVERSHIP OF DOMESTIC
SOCIETY

* * *

(b) If on that date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the Commissioner of ~~Financial Regulation~~ may present the relevant facts relating thereto to the Attorney General who shall, if ~~he or she~~ the Attorney General believes the circumstances warrant, commence an action to enjoin the society from transacting business or ~~in quo-warranto~~ an action under Rule 75 of the Vermont Rules of Civil Procedure.

(c)(1) The Court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the Court shall enter the necessary order.

* * *

(3) If the Court orders the society liquidated, ~~it~~ the society shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the Court, immediately proceed forthwith to close the affairs of the society and to distribute its funds to those entitled ~~thereto~~ to its funds.

* * *

Sec. 197. 8 V.S.A. § 4487(b) is amended to read:

(b) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this State during the time the society was legally authorized to transact business ~~herein~~ in this State.

Sec. 198. 8 V.S.A. § 4488 is amended to read:

§ 4488. LICENSING OF AGENTS

Agents of societies shall be licensed in accordance with the provisions of this section.

* * *

(4) Prerequisites, issuance, and renewal of insurance agents' licenses.

* * *

(B) Before any insurance agent's license shall be issued, there shall be on file ~~in the office of the Commissioner~~ at the Department of Financial Regulation the following documents:

(i) A written application by the prospective licensee in such form or forms and with such supplements ~~thereto~~, and containing such information, as the Commissioner ~~of Financial Regulation~~ may prescribe.

* * *

(G) A renewal license of an insurance agent may be issued upon the application of the society named in the existing license. The application shall be in the form or forms prescribed by the Commissioner ~~of Financial Regulation~~ and shall contain such information as ~~he or she~~ the Commissioner may require. The application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute the certificate of a domestic or foreign society or by the ~~United States~~ U.S. manager of an alien society, stating that the addresses ~~therein~~ in the application given of the agents of the society for whom renewal licenses are requested ~~therein~~ in the application have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of the application, the Commissioner ~~of Financial Regulation~~ may, after reasonable notice to the society, require that any or all agents of the society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of the licenses, as ~~hereinbefore~~ specified in this section, and ~~he or she~~ the Commissioner may also require that each such application shall be accompanied by the certificate specified in subdivision (B)(ii) of this subdivision (4).

(5) Notice of termination of appointment of insurance agent. ~~Notice of termination of appointment of insurance agent.~~ Every society doing business

in this State shall, upon the termination of the appointment of any insurance agent licensed to represent it in this State, ~~forthwith~~ immediately file with the Commissioner of ~~Financial Regulation~~, a statement, in such form as ~~he or she~~ the Commissioner may prescribe, of the facts relative to the termination and the cause thereof. Every statement made pursuant to this section is privileged and shall be kept confidential to the same extent as provided under subsection 4813m(f) of this title.

(6) Revocation or suspension of insurance agent's license.

* * *

(B) The revocation or suspension of any insurance agent's license shall immediately terminate ~~forthwith~~ the license of the agent. ~~No~~ An individual whose license has been revoked ~~shall be~~ is not entitled to obtain any insurance agent's license under the provisions of this section for a period of one year after the revocation or, if the revocation ~~be~~ is judicially reviewed, for one year after the final determination ~~thereof~~ affirming the action of the Commissioner of ~~Financial Regulation~~ in revoking the license.

Sec. 199. 8 V.S.A. § 4489(b) is amended to read:

(b) Service may be made upon the Secretary of State; or, if absent, upon the person in charge of ~~his or her~~ the Secretary's office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the Secretary of State, ~~he or she~~ the

Secretary shall ~~forthwith~~ immediately forward one of the duplicate copies by registered mail prepaid, directed to the secretary or corresponding officer.

Sec. 200. 8 V.S.A. § 4492 is amended to read:

§ 4492. FUNDS

(a) All assets shall be held, invested, and disbursed for the use and benefit of the society and ~~no~~ a member or beneficiary shall not have or acquire individual rights ~~therein~~ in such assets or become entitled to any apportionment or the surrender of any part ~~thereof~~ of such assets, except as provided in the contract.

* * *

(c) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from November 22, 1959, shall, in every provision of the laws of the society for payments by members of the society, in whatever form made, distinctly state the purpose of them and the proportion ~~thereof which~~ of them that may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions ~~thereto~~ of such money shall be used for expenses.

Sec. 201. 8 V.S.A. § 4494 is amended to read:

§ 4494. REPORTS AND VALUATIONS

Reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

* * *

(3) As a part of the annual statement ~~herein~~ required in this section, each society shall, on or before March 1, file with the Commissioner ~~of Financial Regulation~~ a valuation of its certificates in force on December 31 last preceding; provided, however, the Commissioner ~~of Financial Regulation~~ may, in ~~his or her~~ the Commissioner's discretion for cause shown, extend the time for filing the valuation for not more than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of the society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including ~~therein~~ any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. The net tabular value as to certificates issued before one year after November 22, 1959 shall be determined in accordance with the provisions of law applicable

before November 22, 1959, and as to certificates issued on or after one year from November 22, 1959 shall be not less than the reserves determined according to the Commissioners' Reserve Valuation method as ~~hereinafter~~ defined in this section. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in the premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

(4)(A) Reserves according to the Commissioners' Reserve Valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the certificates, over the then present value of any future modified net premiums ~~therefor~~ for the certificates. The modified net premiums for any such certificate shall be such percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the certificate and the excess of subdivision (i) of this subdivision (4)(A) over subdivision (ii) of this subdivision (4)(A) as follows:

* * *

(6)(A) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

* * *

(D) The Commissioner of ~~Financial Regulation~~ may, in ~~his or her~~ the Commissioner's discretion, accept other standards for valuation if ~~he or she~~ the Commissioner finds that the reserves produced ~~thereby~~ by such standards will be not less in the aggregate than reserves computed in accordance with the minimum valuation standard ~~herein~~ prescribed in this section. The Commissioner of ~~Financial Regulation~~ may, in ~~his or her~~ the Commissioner's discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this State. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to the table for a period of three consecutive years, the Commissioner of ~~Financial Regulation~~ may require additional reserves when deemed necessary in ~~his or her~~ the Commissioner's judgment on account of the certificates.

(E) Any society, with the consent of the ~~Commissioner of Insurance~~ commissioner of insurance of the state of domicile of the society and under such conditions, if any, ~~which he or she~~ that such commissioner may impose,

may establish and maintain reserves on its certificates in excess of the reserves required ~~thereunder~~ under such certificates, but the contractual rights of any insured member shall not be affected ~~thereby~~ by such excess reserves.

* * *

Sec. 202. 8 V.S.A. § 4501 is amended to read:

§ 4501. EXEMPTIONS

(a) Except as ~~herein~~ provided in this section, societies ~~shall be~~ are governed by this chapter and ~~shall be~~ are exempt from all other provisions of the insurance laws of this State, not only in governmental relations with the State, but for every other purpose. No law ~~hereafter~~ enacted after the effective date of this chapter shall apply to them, unless ~~they be~~ societies are expressly designated ~~therein~~ in such law.

(b) The civil marriage laws shall not be construed to affect the ability of a society to determine the admission of its members as provided in section 4464 of this title, or to determine the scope of beneficiaries in accordance with section 4477 of this title, and shall not require a society that has been established and is operating for charitable and educational purposes and ~~which~~ that is operated, supervised, or controlled by or in connection with a religious organization to provide insurance benefits to any person if to do so would violate the society's free exercise of religion, as guaranteed by the First

Amendment to the Constitution of the United States or by Chapter I, Article 3 of the Constitution of the State of Vermont.

Sec. 203. 8 V.S.A. § 4502(d) is amended to read:

(d) A society ~~which~~ that provides for benefits in case of death or disability resulting solely from accident, and ~~which~~ that does not obligate itself to pay natural death or sick benefits ~~shall have~~ has all of the privileges and ~~be~~ is subject to all the applicable provisions and ~~regulations~~ rules of this chapter, except that the provisions ~~thereof~~ of this chapter relating to medical examination, valuations of benefit certificates, and incontestability, ~~shall do~~ not apply to the society.

Sec. 204. 8 V.S.A. § 4503(b) is amended to read:

(b) A person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties ~~therefor~~ for perjury prescribed by law.

Sec. 205. 8 V.S.A. § 4511 is amended to read:

§ 4511. PURPOSES AND DEFINITION

A corporation may be organized for the purpose of establishing, maintaining, and operating a nonprofit hospital service plan ~~whereby~~ through

which hospital care may be provided by a hospital maintained by a corporation organized for hospital purposes to ~~such~~ members of the public who become subscribers to ~~such~~ the plan under a contract ~~which~~ that entitles each subscriber to certain hospital care. As used in this chapter, the term “hospital service corporation” includes any corporation organized under the provisions of this chapter and also any unincorporated association furnishing hospital, medical, surgical, or nursing services, or any combination of ~~the foregoing~~ these, to subscribers or members, except as provided in section 4519 of this title.

Sec. 206. 8 V.S.A. § 4513 is amended to read:

§ 4513. PERMIT TO ENGAGE IN BUSINESS; FOREIGN

CORPORATIONS

* * *

(b) A hospital service corporation shall not enter into a contract with a subscriber until it has obtained from the Commissioner of Financial Regulation a permit so to do. A permit may be issued by the Commissioner upon the receipt of an application in form to be prescribed by ~~him or her~~ the Commissioner. ~~Such~~ The application shall include a statement of the territory in which ~~such~~ the corporation proposes to seek subscribers, the service to be rendered by it, and the rates to be charged ~~therefor~~ for the service. ~~Such~~ The application shall also include a statement of the number of subscribers for hospital service. Before issuing ~~such~~ the permit, the Commissioner may make

such examination or investigation as ~~he or she~~ the Commissioner deems necessary. The Commissioner may refuse ~~such~~ the permit if ~~he or she~~ the Commissioner finds that the rates submitted are excessive, inadequate, or unfairly discriminatory. A hospital service corporation organized under the laws of another state or country shall not be licensed to do business in this State except as provided by section 4520 of this title.

* * *

(d) The Commissioner shall permit rates for a hospital service corporation designed to enable the corporation to accumulate and maintain a reserve fund ~~which~~ that shall from time to time during the calendar year be increased in an amount equal to at least two percent of the annual premium income of the corporation until the reserve fund is equal to at least eight percent of the annual premium income of the corporation. However, if the liabilities of the corporation exceed its assets, the Commissioner shall permit the corporation to charge rates that enable the corporation to accumulate a reserve fund at the rate of at least five percent of annual premium income of the corporation until the corporation's assets equal its liabilities. Nothing ~~herein~~ in this subsection shall require the Commissioner to permit a corporation to accumulate a reserve fund until the law of the state of incorporation of that corporation is substantially similar to this subsection with respect to the reserve fund.

Sec. 207. 8 V.S.A. § 4514 is amended to read:

§ 4514. REQUIRED CONTRACT PROVISIONS

A contract entered into by a hospital service corporation shall be in writing, one copy of which shall be furnished to the subscriber, and shall contain the following provisions:

(1) a A statement of the amount payable to the corporation by the subscriber and the times at which and manner in which such amount is to be paid;

(2) a A statement of the nature of the services to be furnished and the period during which they will be furnished; and if there are any services to be excepted, a detailed statement of ~~such the~~ exceptions printed as ~~hereinafter~~ specified in section 4515 of this chapter;

(3) a A statement of the terms and conditions, if any, upon which the contract may be canceled or otherwise terminated at the option of either party;

(4) a A statement that the contract includes the endorsements thereon and attached papers, if any, and contains the entire contract for services;

(5) a A statement that no representation by the subscriber in ~~his or her~~ an application for a contract shall avoid the contract or be used in any legal proceeding ~~thereunder~~ under the contract, unless ~~such the~~ application or an exact copy ~~thereof~~ of the application is included in or attached to ~~such the~~ contract, and that no agent or representative of ~~such the~~ corporation, other than

an officer designated ~~therein~~ in the contract, is authorized to change the contract or waive any of its provisions;

(6) ~~a~~ A statement that if the subscriber defaults in making any payment under the contract, the subsequent acceptance of a payment by the corporation or by any of its duly authorized agents shall reinstate the contract, but, with respect to sickness and injury, only to cover such sickness as may be first manifested more than 10 days after the date of such acceptance; ~~and~~.

(7) ~~a~~ A statement of the period of grace ~~which~~ that will be allowed the subscriber for making any payment due under the contract. ~~Such~~ The grace period shall be not less than 10 days.

Sec. 208. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates proposed to be charged ~~therefor~~ by the corporation, shall be filed with the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, for the Commissioner's or the Board's approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the Commissioner or the Board, as appropriate, of a nonrefundable fee of \$150.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 209. 8 V.S.A. § 4516 is amended to read:

§ 4516. ANNUAL REPORT TO COMMISSIONER

Annually, on or before March 1, a hospital service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31. The statement shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4518 of this title, the statement shall include a certification that the hospital service corporation operates on a nonprofit basis for the purpose of providing an adequate hospital service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions ~~4080a(h)(2)(B) and 4080b(h)(2)(B)~~ 4080g(b)(7)(B)(ii) and 4080g(c)(8)(B)(ii) of this title and by 33 V.S.A. § 1811(f)(2)(B).

Sec. 210. 8 V.S.A. § 4519 is amended to read:

§ 4519. APPLICATION OF CHAPTER

(a) Hospital service corporations or associations formed prior to April 7, 1939, may continue their existence and may fulfill their contracts and enter into new contracts as now written, including provisions ~~therein~~ in their contracts for medical, surgical, and nursing as well as hospital services, provided that such contracts written after July 1, 1939, shall be subject to the

approval of the Commissioner of Financial Regulation as provided in section 4513 of this title.

(b) Except as ~~aforsaid~~ set forth in subsection (a) of this section, a hospital service plan as described in this chapter shall not be established, maintained, or operated by an unincorporated association. All hospital service corporations organized after April 7, 1939, and their contracts shall be subject to the provisions of this chapter.

Sec. 211. 8 V.S.A. § 4523 is amended to read:

§ 4523. CHANGE IN CONTROL; MATERIAL TRANSACTIONS;

REDOMESTICATION; ESTABLISHMENT OR ACQUISITION OF
CONTROL OF INSURANCE COMPANY SUBSIDIARY

(a)(1) No corporation permitted to engage in business under this chapter shall merge or consolidate with; ~~sell, transfer,~~ or exchange more than a 10 percent interest in the corporation or its assets to; ~~or; sell, transfer,~~ or exchange more than 10 percent of its subscribers to; ~~or~~ otherwise transfer or commit more than a 10 percent interest in itself to, any other person, whether accomplished through one transaction or a series of transactions, without the Commissioner's prior written approval.

* * *

(3) A corporation permitted to engage in business under this chapter shall obtain the Commissioner's written approval prior to establishing or

acquiring control of a for-profit or nonprofit entity that is authorized to engage in the business of insurance under chapter 101 or 139 of this title or the insurance law of any other ~~United States~~ U.S. jurisdiction. As used in subdivision, ~~control~~ “control” shall have the same meaning as in subdivision 3681(3) of this title. In addition to any other investment limitations established pursuant to this title, investments in entities authorized to engage in the business of insurance under chapter 101 or 139 of this title or the insurance law of any other ~~United States~~ U.S. jurisdiction shall be limited to 25 percent of total assets of the nonprofit hospital services corporation in the aggregate; provided however, that this limitation shall exclude investments in existence on May 1, 2004.

(b) A corporation shall make application to the Commissioner for approval of any transaction set forth in subsection (a) of this section describing in detail the proposed transaction and identifying the parties involved. The Commissioner may require the filing of additional information as the Commissioner finds necessary or appropriate for the full consideration of the application. The applicant shall establish to the Commissioner’s satisfaction that the transaction meets the general good of the ~~state~~ State. To the extent applicable in the circumstances, the Commissioner shall consider, but is not limited to, the following factors in the general good determination:

* * *

(2) whether the effect of the transaction would be to substantially lessen competition in health insurance in this State or tend to create a monopoly ~~therein~~ in health insurance in this State;

* * *

Sec. 212. 8 V.S.A. § 4582 is amended to read:

§ 4582. INCORPORATION OF DENTAL AND OTHER SERVICE
CORPORATIONS

Three or more persons duly licensed under the laws of this State to practice dentistry, osteopathy, chiropractic, podiatry, or optometry may incorporate for the purpose of establishing a dental, osteopathic, chiropractic, podiatric, or optometric service corporation, respectively, to furnish dental, osteopathic, chiropractic, podiatric, or optometric services respectively, in the manner and subject to the restrictions specified in this chapter with respect to such corporation and consistent with the provisions of this chapter with reference to a medical service corporation organized ~~hereunder~~ under this chapter.

Sec. 213. 8 V.S.A. § 4583 is amended to read:

§ 4583. PURPOSES AND DEFINITION

A medical service corporation is a nonprofit sharing corporation without capital stock, organized under the laws of this State for the purpose of establishing, maintaining, and operating a plan ~~whereby~~ through which medical or medical and dental services may be provided at the expense of the

corporation by duly licensed physicians and dentists to subscribers under contract, entitling each subscriber to certain medical services or medical and dental services as provided in ~~such~~ the contract. Corporations formed under the provisions of this chapter shall have the privileges and be subject to the provisions of Title 11B as well as the applicable provisions of this chapter. In the event of a conflict between the provisions of Title 11B and the provisions of this chapter, the latter shall control.

Sec. 214. 8 V.S.A. § 4584 is amended to read:

§ 4584. APPLICATION FOR PERMIT

(a) A corporation incorporated under this chapter shall immediately, after filing its articles of association, apply to the Commissioner of Financial Regulation for a permit to operate. ~~Such~~ The application shall be made to the Commissioner upon forms to be prescribed by ~~him or her~~ the Commissioner. ~~Such~~ The application shall include a statement of the territory in which ~~such~~ the corporation proposed to operate, the services to be furnished and rendered by it, and the rates to be charged ~~therefor~~ for those services. ~~Such~~ The application shall be accompanied by two copies of any contract for medical services ~~which~~ that the corporation proposes to make with its subscriber. Before issuing ~~such~~ the permit, the Commissioner may make such examination or investigation as ~~he or she~~ the Commissioner deems necessary. The

Commissioner may refuse ~~such~~ the permit if ~~he or she~~ the Commissioner finds that the rates submitted are excessive, inadequate, or unfairly discriminatory.

* * *

(d) The Commissioner shall permit rates for a medical service corporation designed to enable the corporation to accumulate and maintain a reserve fund ~~which~~ that shall from time to time during the calendar year be increased in an amount equal to at least two percent of the annual premium income of the corporation until the reserve fund is equal to at least eight percent of the annual premium income of the corporation. However, if the liabilities of the corporation exceed its assets, the Commissioner shall permit the corporation to charge rates that enable the corporation to accumulate a reserve fund at the rate of at least five percent of annual premium income of the corporation until the corporation's assets equal its liabilities. Nothing ~~herein~~ in this subchapter shall require the Commissioner to permit a corporation to accumulate a reserve fund until the law of the state of incorporation of that corporation is substantially similar to this subsection with respect to the reserve fund.

Sec. 215. 8 V.S.A. § 4585 is amended to read:

§ 4585. REQUIRED CONTRACT PROVISIONS

Contracts entered into by a medical service corporation shall be in writing, one copy of which shall be furnished to the subscriber. The contract shall contain the following provisions:

(1) A statement of the amount payable to the corporation by the subscriber and the manner in which such amount is payable;

(2) A statement of the nature of the services to be furnished and the period during which they will be furnished and if there are any services to be excepted, a detailed statement of ~~such the~~ exceptions printed as ~~hereinafter~~ specified; in section 4586 of this chapter.

(3) A statement of the terms and conditions upon which the contract may be canceled or otherwise terminated at the option of either party;

(4) A statement that the contract includes the endorsements thereon and attached papers, if any, and contains the entire contract for services;

(5) A statement that no representation by the subscriber in ~~his or her~~ an application shall void the contract or be used in any legal proceeding ~~thereunder~~ under the contract unless such application or an exact copy ~~thereof~~ of the application is included in or attached to ~~such the~~ contract, and that no agent or representative of ~~such the~~ corporation other than an officer or officers designated ~~therein~~ in the contract is authorized to change the contract or waive any of its provisions;

(6) A statement that if the subscriber defaults in making any payment under the contract, the subsequent acceptance of a payment by the corporation or by any of its duly authorized agents shall reinstate the contract, but, with

respect to sickness and injury, only to cover such sickness as may be first manifested more than ~~ten~~ 10 days after the date of such acceptance;

(7) A statement of the period of grace ~~which~~ that will be allowed the subscriber for making any payment due under contract. ~~Such~~ The grace period shall be not less than ~~ten~~ 10 days;

(8) A statement that the subscriber shall be entitled to engage the services of a physician or surgeon ~~whom he or she chooses~~ of the subscriber's choosing to perform services covered by the contract, provided that ~~such~~ the physician or surgeon is licensed by the State Board of Medical Practice and agrees to be governed by the bylaws of the corporation with respect to payment of fees for ~~his or her~~ the physician's or surgeon's services.

Sec. 216. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

A medical service corporation ~~which~~ that has received a permit from the Commissioner of Financial Regulation under section 4584 of this title shall not thereafter issue a contract to a subscriber or charge a rate ~~therefor which~~ that is different from copies of the contracts and rates originally filed with ~~such~~ Commissioner and approved by ~~him or her~~ the Commissioner at the time of ~~the~~ issuance to such the permit was issued to the medical service corporation ~~of its~~ permit, until it the medical service corporation has filed copies of ~~such~~ contracts which it proposes to issue and the rates it proposes to charge therefor

~~and the same~~ its proposed contracts and rates and they have been approved by the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. Each such filing of a contract or the rate therefor shall be accompanied by payment to the Commissioner or the Board, as appropriate, of a nonrefundable fee of \$150.00. A medical service corporation shall file a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 217. 8 V.S.A. § 4588 is amended to read:

§ 4588. ANNUAL REPORT TO COMMISSIONER

Annually, on or before March 1, a medical service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31, which shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4590 of this title, the statement shall include a certification that the medical service corporation operates on a nonprofit basis for the purpose of providing an adequate medical service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by

subdivisions ~~4080a(h)(2)(B) and 4080b(h)(2)(B)~~ 4080g(b)(7)(B)(ii) and 4080g(c)(8)(B)(ii) of this title and by 33 V.S.A. § 1811(f)(2)(B).

Sec. 218. 8 V.S.A. § 4595 is amended to read:

§ 4595. CHANGE IN CONTROL; MATERIAL TRANSACTIONS;

REDOMESTICATION; ESTABLISHMENT OR ACQUISITION OF
CONTROL OF INSURANCE COMPANY SUBSIDIARY

(a)(1) No corporation permitted to engage in business under this chapter shall merge or consolidate with, sell, transfer, or exchange more than a 10 percent interest in the corporation or its assets to, or sell, transfer, or exchange more than 10 percent of its subscribers to, or otherwise transfer or commit more than a 10 percent interest in itself to, any other person, whether accomplished through one transaction or a series of transactions, without the Commissioner's prior written approval.

* * *

(3) A corporation permitted to engage in business under this chapter shall obtain the Commissioner's written approval prior to establishing or acquiring control of a for-profit or not-for-profit entity that is authorized to engage in the business of insurance under chapter 101 or chapter 139 of this title or the insurance law of any other ~~United States~~ U.S. jurisdiction. For purposes of this subdivision, control shall have the same meaning as in subdivision 3681(3) of this title. In addition to any other investment

limitations established pursuant to this title, investments in entities authorized to engage in the business of insurance under chapter 101 or 139 of this title or the insurance law of any other ~~United States~~ U.S. jurisdiction shall be limited to 25 percent of total assets of the nonprofit medical services corporation in the aggregate; provided however, that this limitation shall exclude investments in existence on May 1, 2004.

(b) A corporation shall make application to the Commissioner for approval of any transaction set forth in subsection (a) of this section describing in detail the proposed transaction and identifying the parties involved. The Commissioner may require the filing of additional information as the Commissioner finds necessary or appropriate for the full consideration of the application. The applicant shall establish to the Commissioner's satisfaction that the transaction meets the general good of the State. To the extent applicable in the circumstances, the Commissioner shall consider, but is not limited to, the following factors in the general good determination:

* * *

(2) whether the effect of the transaction would be to substantially lessen competition in health insurance in this State or tend to create a monopoly ~~therein~~ in health insurance in this State;

* * *

Sec. 219. 8 V.S.A. § 4684(f) is amended to read:

(f) An order or notice that a noncompetitive market exists under subdivisions (a)(1) and (2) of this section shall expire ~~no~~ not later than two years after the order or notice issues unless the Commissioner earlier rescinds the order or notice, or continues the order or notice upon a further determination that a reasonable degree of competition does not exist. Such further determination shall be preceded by public notice, but may be made without a hearing unless requested by an interested party.

Sec. 220. 8 V.S.A. § 4687(d) is amended to read:

(d) Filings submitted pursuant to this section shall be filed with the Commissioner at least 30 working days before the proposed effective date ~~therefor of the filing~~. The Commissioner may give written notice, within 30 working days ~~of~~ after the receipt of the filing, that ~~he or she~~ the Commissioner needs additional time, not to exceed 30 days from the date of such notice, to consider the filing. Upon written application of the designated advisory or service organization, the Commissioner may authorize the filing to be effective before the expiration of the waiting period or any extension ~~thereof of the~~ waiting period. A filing shall be deemed to meet the requirements of this section, unless disapproved by the Commissioner before the expiration of the waiting period or any extension ~~thereof of the~~ waiting period.

Sec. 221. 8 V.S.A. § 4688 is amended to read:

§ 4688. FILING OF RATES AND OTHER RATING INFORMATION

* * *

(c) Prefilings in a noncompetitive market.

(1) Except with respect to filings submitted pursuant to section 4687 of this title, in a noncompetitive market every insurer or its authorized advisory or service organization except as prohibited by subdivision 4690(b)(2) of this title shall provide and file for approval of the Commissioner all rates, supplementary rate information, and supporting information for noncompetitive markets at least 30 working days before the proposed effective date therefor. The Commissioner may give written notice, within 30 working days ~~of~~ after the receipt of the filing, that ~~he or she~~ the Commissioner needs additional time, not to exceed 30 days from the date of such notice, to consider the filing. Upon written application of the insurer, the Commissioner may authorize rates to be effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter and become effective, unless disapproved pursuant to section 4689 of this title by the Commissioner before the expiration of the waiting period or any extension thereof.

* * *

(f) Consent to rate. Notwithstanding any other provisions of this title to the contrary, upon written application of the named insured, stating the reasons therefor and filed for approval of the Commissioner, a rate in excess of, or coverage more restrictive than, that provided by an otherwise applicable filing may be used on any specific risk. Such rate or coverage shall not be effective unless approved by the Commissioner and in accordance with the effective date therefor established by ~~him or her~~ the Commissioner.

(g) Rating manuals and related information. Notwithstanding any other provision of this chapter to the contrary, every insurer shall file with the Commissioner all manuals of rates and rating rules ~~which~~ that it uses in this State, ~~identifying therein or therewith~~ and shall identify the day, month, and year on which such rates and rules were first used by the insurer. This requirement may be satisfied by reference to the manuals of rates or rating rules filed by the advisory or service organization with which the insurer is affiliated and to the extent utilized. Upon specific request of the Commissioner, an insurer shall provide ~~him or her~~ the Commissioner with a copy of the underwriting rules or guides ~~which~~ that it uses in this State.

(h) Form or mode of information required to be furnished to the Commissioner. The Commissioner may prescribe, by rule or regulation, the form or mode in which the information required to be furnished to ~~him or her~~ the Commissioner pursuant to this section must be filed.

Sec. 222. 8 V.S.A. § 4691(a) is amended to read:

(a) Except as provided in section 4687 of this title, the Commissioner shall review and approve as appropriate, reasonable rules and plans for recording and reporting of loss and expense experience in appropriate form and detail and shall by rule, ~~promulgated on or before October 1, 1988,~~ require insurers to file loss and expense data and investment income statistics in such form and detail as ~~he or she~~ the Commissioner deems appropriate. Notwithstanding any other provision of this chapter to the contrary, the Commissioner may designate one or more advisory or service organizations or contractors to assist in the gathering of such experience and making and distributing compilations thereof.

Sec. 223. 8 V.S.A. § 4704(b) is amended to read:

(b) Every insurer and advisory or service organization shall provide within this State a reasonable means whereby a person aggrieved by the application of any of its filings shall be allowed to be heard, on written request, for the purpose of reviewing the manner in which the filing has been applied in connection with the insurance involved. If 25 persons are aggrieved, they may appeal in writing to the Commissioner who may call a hearing, to be held not less than ~~ten~~ 10 days after written notice to the parties, and review the filing in accordance with the provisions of this chapter and all other applicable provisions of this title.

Sec. 224. 8 V.S.A. § 4711(a)(2) is amended to read:

(2) fraud or material misrepresentation affecting the policy or in the presentation of a claim ~~thereunder~~ under the policy, or violation of any of the terms or conditions of the policy; or

Sec. 225. 8 V.S.A. § 4726(b) is amended to read:

(b) Any person violating any of the provisions of this chapter may be subject to an administrative penalty of not more than \$1,000.00 for each violation. The Commissioner may impose an administrative penalty of not more than \$10,000.00 each for those violations the Commissioner finds were ~~wilful~~ willful. The Commissioner may suspend or revoke the license of any insurer or organization for any violation of this chapter or the failure to comply with an order of the Commissioner issued under this chapter.

Sec. 226. 8 V.S.A. § 4798(b)(3) is amended to read:

(3) the licensee prior ~~thereto~~ to the expiration of the license has filed with the Commissioner, on forms prescribed and furnished by the Commissioner, a request for renewal of such license for an ensuing 24-month period. Such request must be accompanied by payment of the renewal fee as provided in subdivision 4800(2) of this title.

Sec. 227. 8 V.S.A. § 4800 is amended to read:

§ 4800. LICENSE REQUIREMENTS

The Commissioner shall not issue, continue, or permit to continue any license of an insurance producer, surplus lines insurance broker, managing general agent, reinsurance intermediary, insurance consultant, limited lines producer, business entity limited lines producer, insurance adjuster, public adjuster, and appraiser except in compliance with the following:

* * *

(3) The Commissioner shall issue an insurance producer's license, an insurance consultant's license, a limited lines producer's license, adjuster's license, public adjuster's license, and appraiser's license to any duly qualified resident or nonresident of the State as follows:

(A) An applicant may qualify as a resident if ~~he or she~~ the applicant resides in this State or maintains ~~his or her~~ the applicant's principal place of business in this State. Any license issued pursuant to any application claiming residency for licensing purposes, as defined ~~herein~~ in this section, in this State shall constitute an election of residency in this State and shall be void if the licensee while holding a resident license in this State, also holds or makes application for a license in, or thereafter claims to be a resident of any other state or other jurisdiction or ceased to be a resident of this State.

(B)(i) An applicant may qualify for a license under this chapter as a nonresident only if ~~he or she~~ the applicant holds a like license in the United States, or a province of Canada. A license issued to a nonresident of this State shall grant the same rights and privileges afforded a resident licensee, except as provided in subdivision (3)(B)(v) of this section.

(ii) An application for a license by a nonresident applicant shall constitute designation by the applicant of the Commissioner and ~~his or her~~ the Commissioner's successors in office, to be the applicant's true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's insurance business in this State. The designation shall constitute an agreement that the service of process is of the same legal force and validity as personal service of process in this State upon that person. The service of process upon any licensee in any action or proceeding in any court of competent jurisdiction of this State, may be made by serving the Commissioner with appropriate copies thereof and the payment to ~~him or her~~ the Commissioner of a fee of \$25.00. The Commissioner shall forward a copy of the process by registered or certified mail to the licensee at ~~his or her~~ the licensee's last known address of record or principal place of business, and shall keep a record of all process so served upon ~~him or her~~ the licensee.

(iii) Service of process upon any licensee in any action or proceeding instituted by the Commissioner under this subdivision shall be made by the Commissioner by mailing the process by registered or certified mail to the licensee at ~~his or her~~ the licensee's last known address of record or principal place of business. If the Commissioner revokes or suspends any nonresident's license through a formal proceeding under this chapter, ~~he or she~~ the Commissioner shall promptly notify the appropriate commissioner of the licensee's residence of the action and of the particulars thereof.

* * *

(D)(i) Except as provided in section 4813i of this title or subdivision (3)(B)(iv) of this section, the Commissioner shall subject each applicant for license as an insurance producer, surplus lines insurance broker, consultant, limited lines producer, adjuster, public adjuster, or appraiser to a written examination or series of written examinations as to ~~his or her~~ the applicant's competence to act as a licensee, which ~~he or she~~ the applicant must personally take and pass to the satisfaction of the Commissioner. An applicant must submit an application to the Commissioner within 24 months ~~of~~ after the date of examination.

* * *

(vi) The Commissioner or ~~his or her~~ the Commissioner's designee shall give, conduct, and grade all examinations in a fair and impartial manner and without discrimination as between individuals examined.

* * *

(E)(i) If the Commissioner finds that the applicant has not fully met the requirements for licensing, ~~he or she~~ the Commissioner shall refuse to issue the license and promptly notify the applicant and the appointing insurer, in writing, of the denial, stating the grounds therefor.

* * *

(F) Every licensee shall notify the Commissioner of any change in ~~his or her~~ the licensee's residential or business address within 30 days ~~of~~ after the change.

* * *

Sec. 228. 8 V.S.A. § 4802(a) is amended to read:

(a) ~~No~~ An individual shall not engage in the business of an insurance consultant until being issued a consultant license ~~therefor has been issued to~~ ~~him or her~~ by the Commissioner; provided, however, that ~~no~~ a consultant license shall not be required of the following:

* * *

Sec. 229. 8 V.S.A. § 4812 is amended to read:

§ 4812. RULES AND REGULATIONS

The Commissioner of ~~Financial Regulation~~ may adopt reasonable rules and regulations for the implementation and administration of the provisions of this chapter.

Sec. 230. 8 V.S.A. § 4818(b)(3) is amended to read:

(3) All funds due under the contract shall be remitted not less than monthly together with an accounting; however, the due date shall be fixed so that premiums or installments thereof collected shall be remitted ~~no~~ not later than 90 days after the effective date of any policy for which the funds are collected.

Sec. 231. 8 V.S.A. § 4836(b)(9) is amended to read:

(9) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate rate ~~theretofore~~ previously filed with and approved by the Commissioner;

Sec. 232. 8 V.S.A. § 4846 is amended to read:

§ 4846. SUBSCRIBERS

Any individual or entity ~~which~~ that is duly organized under the laws of this State or the laws of another jurisdiction may make application for, enter into agreement for, and hold policies or contracts in or with and be a subscriber of any domestic, foreign, or alien reciprocal insurer. Any corporation organized under the laws of this State, including nonprofit corporations organized under the provisions of Title 11B of the Vermont Statutes Annotated, shall, in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority as a subscriber to exchange insurance contracts through such reciprocal insurer. The right to exchange such contracts is declared to be incidental to the purposes for which such corporations are organized and to be as fully granted as the rights and powers expressly conferred upon such corporations. Government or governmental agencies, state or political subdivisions thereof, boards, associations, estates, trustees, or fiduciaries are authorized to exchange nonassessable reciprocal interinsurance contracts with each other and with individuals and lawful entities to the same extent that individuals and lawful entities are herein authorized to exchange reciprocal interinsurance contracts. Any officer, representative, trustee, receiver, or legal representative of any such subscriber shall be recognized as acting for or on its behalf for the purpose of such

contract but shall not be personally liable upon such contract by reason of acting in such representative capacity.

Sec. 233. 8 V.S.A. § 4847(c)(2) is amended to read:

(2) supervise the insurer's operations to such extent as to ~~assure~~ ensure conformity with the subscribers' agreement and power of attorney;

Sec. 234. 8 V.S.A. § 4853 is amended to read:

§ 4853. NONASSESSABLE POLICIES

* * *

(b) Upon impairment of such surplus, the Commissioner shall ~~forthwith~~ immediately revoke the certificate. The revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has ~~theretofore~~ previously been paid; but after the revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The Commissioner shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it is qualified to and does extinguish the liability of all its subscribers and in all policies for all kinds of insurance transacted by it. Nevertheless, if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire

such policies in that state, and need not extinguish the contingent liability applicable to policies ~~theretofore~~ previously in force in that state.

Sec. 235. 8 V.S.A. § 4856(a) is amended to read:

(a) If the assets of a domestic reciprocal insurer are at any time insufficient to discharge its liabilities, other than any liability on account of funds contributed by the attorney or others, and to maintain the required surplus, its attorney shall ~~forthwith~~ immediately make up the deficiency or levy an assessment upon the subscribers for the amount needed to make up the deficiency, but subject to the limitation set forth in the power of attorney or policy.

Sec. 236. 8 V.S.A. § 4981(5) is amended to read:

(5) “Plan” means the plan of operation of the association approved or ~~promulgated~~ proposed by the Commissioner pursuant to this chapter.

Sec. 237. 8 V.S.A. § 4984(a) is amended to read:

(a) Within 45 days following the creation of an association pursuant to section 4982 of this title, or such additional time as may be prescribed by the Commissioner, the board of directors of the association shall submit to the Commissioner for review and approval a proposed plan of operation consistent with the provisions of this chapter. If the Commissioner approves the proposed plan, ~~he or she~~ the Commissioner shall certify such approval to the board and the plan shall take effect 10 days after such certification. If the

Commissioner disapproves of all or any part of the proposed plan, ~~he or she~~ the Commissioner shall return the plan to the board with a statement in writing of the reasons for ~~his or her~~ the disapproval and any recommendations ~~he or she~~ the Commissioner may make. The board may accept the Commissioner's recommendations and submit the amended plan to the Commissioner or submit a new plan within 30 days after the return of the disapproved plan to the board. Within 10 days after receipt of the second plan, the Commissioner shall ~~promulgate~~ propose a plan and certify it to the board. A plan ~~promulgated~~ proposed by the Commissioner shall take effect 10 days after certification to the board.

Sec. 238. 8 V.S.A. § 5101 is amended to read:

§ 5101. DEFINITIONS

As used in this chapter:

* * *

(5) "Member" means any individual who has entered into a contract with a health maintenance organization for health care services or for services related to but not limited to processing, administering, or the payment of claims for health care services or ~~in~~ on whose behalf such an arrangement has been made.

(6) "Evidence of coverage" means any certificate, agreement, or contract issued to a member setting out the coverage to which ~~he or she~~ the member is entitled and the rates ~~therefor~~ for that coverage.

* * *

Sec. 239. 8 V.S.A. § 5102 is amended to read:

§ 5102. APPLICATION; CERTIFICATION, FILING, AND LICENSE FEES

* * *

(b) Application for a certificate of authority shall be made to the Commissioner and include such information and in such form as the Commissioner prescribes, including the following:

(1) A copy of the basic organizational document, if any, of the applicant or other applicable documents, and all amendments ~~thereto~~ to those documents.

* * *

(4) A copy of the proposed evidence of coverage to be issued to the members; and the proposed premium rates ~~therein~~ for that coverage.

* * *

(c) Every health maintenance organization subject to this chapter shall pay to the Commissioner for filing an application for a certificate of authority or amendment ~~thereto~~ to a certificate of authority \$200.00, and for filing each annual report \$100.00. In addition, each organization shall pay a license fee

for the year of registration and a renewal fee for each year thereafter of \$300.00.

* * *

(e)(1) Continuance by the Commissioner of a certificate of authority issued under this section shall be contingent upon satisfactory performance by the organization as to the delivery, continuity, accessibility, and quality of the services to which enrolled members are entitled; ~~compliance with the provisions of Vermont law and rules adopted thereunder,~~ under the law; and the continuing fiscal soundness of the organization.

* * *

Sec. 240. 8 V.S.A. § 5105(a) is amended to read:

(a) The Commissioner shall make an examination of the affairs of any health maintenance organization organized or holding a certificate of authority as a health maintenance organization in this State as often as the Commissioner deems it necessary, but not less frequently than once in every three years to ~~assure~~ ensure that the financial and contractual obligations of the health maintenance organization are being met in accordance with Vermont law. The Commissioner may enlarge ~~the aforesaid~~ this three-year period to five years, provided the health maintenance organization is subject to a comprehensive annual audit during such period of a scope satisfactory to the Commissioner, by independent auditors approved by the Commissioner. The Commissioner

shall examine a health maintenance organization that is organized in another state as if it were organized in this State. In lieu of such examination, the Commissioner may accept an examination report on the company as prepared by the insurance department of the company's state of domicile. Prior to accepting an examination report from any foreign jurisdiction, the Commissioner shall determine that the examination was performed in a manner and using methods and criteria that are as stringent as those established for Vermont examinations. Nothing in this section shall restrict the Commissioner's power to examine a health maintenance organization when the Commissioner deems it to be in the best interests of members or policyholders.

Sec. 241. 8 V.S.A. § 5107(c) is amended to read:

(c) A health maintenance organization ~~which~~ that has a net worth of less than eight percent of total assets as last reported under section 5106 of this title or has not reported positive earnings in at least two of the past three years shall provide the Commissioner with 30 ~~days~~ days' prior written notice of any expenditure or financial commitment ~~which~~ that in the aggregate will exceed one percent of total expenditures as of the last reporting period.

Sec. 242. 8 V.S.A. § 5109 is amended to read:

§ 5109. SANCTIONS

Upon satisfactory evidence that any health maintenance organization has violated any law or regulation or in any way has failed in meeting its financial

and contractual obligations to its members, including quality assurance as provided by 18 V.S.A. § 9414, the Commissioner may, in ~~his or her~~ the Commissioner's discretion, pursue any one or more of the following courses of action:

* * *

(2) Revoke the certificate of authority to operate as a health maintenance organization under this chapter. When the certificate of authority is revoked, ~~such~~ the organization shall proceed under the supervision of the Commissioner, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of ~~such~~ the organization. It shall engage in no further advertising or solicitation whatsoever. The Commissioner may, by written order, permit such further operation of the organization as ~~he or she~~ the Commissioner may find to be in the best ~~interest~~ interests of members to the end that members will be afforded the greatest practical opportunity to obtain continuing health care coverage.

* * *

Sec. 243. 8 V.S.A. § 5112 is amended to read:

§ 5112. STATUTORY CONSTRUCTION AND RELATIONSHIP TO
OTHER LAWS

Except as provided in this chapter, and except as provided in ~~sections~~
~~section 3315, 4080a, 4080b, and 4080f, and subchapter 2 of~~ and chapter 112,
subchapter 2 of this title, provisions of the insurance laws and specifically
provisions of chapters 123 and 125 of this title shall not be applicable to any
health maintenance organization granted a certificate of authority under this
chapter.

Sec. 244. 8 V.S.A. § 5115 is amended to read:

§ 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE
ORGANIZATIONS

Any nonprofit health maintenance organization subject to this chapter shall
offer nongroup plans to individuals in accordance with ~~section 4080b of this~~
~~title~~ 33 V.S.A. § 1811 without discrimination based on age, gender, industry,
and medical history, except as allowed by subdivisions ~~4080a(h)(2)(B) and~~
~~4080b(h)(2)(B)~~ 4080g(b)(7)(B)(ii) and 4080g(c)(8)(B)(ii) of this title and by
33 V.S.A. § 1811(f)(2)(B).

Sec. 245. 8 V.S.A. § 6072 is amended to read:

§ 6072. LICENSURE

(a) ~~No~~ A person shall not act in the capacity of managing general agent as defined in subdivision 6071(1)(A) of this title for a risk retention group unless such person is licensed under the provisions of this chapter. ~~No~~ A person shall not act in the capacity of managing general agent as defined in subdivision 6071(1)(B) of this title for a risk retention group unless within 90 days of the end of the risk retention group's fiscal year in which such person became a managing general agent, such person becomes licensed under the provisions of this chapter. ~~No~~ An officer, director, or employee of a person licensed or exempt from licensure under this chapter shall not be required to be licensed. The Commissioner may exempt any other person upon a finding that the activities to be performed by such person on behalf of a risk retention group are not of the nature or magnitude requiring the protection of this chapter. A person shall not be required to obtain more than one license ~~hereunder~~ under this chapter in order to serve as managing general agent for more than one risk retention group.

* * *

(f) A license issued ~~hereunder~~ under this chapter shall continue in force not longer than 12 months, but shall expire as of 12:01 a.m. ~~at~~ on the first day of April of the year next following date of issuance unless the licensee

~~prior thereto has~~ previously filed with the Commissioner, on forms prescribed and furnished by the Commissioner, a request for renewal of such license for an ensuing 12-month period. Such request must be accompanied by payment of a renewal fee equal to the initial licensing fee for such license.

Sec. 246. 8 V.S.A. § 6075 is amended to read:

§ 6075. HEARING; PENALTIES

(a) If the Commissioner determines, after notice and hearing, that any person licensed ~~hereunder~~ under this chapter (i) has violated any provision of this chapter or rules ~~promulgated hereunder~~ adopted under this chapter, ~~or~~ (ii) is not competent or trustworthy, or (iii) has engaged in any activity or has failed to do any act that if known at the time of licensing would have been grounds to refuse licensing, the Commissioner may impose one or more of the following penalties:

* * *

(3) impose an administrative penalty of not less than \$100.00 nor more than \$1,000.00 for each violation ~~hereunder~~ under this chapter.

* * *

(c) Any hearing conducted ~~hereunder~~ under this chapter shall be conducted in accordance with 3 V.S.A. chapter 25.

Sec. 247. 8 V.S.A. § 7004 is amended to read:

§ 7004. REVOCATION OR SUSPENSION OF LICENSE; APPEAL

* * *

(b) Before the Commissioner shall revoke, suspend, or refuse to renew the license of any insurance premium finance company, the licensee shall be entitled to a hearing in accordance with 3 V.S.A. chapter 25, the Vermont Administrative Procedure Act of this State. In lieu of revoking or suspending the license for any of the causes enumerated in this section, after hearing as ~~herein~~ provided in this section, the Commissioner may subject such company to a penalty of not more than \$200.00 for each offense when in ~~his or her~~ the Commissioner's judgment he or she the Commissioner finds that the public interest would not be harmed by the continued operation of such company. The amount of any penalty shall be paid by such company to the Commissioner.

(c) If the Commissioner refuses to issue to any person a license as an insurance premium finance company, or ~~he or she~~ the Commissioner revokes, suspends, or refuses to renew the license of any insurance premium finance company, or ~~he or she~~ the Commissioner imposes a penalty on such company after a hearing as provided under subsection (b) of this section, the applicant or licensee may appeal from such refusal to issue a license or from such

adjudication in accordance with 3 V.S.A. chapter 25, the Vermont
Administrative Procedure Act ~~of this State~~.

Sec. 248. 8 V.S.A. § 7006(a)(2) is amended to read:

(2) contain the name and place of business of the insurance agent or
broker negotiating the related insurance contract, the name and residence or the
place of business of the insured as specified by ~~him or her~~ the insured, the
name and place of business of the insurance premium finance company to
which payments are to be made, a brief description of the insurance contracts
involved and the amount of premiums ~~therefor~~ under the insurance contracts;
and

Sec. 249. 8 V.S.A. § 7007 is amended to read:

§ 7007. LIMITATION ON INTEREST AND OTHER CHARGES

* * *

(c) The interest rate shall not exceed the rates permitted by 9 V.S.A.
§ 41a(b)(5), or a nonrefundable charge of \$15.00 per insurance premium
finance agreement, whichever is greater, except as provided ~~herein~~ in this
section. If the insurance policy ~~which~~ that is the subject of the insurance
premium finance agreement is for other than personal, family, or household
purposes, then the parties to the contract may agree upon any rate of interest
~~which~~ that shall be stated in the insurance premium finance agreement. The
interest permitted by this subsection anticipates timely repayment in

consecutive monthly installments equal in amount for a period of one year.

For repayment in greater or lesser periods or in unequal, irregular, or other than monthly installments, the interest may be computed at an equivalent effective rate having due regard for the timely payments of installments.

(d) Notwithstanding the provisions of any insurance premium finance agreement, an insured may prepay the obligation in full at any time. In such event, ~~he or she~~ the insured shall receive a refund credit, which refund credit shall be computed according to the actuarial method on the assumption that all payments were made as originally scheduled. Where the amount of the refund credit is less than \$1.00, no refund need be made, unless specifically requested by the insured.

Sec. 250. 8 V.S.A. § 7031(12)(C) is amended to read:

(C) as used in this subdivision (12), “liabilities” ~~shall include~~ includes reserves required by statute or by general regulations of the Department or specific requirements imposed by the Commissioner upon a subject company at the time of admission or subsequent ~~thereto~~ to its admission.

Sec. 251. 8 V.S.A. § 7041 is amended to read:

§ 7041. COMMISSIONER’S SUMMARY ORDERS AND SUPERVISION
PROCEEDINGS

* * *

(c) If the Commissioner makes a determination to supervise an insurer subject to an order under subsection (a) or (b) of this section, ~~he or she~~ the Commissioner shall notify the insurer that it is under the supervision of the Commissioner. During the period of supervision, the Commissioner may appoint a supervisor to supervise such insurer. The order appointing a supervisor shall direct the supervisor to enforce orders issued under subsections (a) and (b) of this section and may also require that the insurer may not do any of the following things during the period of supervision, without the prior approval of the Commissioner or ~~his or her~~ the supervisor:

* * *

(e) The notice of hearing held under subsection (a) of this section and any order issued pursuant to subsection (a) of this section shall be served upon the insurer pursuant to the provisions of 3 V.S.A. chapter 25. The notice of hearing shall state the time and place of hearing, and the conduct, condition, or ground upon which the Commissioner may base ~~his or her~~ the order. Unless mutually agreed between the Commissioner and the insurer, the hearing shall occur not less than ten days nor more than 30 days after notice is served and shall be held at the offices of the Department of Financial Regulation or in some other place convenient to the parties as determined by the Commissioner. Unless the insurer requests a public hearing, hearings and hearing records under subsection (a) of this section shall be private and shall not be subject to

the provisions of 1 V.S.A. chapter 5, subchapters 2 and 3 (the Vermont Open Meeting Law and the Public Records Act).

* * *

(g) During the period of supervision, the insurer may request the Commissioner to review an action taken or proposed to be taken by the supervisor, specifying the reasons why the action complained of is believed not to be in the best ~~interest~~ interests of the insurer.

* * *

Sec. 252. 8 V.S.A. § 7042(b) is amended to read:

(b) Upon filing a petition under subsection (a) of this section, the Court may issue ~~forthwith~~ immediately, ex parte and without a hearing, an order directing the Commissioner to take possession and control of all or a part of the property, books, accounts, documents, and other records of an insurer, and of the premises occupied by it for transaction of its business; and enjoining the insurer and its officers, managers, agents, and employees from disposing of its property and from transacting its business except with the written consent of the Commissioner.

Sec. 253. 8 V.S.A. § 7052(a) is amended to read:

(a) An order to rehabilitate the business of a domestic insurer, or an alien insurer domiciled in this State, shall appoint the Commissioner and ~~his or her~~ the Commissioner's successors in office the rehabilitator, and shall direct the

rehabilitator ~~forthwith~~ immediately to take possession of the assets of the insurer, and to administer them under the general supervision of the Court. The filing or recording of the order with the Clerk of the Superior Court of Washington County or town clerk of the town in which the principal business of the company is conducted, or the town in which its principal office or place of business is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that town clerk would have imparted. The order to rehabilitate the insurer shall by operation of law vest title to all assets of the insurer in the rehabilitator.

Sec. 254. 8 V.S.A. § 7057 is amended to read:

§ 7057. LIQUIDATION ORDERS

(a) An order to liquidate the business of a domestic insurer shall appoint the Commissioner and ~~his or her~~ the Commissioner's successors in office liquidator and shall direct the liquidator ~~forthwith~~ immediately to take possession of the assets of the insurer and to administer them under the general supervision of the Court. The liquidator shall be vested by operation of law with the title to all the property, contracts, and rights of action, and all the books and records of the insurer ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the Superior Court of Washington County or the town clerk of the town in which its principal office or place of business is located; or, in the case of real

estate, with the town clerk of the town where the property is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that town clerk would have imparted.

* * *

(c) An order to liquidate the business of an alien insurer domiciled in this State shall be in the same terms and have the same legal effect as an order to liquidate a domestic insurer, except that the assets of the ~~United States~~ U.S. branch of the alien insurer shall be the only assets and business included ~~therein~~ in the order.

* * *

Sec. 255. 8 V.S.A. § 7059 is amended to read:

§ 7059. DISSOLUTION OF INSURER

The Commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the ~~United States~~ U.S. branch of an alien insurer domiciled in this State at the time ~~he or she~~ the Commissioner applies for a liquidation order. The Court shall order dissolution of the corporation upon petition by the Commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent but may be ordered by the Court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason.

Sec. 256. 8 V.S.A. § 7067 is amended to read:

§ 7067. VOIDABLE PREFERENCES AND LIENS

(a)(1) A preference is a transfer of any of the property of an insurer to or for the benefit of a creditor, for or on account of an antecedent debt, made or suffered by the insurer within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the insurer is already subject to a rehabilitation order, then such transfers shall be deemed preferences if made or suffered within one year before the filing of the successful petition for rehabilitation, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) A preference may be avoided by the liquidator if:

* * *

(C) the creditor receiving it or to be benefited ~~thereby~~ by it or ~~his or her~~ the creditor's agent acting with reference ~~thereto~~ to it had, at the time when the transfer of property was made, reasonable cause to believe that the insurer was insolvent or was about to become insolvent; or

* * *

(k)(1) Every officer, manager, employee, shareholder, member, subscriber, attorney, or any other person acting on behalf of the insurer who knowingly

participates in giving any preference when ~~he or she~~ such person has reasonable cause to believe the insurer is or is about to become insolvent at the time of the preference shall be personally liable to the liquidator for the amount of the preference. It is permissible to infer that there is a reasonable cause to so believe if the transfer was made within four months before the date of filing of this successful petition for liquidation.

* * *

Sec. 257. 8 V.S.A. § 7070 is amended to read:

§ 7070. ASSESSMENTS

* * *

(c) After levy of assessment under subsection (b) of this section, the liquidator shall issue an order directing each member who has not paid the assessment pursuant to the order, to show cause why the liquidator should not pursue a judgment ~~therefor~~ for such assessment.

(d) The liquidator shall give notice of the order to show cause by publication and by ~~first-class~~ first-class mail to each member liable ~~thereunder~~ under the order mailed to ~~his or her~~ the member's last known address as it appears on the insurer's records, at least 20 days before the return day of the order to show cause.

(e)(1) If a member does not appear and serve duly verified objections upon the liquidator on or before the return day of the order to show cause under

subsection (c) of this section, the Court shall make an order adjudging the member liable for the amount of the assessment against ~~him or her~~ the member pursuant to subsection (c) of this section, together with costs, and the liquidator shall have a judgment against the member ~~therefor~~ for the assessment.

* * *

Sec. 258. 8 V.S.A. § 7073 is amended to read:

§ 7073. DOMICILIARY LIQUIDATOR'S PROPOSAL TO DISTRIBUTE
ASSETS

* * *

(b) A proposal under subsection (a) of this section shall at least include provisions for:

* * *

(3) equitable allocation of disbursements to each of the guaranty associations and foreign guaranty associations entitled ~~thereto~~ to such disbursements;

* * *

(5) a full report to be made by each association to the liquidator accounting for all assets so disbursed to the association, all disbursements made ~~therefrom~~ from such assets, any interest earned by the association on such assets, and any other matter as the Court may direct.

* * *

(e) Notice of an application under this section shall be given to the association in and to the commissioners of insurance of each of the states. Notice shall be deemed to have been given when deposited in the ~~United States~~ U.S. certified mails, first class postage prepaid, at least 30 days prior to submission of such application to the Court. Action on the application may be taken by the Court provided the notice required by this subsection has been given and provided further that the liquidator's proposal complies with the provisions of subdivisions (b)(1) and (b)(2) of this section.

Sec. 259. 8 V.S.A. § 7083 is amended to read:

§ 7083. DISTRIBUTION OF ASSETS

Under the direction of the Court, the liquidator shall pay distributions in a manner that will ~~assure~~ ensure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the Court.

Sec. 260. 8 V.S.A. § 7084(a) is amended to read:

(a) All unclaimed funds subject to distribution remaining in the liquidator's hands when ~~he or she~~ the liquidator is ready to apply to the Court for discharge, including the amount distributable to any creditor, shareholder, member, or other person who is unknown or cannot be found, shall be

deposited with the State Treasurer, and shall be paid without interest except in accordance with section 7081 of this title to the person entitled ~~thereto~~ to such funds or ~~his or her~~ to the person's legal representative upon proof satisfactory to the State Treasurer of ~~his or her right thereto~~ the person's right to the funds. Any amount on deposit not claimed within seven years from the discharge of the liquidator shall be deemed to have been abandoned and shall be escheated without formal escheat proceedings and be deposited with the General Fund.

Sec. 261. 8 V.S.A. § 7091 is amended to read:

§ 7091. CONSERVATION OF PROPERTY OF FOREIGN OR ALIEN

INSURERS FOUND IN THIS STATE

(a) If a domiciliary liquidator has not been appointed, the Commissioner may apply to the Superior Court of Washington County by verified petition for an order directing ~~him or her~~ the Commissioner to act as conservator to conserve the property of an alien insurer not domiciled in this State or a foreign insurer on any one or more of the following grounds:

* * *

(b) When an order is sought under subsection (a) of this section, the Court shall cause the insurer to be given such notice and time to respond ~~thereto~~ to the order as is reasonable under the circumstances.

* * *

Sec. 262. 8 V.S.A. § 7092 is amended to read:

§ 7092. LIQUIDATION OF PROPERTY OF FOREIGN OR ALIEN

INSURERS FOUND IN THIS STATE

(a) If no domiciliary receiver has been appointed, the Commissioner may apply to the Superior Court of Washington County by verified petition for an order directing ~~him or her~~ the Commissioner to liquidate the assets found in this State of a foreign insurer or an alien insurer not domiciled in this State, on any of the following grounds:

* * *

(b) When an order is sought under subsection (a) of this section, the Court shall cause the insurer to be given such notice and time to respond ~~thereto~~ to the order as is reasonable under the circumstances.

* * *

(f) The Court may order the Commissioner, when ~~he or she~~ the Commissioner has liquidated the assets of a foreign or alien insurer under this section, to pay claims of residents of this State against the insurer under such rules as to the liquidation of insurers under this chapter as are otherwise compatible with the provisions of this section.

Sec. 263. 8 V.S.A. § 7112(b)(12) is amended to read:

(12) Officer's certificates of the transferring insurer and the assuming company attesting that each has obtained all required internal approvals and

authorizations regarding the plan and completed all necessary and appropriate actions relating ~~thereto~~ to the plan.

Sec. 264. 8 V.S.A. § 8082(4)(D)(i) is amended to read:

(i) The issuance of the group policy is not contrary to the best ~~interest~~ interests of the public;

Sec. 265. 8 V.S.A. § 8084a is amended to read:

§ 8084a. REQUIRED DISCLOSURE OF RATING PRACTICES TO
CONSUMERS

(a) Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this subsection to the applicant ~~no~~ not later than at the time of delivery of the policy or certificate:

* * *

(d) An applicant shall, at the time of application, unless the method of application does not allow for acknowledgment at that time, in such a case, ~~no~~ not later than at the time of delivery of the policy or certificate, sign an acknowledgment that the insurer made the disclosure required under subdivisions (a)(1) and (5) of this section.

* * *

Sec. 266. 8 V.S.A. § 8086(c) is amended to read:

(c) The Commissioner may by rule extend the limitation periods established in subsections (a) and (b) of this section as to specific age group categories in specific policy forms upon findings that the extension is in the best ~~interest~~ interests of the public.

Sec. 267. 8 V.S.A. § 8090(g) is amended to read:

(g) If an application for a long-term care insurance contract or certificate is approved, the issuer shall deliver the contract or certificate of insurance to the applicant ~~no~~ not later than 30 days after the date of approval.

Sec. 268. 8 V.S.A. § 8091 is amended to read:

§ 8091. POLICY SUMMARY FOR LIFE INSURANCE POLICY

PROVIDING LONG-TERM CARE BENEFITS

(a) If an individual life insurance policy provides long-term care benefits within the policy or by rider, a policy summary shall be delivered at the time of policy delivery. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make delivery ~~no~~ not later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

* * *

(b) The provisions of the policy summary listed in this section may be incorporated into a basic illustration required to be delivered or into the life insurance policy summary ~~which~~ that is required to be delivered in accordance with the Department's rules.

Sec. 269. 8 V.S.A. § 8204(b)(6) is amended to read:

(6) a statement that the assuming insurer is licensed to write the type of business being assumed in the state where the policyholder resides, or is otherwise authorized, as provided ~~herein~~ in this chapter, to assume such business;

Sec. 270. 8 V.S.A. § 8207(b) is amended to read:

(b) If an insurer domiciled in this State or in a jurisdiction having a substantially similar law is deemed by the domiciliary commissioner to be in hazardous financial condition or an administrative proceeding has been instituted against it for the purpose of reorganizing or conserving the insurer, and the transfer of the contracts of insurance is in the best ~~interest~~ interests of the policyholders, as determined by the domiciliary commissioner, a transfer and novation may be effected notwithstanding the provisions of this chapter to the contrary. The Commissioner shall approve the transfer and the form of notice to policyholders, which shall describe the circumstances that require the transfer. The Commissioner may, in ~~his or her~~ the Commissioner's discretion, permit assumption based on implied consent.

Sec. 271. 8 V.S.A. § 8308(a) is amended to read:

(a) All risk based capital reports, to the extent the information ~~therein~~ in the report is not required to be set forth in a publicly available annual statement schedule, and risk based capital plans, including the results or report of any examination or analysis of an insurer performed pursuant ~~hereto~~ to this chapter and any corrective order issued by the Commissioner pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer that are filed with the Commissioner, constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential and privileged by the Commissioner. This information shall not be made available for public inspection and copying under the Public Records Act, shall not be subject to subpoena, shall not be subject to discovery, and shall not be admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information for the purpose of enforcement actions taken by the Commissioner under this chapter or any other provision of the insurance laws of this State.

Sec. 272. 8 V.S.A. § 8501(a) is amended to read:

(a) The compacting states hereby create and establish a joint public agency known as the “Interstate Insurance Product Regulation Commission.”

Pursuant to section 8502 of this chapter, the Commission will have the power to develop uniform standards for product lines, receive and provide prompt

review of products filed ~~therewith~~ with the Commission, and give approval to those product filings satisfying applicable uniform standards; provided, it is not intended for the Commission to be the exclusive entity for receipt and review of insurance product filings. Nothing ~~herein~~ in this chapter shall prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the state where filed.

Sec. 273. 8 V.S.A. § 8502(2) is amended to read:

(2) To exercise its rulemaking authority and establish reasonable uniform standards for products covered under the compact, and advertisement related ~~thereto~~ to the compact, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the Commission; provided, that a compacting state shall have the right to opt out of such uniform standard pursuant to section 8505 of this chapter, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the Commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The Commission shall consider whether any subsequent

amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amending of the uniform standards established by the Commission for long-term care insurance products.

Sec. 274. 8 V.S.A. § 8503 is amended to read:

§ 8503. ORGANIZATION OF THE COMMISSION

(a) Membership. Each compacting state shall have and be limited to one member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which ~~he or she~~ the member shall be appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing ~~herein in this chapter~~ shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own Commissioner. The Commissioner of the Vermont Department of Financial Regulation, or the Commissioner's designee, shall be the member appointed by Vermont to the Commission.

(b) Voting. Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the Commission in accordance with the bylaws. Notwithstanding any provision ~~herein of this chapter~~ to the contrary, no action of the Commission with respect to the adoption of a

uniform standard shall be effective unless two-thirds of the members vote in favor thereof.

(c) Bylaws.

* * *

(2) The Commission shall publish its bylaws in a convenient form and file a copy ~~thereof~~ of its bylaws and a copy of any amendment ~~thereto~~ to its bylaws with the appropriate agency or officer in each of the compacting states.

* * *

(h) Qualified immunity, defense, and indemnification.

* * *

(2) The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; ~~provided, that nothing herein in this chapter shall be construed to prohibit that person from retaining his or her the person's own counsel;~~ provided, that nothing herein in this chapter shall be construed to prohibit that person from retaining his or her the person's own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

* * *

Sec. 275. 8 V.S.A. § 8505 is amended to read:

§ 8505. RULES AND OPERATING PROCEDURES; RULEMAKING
FUNCTIONS OF THE COMMISSION AND OPTING OUT OF
UNIFORM STANDARDS

(a) Rulemaking authority. The Commission shall adopt reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this chapter, or the powers granted ~~hereunder~~ under this chapter, such an action by the Commission shall be invalid and have no force and effect.

* * *

(c) Effective date and opt out of a uniform standard. A uniform standard shall become effective 90 days after its adoption by the Commission or such later date as the Commission may determine; provided, however, that a compacting state may opt out of a uniform standard as provided in this section. “Opt out” ~~shall be defined as~~ means any action by a compacting state to decline to adopt or participate in an adopted uniform standard. All other rules and operating procedures, and amendments ~~thereto~~ to such rules and operating

procedures, shall become effective as of the date specified in each rule, operating procedure, or amendment.

(d) Opt out procedure.

(1) A compacting state may opt out of a uniform standard, either by legislation or rule duly adopted by the insurance department under the compacting state's Administrative Procedure Act. The Vermont Department of Financial Regulation may adopt an emergency rule for the purposes of this subsection. If a compacting state elects to opt out of a uniform standard by rule, it must give written notice to the Commission ~~no~~ not later than ~~ten~~ 10 business days after the uniform standard is adopted, or at the time the state becomes a compacting state and find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state. The Commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state ~~which~~ that warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The Commissioner must consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh both the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this chapter and the

presumption that a uniform standard adopted by the Commission provides reasonable protections to consumers of the relevant product.

* * *

Sec. 276. 8 V.S.A. § 8508 is amended to read:

§ 8508. PRODUCT FILING AND APPROVAL

(a) Insurers and third-party filers seeking to have a product approved by the Commission shall file the product with, and pay applicable filing fees to, the Commission. Nothing in this chapter shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state ~~wherein~~ where the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.

(b) The Commission shall establish appropriate filing and review processes and procedures pursuant to Commission rules and operating procedures. Notwithstanding any provision ~~herein~~ of this chapter to the contrary, the Commission shall adopt rules to establish conditions and procedures under which the Commission will provide public access to product filing information. In establishing such rules, the Commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.

* * *

Sec. 277. 8 V.S.A. § 8516(a) is amended to read:

(a) Nothing ~~herein~~ in this chapter prevents the enforcement of any other law of a compacting state, except as provided in subsection (b) of this section.

Sec. 278. 8 V.S.A. § 10203 is amended to read:

§ 10203. DISCLOSURE OF FINANCIAL RECORDS PROHIBITED

Except as otherwise expressly provided in this subchapter, a financial institution, its officers, employees, agents, and directors shall not disclose to any person any financial information relating to a customer. Financial institutions shall adopt reasonable procedures to ~~assure~~ ensure compliance with this subchapter.

Sec. 279. 8 V.S.A. § 10302(a) is amended to read:

(a) The owner of an automated teller machine or other remote service unit, including a cash dispensing machine, located or employed in this State shall prominently and conspicuously disclose on or at the location of each such machine or on the first screen of each such machine the identity, address, and telephone number of the owner and the availability of consumer assistance. The owner shall also disclose on the screen of such machine or on a paper notice issued from the machine the amount of the fees or charges ~~which~~ that the owner will assess to the consumer for the use of that machine. The amount of the fees or charges shall be disclosed before the consumer is irrevocably committed to completing the transaction. The Commissioner shall approve the

form, content, timing, and location of such disclosures and any amendments ~~thereto~~ prior to use. The Commissioner shall act on any submission made under this section within 30 days of after receipt. If the Commissioner determines that any disclosures do not provide adequate consumer protection, the Commissioner may by order or by rule specify minimum disclosure standards, including the form, content, timing, and location of such disclosures. The Commissioner may impose on the owner of an automated teller machine or other remote service unit an administrative penalty of not more than \$1,000.00 for each day's failure of the owner to apply to the Commissioner for approval of disclosures required under this section, for each day's failure of the owner to use disclosures approved by the Commissioner, or for each day's continuing violation of an order of the Commissioner relating to the disclosures required by this section.

Sec. 280. 8 V.S.A. § 10403 is amended to read:

§ 10403. PROHIBITION ON DISCRIMINATION BASED ON SEX,
MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL
ORIGIN, AGE, SEXUAL ORIENTATION, GENDER IDENTITY,
OR DISABILITY

* * *

(c) Definitions. As used in this section:

* * *

(3) “Application” means an oral or written request for an extension of credit that is made in accordance with procedures established by a financial institution for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that is within a previously established credit limit. A completed application means an application in connection with which a financial institution has received all the information that the financial institution regularly obtains and considers in evaluating applications for the amount and type of credit requested, ~~(including, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral).~~ The financial institution shall exercise reasonable diligence in obtaining such information.

* * *

(d) Notification requirements.

* * *

(3) For commercial credit only, a statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken and cites the specific documentation or business judgment that supports the adverse decision on the application. Consumer credit shall be

governed by the Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.) and regulations adopted ~~thereunder~~ pursuant to the Act.

* * *

Sec. 281. 8 V.S.A. § 10405 is amended to read:

§ 10405. DEBT PROTECTION AGREEMENTS

* * *

(b) As used in this section:

(1) “Debt protection agreement” means a loan term or contractual arrangement that may be part of, or separate from, the loan agreement or retail or motor vehicle installment contract that modifies the loan or retail or motor vehicle installment contract terms governing the extension of credit under the loan agreement, or retail or motor vehicle installment contract, and under which the creditor agrees to provide one or more of the following protections:

(A) debt cancellation, which is an agreement to cancel all or part of a borrower’s obligation to repay an extension of credit from that creditor upon the occurrence of a specified event and shall include a guaranteed asset protection waiver agreement ~~wherein~~ in which the creditor agrees to cancel all or part of a borrower’s obligation to repay an extension of credit to the extent that there is an outstanding balance on the loan or retail or motor vehicle installment contract after application of property insurance proceeds in the event of total physical damage or theft of the property; or

* * *

(d) The Commissioner may conduct an examination of any creditor, as defined under this section, for the purpose of determining compliance with this section and may make such investigation, as the Commissioner deems necessary. To the extent necessary for such examination or investigation, the Commissioner may, without limiting the foregoing, compel the production of all relevant books, records, documents, other evidence, or the attendance of witnesses, and may issue subpoenas with respect to the foregoing. The expense of any such investigation or examination shall be paid by the entity being examined or investigated. Nothing contained ~~herein~~ in this subsection shall limit any other examination or investigation authority of the Commissioner contained in Title 9 or this title.

* * *

Sec. 282. 8 V.S.A. § 10504 is amended to read:

§ 10504. BASIC BANKING RULES

The Commissioner may adopt rules to require financial institutions with their principal place of business in this State to offer basic checking and savings accounts if the Commissioner finds a material deterioration in the availability and cost of basic checking and savings account services in the results of any two consecutive surveys. The rule adopted by the Commissioner under this section shall ~~assure~~ ensure that any required basic banking will not

impair the safety and soundness of any affected financial institution and that any such rules shall not adversely affect other consumers of banking services.

Sec. 283. 8 V.S.A. § 10701(2)(A) is amended to read:

(A) is a loan ~~wherein~~ in which the committed principal amount is secured by a mortgage on residential property owned by the borrower;

Sec. 284. 8 V.S.A. § 10702 is amended to read:

§ 10702. COUNSELING

Prior to accepting an application for a reverse mortgage loan, a financial institution shall refer every borrower to counseling from an organization that is a housing counseling agency approved by the ~~United States~~ U.S. Department of Housing and Urban Development, and shall receive certification from the counselor that the borrower has received in person face-to-face counseling. However, if the borrower cannot or chooses not to travel to a counselor and cannot be visited by a counselor in their home, telephone counseling shall be provided by counseling agencies that are authorized by the Department of Financial Regulation. The certificate shall be signed by the borrower and the counselor and include the date of counseling, the name, address, and telephone number of both the borrower and the organization providing counseling, and shall be maintained by the holder of the reverse mortgage throughout the term of the reverse mortgage loan.

Sec. 285. 8 V.S.A. § 11101 is amended to read:

§ 11101. DEFINITIONS

Except as otherwise specifically provided elsewhere in this title, and subject to such definitions as the Commissioner ~~may adopt pursuant to regulations hereafter~~ adopts by rule, the following terms have the following meanings for purposes of Parts 1, 2, and 5 of this title, unless the context clearly indicates otherwise.

* * *

(45) “National bank” means a commercial banking association or limited purpose banking association organized pursuant to the Act of Congress entitled “The National Bank Act,” as amended, or any subsequent Act of Congress relating ~~thereto~~ to the same subject.

* * *

(58) “Service corporation” means a corporation substantially all the activities of which consist of originating, purchasing, selling, and servicing loans and participation interests ~~therein~~ in loan activities; or clerical, bookkeeping, accounting, and statistical or similar functions related to a financial institution or real estate activities; or management, personnel, marketing, or investment counseling related to a financial institution or real estate activities; or any activity authorized by the Commissioner by rule or order that has not been prohibited by federal law for service corporations.

* * *

(64) “Universal financial institution” means an investor-owned institution or a mutual or cooperative financial institution authorized by its organizational documents to exercise all the powers granted in chapter 204 of this title and includes any bank, bank and trust company, commercial bank, savings bank, and savings and loan association established prior to the effective date of this section, pursuant to this title, or by special act of the ~~Legislature~~ General Assembly.

* * *

Sec. 286. 8 V.S.A. § 11601 is amended to read:

§ 11601. ENFORCEMENT POWERS OF COMMISSIONER

(a) The Commissioner may:

* * *

(2) Order the holders of equity interests in a Vermont financial institution or financial institution regulated under this title to refrain from voting on any matter if the Commissioner finds that the order is necessary to protect the institution against reckless, incompetent, or careless management, safeguard the funds of depositors, or prevent the willful violation of this ~~act~~ chapter or of any lawful order issued under it, and in such a case the equity interests of such a holder shall not be counted in determining the existence of a

quorum or a percentage of the outstanding interests necessary to take any action by the financial institution.

* * *

(c)(1) Except as provided in subdivision (2) of this subsection, the Commissioner shall provide notice of any enforcement order proposed pursuant to this section and the grounds ~~therefor~~ for the order by mail to the financial institution and to any affected person. The financial institution or any person so served may, within 30 days ~~of~~ after service on the financial institution, request that a hearing be held by the Commissioner. If no hearing is requested, the proposed order shall become final 30 days after service on the financial institution. The provisions of 3 V.S.A. chapter 25 shall govern any hearing held by the Commissioner under this section. An appeal under this section shall be filed within 30 days ~~of~~ after the date of the Commissioner's decision and shall be to the Washington Superior Court.

* * *

(d) The hearing on a removal order shall be private unless the Commissioner determines that a public hearing is necessary to protect the public interest. If it is deemed necessary to ~~assure~~ ensure the continued safety and soundness of the financial institution, the Commissioner may order an immediate suspension of any person pending completion of further administrative proceedings on his or her removal.

* * *

Sec. 287. 8 V.S.A. § 11602(a)(1) is amended to read:

(1) maintain its accounts in accordance with such ~~regulations~~ rules as he or she may prescribe having regard to the size of the organization;

Sec. 288. 8 V.S.A. § 12103(e) is amended to read:

(e) When the entire paid-in capital of a financial institution has been received by the financial institution, a complete list of the investors with the name and post office address of each and the portion of ownership interest held by each shall be filed with the Commissioner, who shall ~~thereupon~~ cause an examination to be made. If, after the examination, it appears to the Commissioner that the required capital has been paid in, the Commissioner shall issue a certificate under seal authorizing the financial institution to commence business, and this certificate shall be filed with the Secretary of State. A financial institution shall not commence business until that certificate is issued and filed. In the case of a violation of this provision, the officers and directors assenting ~~thereto~~ to the activity shall be personally liable for all debts incurred before the certificate is issued and filed.

Sec. 289. 8 V.S.A. § 12301(a) is amended to read:

(a) The governing body of a Vermont financial institution shall direct and require good and sufficient fidelity bonds on all active officers, employees, and agents, whether or not they draw salary or compensation, which bonds shall

provide for indemnity to the financial institution on account of any losses sustained by it as the result of any dishonest or fraudulent act committed or any omission by them acting independently or in collusion or combination with any person or persons. The bonds may be in individual, schedule, or blanket form, and the premiums ~~therefor~~ shall be paid by the financial institution.

Sec. 290. 8 V.S.A. § 12603(b) is amended to read:

(b) A merchant bank may not solicit, receive, or accept money or its equivalent on deposit as a regular business within the meaning of subdivision 11101(11) of this title or engage in deposit-like activities as determined by the Commissioner. A merchant bank may deposit cash, whether constituting principal or income, in any financial institution, whether within or ~~without~~ outside this State, if the account is held either in the name of the customer to which the cash belongs or in the name of the merchant bank and is composed entirely of cash belonging to the customer, the respective contributions of which are reflected in the books and records of the merchant bank.

Sec. 291. 8 V.S.A. § 13106(b) is amended to read:

(b) Upon completion of the examination, and if it appears to the Commissioner that the whole of the required capital deposits has been paid in, the Commissioner shall issue a certificate under seal authorizing the financial institution to commence business, and this certificate shall be filed with the Secretary of State. In the case of a violation of this provision, the officers and

directors assenting ~~thereto~~ to the activity shall be personally liable for all debts incurred before the certificate is issued and filed. Such certificate shall be conclusive of the facts stated ~~therein~~ in the certificate and it shall be unlawful for any such mutual or cooperative financial institution to begin transacting business until such a certificate has been granted.

Sec. 292. 8 V.S.A. § 14102(e) is amended to read:

(e) A Vermont financial institution shall have the power to join the Federal Reserve System or any cooperative league or other entity organized for the purpose of protecting and promoting the welfare of financial institutions and their depositors; and to comply with all conditions of membership ~~therein~~. A Vermont financial institution ~~which~~ that is a member of the Federal Reserve Bank is by this subsection vested with all powers conferred upon member banks of the federal reserve system by the terms of the Federal Reserve Act as fully and completely as if those powers were specifically enumerated and described in this subsection, and all those powers shall be exercised subject to all restrictions and limitations imposed by the Federal Reserve Act or by regulations of the Federal Reserve Board made pursuant ~~thereto~~ to the Act. A member financial institution under this subsection shall continue to be subject to the supervision and examinations required by the laws of this State, except that the Federal Reserve Board and the Federal Deposit Insurance Corporation shall have the right, if deemed necessary, to make examinations. The

authorities of this State having supervision over the financial institution may disclose to the Federal Reserve Board or to the Federal Deposit Insurance Corporation or to their duly appointed examiners, all information in reference to the affairs of any financial institution which has become or desires to become a member.

Sec. 293. 8 V.S.A. § 14108(b) is amended to read:

(b) Notwithstanding subsection (a) of this section, the commissioner may waive the deposit concentration limit set forth in subsection (a) of this section if the commissioner determines that any financial institution to be merged, consolidated, or acquired is not adequately capitalized, or is subject to a conservation, receivership, or dissolution order under this title or applicable federal law, and the waiver is otherwise in the best ~~interest~~ interests of depositors.

Sec. 294. 8 V.S.A. § 14204(b) is amended to read:

(b) Evidence of joint deposit. The recital of the words “payable to either or to the survivor” or words of like effect in the order creating such account and signed by the person or persons who furnish the funds for such deposit shall be conclusive evidence, as between the payees and their legal representatives, of the creation of an absolute joint account. However, nothing ~~herein~~ in this section shall prevent the proof of fraud, undue influence, or incapacity; to defeat such joint interests.

Sec. 295. 8 V.S.A. § 14207(b) is amended to read:

(b) Litigated deposits; payment into Court; costs. The deposits ~~which that~~ are the subject of such action may remain with such financial institution upon the same interest as other deposits of like amount, until final judgment ~~therein~~ in the action, and the same shall be paid by such financial institution in accordance with the order of the Court, or the deposits may be paid into Court to await the final determination of the action. When so paid into Court, the financial institution shall no longer be a party to such action, and its liability for such deposit shall cease. The costs in such action shall be in the discretion of the Court and may be charged upon the fund affected ~~thereby~~ by the action.

Sec. 296. 8 V.S.A. § 14212 is amended to read:

§ 14212. JOINT FIDUCIARY ACCOUNTS

(a) Statement of purpose. The purpose of this section is to create a new form of joint financial account ~~whereby~~ for which the account owner designates a fiduciary with authority to use monies in the account for the benefit and under the direction of the account owner, and to enable the account owner as well as law enforcement to enforce the terms of the declaration of intent.

* * *

(d) A disclosure statement must accompany a declaration of intent. The disclosure statement and declaration of intent shall be in ~~no~~ not less than 10-point type and in substantially the following form:

* * *

(2) Declaration of Intent:

DECLARATION OF INTENT FOR JOINT FIDUCIARY ACCOUNT

OWNER OF ACCOUNT

I/We _____, hereby open a Joint Fiduciary Account.

Following are my instructions to the fiduciary for how monies ~~which~~ that are deposited into this joint fiduciary account shall be used:

(Attach additional pages as necessary)

I/We hereby appoint _____ of _____

(town of residence) and _____ of _____ (town of residence)

to be the fiduciary(ies) on the

account, and acknowledge that I/we have received a copy of "Information

Concerning Joint Fiduciary Accounts".

Dated at _____, this _____ day of _____, 20____.

Signature of Owner of Account

Dated at _____, this _____ day of _____, 20____ .

_____ Signature of Owner of Account

WITNESSES

I declare that the owner(s) appear(s) to be of sound mind and free from duress at the time of signing this Declaration of Intent for a joint fiduciary account, and that the owner(s) affirmed that he and/or she is (are) aware of the nature of the document and is (are) signing it freely and voluntarily. I further declare that I am not a person named as a fiduciary.

Witness Signature _____ Dated: _____

Witness Address _____

Witness (Print Name) _____

Witness Signature _____ Dated: _____

Witness Address _____

Witness (Print Name) _____

FIDUCIARIES (Only one is required.)

I declare that I am willing to act as the fiduciary on the Joint Fiduciary Account of _____ (owner(s)). I have read the Declaration of Intent and agree to use the money in the account only for the purposes stated ~~therein~~ in the Declaration. I further agree to maintain accurate records of my

use of any monies in the account and to produce them upon request by the owner, by a legal representative of the owner, by a state agency, or by a court. I understand that my authority to act ceases when an owner changes the fiduciary, closes the account, or the last owner has died. I further acknowledge that I may be sued civilly if I intentionally or negligently fail to abide by the terms of the Declaration of Intent, or may be charged criminally if I intentionally fail to abide by its terms, or both. I acknowledge that I have received a copy of the Declaration of Intent.

Fiduciary (Print Name)

Fiduciary Address

_____ Date _____

Fiduciary Signature

If more than one:

Fiduciary (Print Name)

Fiduciary Address

_____ Date _____

Fiduciary Signature

For Financial Institution Use Only:

Financial Institution Name: _____ Account Number: _____

Address: _____

* * *

(f) All rights, title, interest, and claim to a joint fiduciary account, and any additions or accumulations ~~thereto~~ to the account, shall be the property of the owner of the account. An owner shall have authority to take all actions permitted by the terms and conditions of the account. The designation of a fiduciary shall not affect the title to funds in the account, and the owner shall not be considered to have made a gift to the fiduciary of all or any portion of the funds in the joint fiduciary account, or to any additions or accumulations ~~thereto~~ to the account. The fiduciary shall have no right of survivorship in the account unless such right is specifically provided for in the account title.

* * *

Sec. 297. 8 V.S.A. § 14301 is amended to read:

§ 14301. LOAN AUTHORITY

* * *

(d) Limitations. A Vermont financial institution may not make loans, derivative transactions, or extensions of credit outstanding at one time to a borrower in excess of 20 percent of its capital. Total loans, derivative transactions, or other extensions of credit in excess of 10 percent of capital

shall be approved by a majority of the governing body or the executive committee of that institution or organization.

(1) Loans, derivative transactions, or extensions of credit to one person will be attributed to another person and each person shall be deemed a borrower as follows:

* * *

(F) In the case of obligations of a corporation or limited liability company, the amount of a loan made to any other person to the extent that the proceeds of the loan directly or indirectly are to be:

* * *

(ii) used for the acquisition from the corporation or limited liability company of any equity interest ~~therein~~ in the corporation or company; and

* * *

(2) The following shall not be counted as indebtedness subject to the limitation of this subsection:

* * *

(D) Indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in warehouses or elevators with warehouse or elevator receipts attached, or goods released on trust receipts, when the value of the security is not less than 125

percent of the indebtedness and the financial institution's interest ~~therein~~ is insured against loss by insurance policies or certificates of insurance attached.

* * *

(H) Any portion of any indebtedness ~~which~~ that the ~~United States~~ U.S. government, or an agency or instrumentality of the United States unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest, including loans insured or guaranteed under the National Housing Act or the Servicemen's Readjustment Act of 1944, as amended.

* * *

Sec. 298. 8 V.S.A. § 14303 is amended to read:

§ 14303. BANK CREDIT CARDS

* * *

(c) Statements of account. Issuers of bank credit cards shall promptly furnish a statement of each cardholder's account as of the end of each monthly period, ~~(which need not be a calendar month),~~ in which there is any unpaid balance ~~thereunder~~ on the account, which statement shall include the following information, not necessarily in the order stated:

* * *

(d) Finance charges; annual fees; ATM fee.

(1) As to that part of an account balance ~~which~~ that shall result from cash advances, if any, the finance charge shall be applied to the average daily balance of the cash advances in the account for the billing period. An issuer of a bank credit card account may provide for an annual fee. Except for cash advances, no finance charge shall be imposed on items in the account for property, labor, and services purchased during the billing period to the extent that they are paid for not later than 25 days from the financial institution's billing date ~~therefor~~ for the item. No change in the terms of a bank credit card agreement which might require such credit cardholder to pay an annual fee shall take effect unless:

* * *

Sec. 299. 8 V.S.A. § 14408 is amended to read:

§ 14408. REGISTRATION AND SALE OF SECURITIES

A Vermont or state financial institution owning or holding stocks or other securities in any fiduciary capacity may cause the same to be registered in the name of a nominee. The word "nominee" shall be construed to include one or more natural persons, a partnership, a corporation, or similar entity. Any such securities jointly held in a fiduciary capacity by a financial institution and another, individual or corporate, may be registered in the name of a nominee mutually satisfactory to the co-fiduciaries. Any fiduciary acting jointly with a financial institution may authorize and direct the financial institution in writing

to register securities provided ~~herein~~ in this section. An individual or corporate fiduciary may deliver any such securities to a financial institution as custodian and may authorize and direct the financial institution in writing to register such securities in the name of a nominee. A financial institution having caused securities to be registered in the name of a nominee as provided ~~herein~~ in this section and wishing or being required by the terms of its fiduciary agreement to deliver them to one legally entitled thereto shall first cause them to be transferred into the name of the one to receive delivery. Sales of any such securities made by a financial institution under its fiduciary authority may be completed by delivery of the security, endorsed by the nominee without the necessity of transfer through a joint fiduciary, the trust-creator, or the beneficiary.

Sec. 300. 8 V.S.A. § 15202(b)(2) is amended to read:

(2) establishment of a branch; provided, however, that the law of the home state of any state financial institution or national financial institution proposing to establish one or more de novo branches in this State must expressly authorize, under conditions no more restrictive than those imposed by the laws of this State as determined by the Commissioner, the financial institution whose home state is this State to engage in interstate branch establishment of de novo branches in that state. A financial institution ~~which~~ that is not a Vermont financial institution and is establishing a branch in this

State shall file a copy of the branch application, with any amendments ~~thereto~~ to the application, with the Commissioner at the time the application is filed with any supervisory agency.

Sec. 301. 8 V.S.A. § 15301(c) is amended to read:

(c) Notice of subsequent change of control. Each state financial institution that has established and maintains a branch in this State pursuant to this chapter shall give at least 30 days' prior written notice or, in the case of an emergency transaction, such shorter notice as is consistent with applicable state or federal law, to the Commissioner of any merger, consolidation or other transaction that would cause a change of control with respect to such state financial institution or any bank holding company that controls such financial institution, with the result that an application would be required to be filed pursuant to the federal Change in Financial Institution Control Act of 1978, as amended, 12 U.S.C. § 1817(j), or the federal Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq., or the Home Owners Loan Act, 12 U.S.C. § 1467a, or any successor statutes ~~thereto~~.

Sec. 302. 8 V.S.A. § 17502 is amended to read:

§ 17502. ASSUMPTION OF LIABILITIES

(a) Assumption of liabilities. Subject to the approval of the Commissioner, any Vermont financial institution may, by contract, assume all or any part of the deposit and other liability of any other financial institution or financial

institutions and may accept in payment or part payment for the obligations so assumed, all or any part of the assets of the other financial institution; or may so accept in payment or part payment, the notes or other undertakings of the other financial institution, secured by a pledge to the assuming financial institution, or secured by any other lien or trust for its benefit, with respect to all or any part of the assets of the other financial institution or financial institutions, at least equal in value to the amount of the deposit liability assumed. Such contracts of assumption, notes, undertakings, liens, or trust agreements may be in any form approved by the Commissioner ~~which~~ that provides for equality of treatment of all depositors and for the full payment of all assumed deposits on demand. All depositors whose deposits are so assumed shall be notified by mail of the assumption and any depositor objecting ~~thereto~~ to the assumption within 60 days ~~of~~ after that notice shall be paid the full amount of the assumed deposit, with interest to the date of the objection, computed at the proportional part of the interest rate to be paid for that period by the Vermont financial institution on other deposits, or if no rate has been determined, at the rate for the interest period next preceding the notice, not to exceed the rate prescribed by the directors for the then current period, if a rate has been so prescribed for the period.

(b) Contracts for assumption of deposit liability. Contracts for the assumption of deposit liability may be entered into independently of merger of

financial institutions or as a part of any such merger, and the Commissioner may authorize under the provisions of chapter 205 of this title the assuming financial institution to establish a branch at any location at which the other financial institution might have conducted its business. However, such a contract shall not be valid unless the governing bodies of the signatory financial institutions have been authorized ~~in regard thereto~~ to act by a vote of the investors or mutual voters of the financial institutions. That authorization requires the affirmative vote, in the case of a mutual or cooperative financial institution, of a majority of the mutual voters, and in the case of an investor-owned financial institution, requires the vote provided in its organizational documents for amending the charter and in any event, at least the affirmative vote of a majority of the equity interests, as well as the affirmative vote of a majority of each class of equity interest present and voting at the meeting. All classes of equity interests may vote on the question whether or not the rights of any class to vote generally have been suspended under the terms of the charter by reason of nonpayment of dividends.

Sec. 303. 8 V.S.A. § 17601 is amended to read:

§ 17601. CHANGE IN CONTROL

* * *

(c) Any person seeking to obtain control of a Vermont financial institution or financial institution holding company controlling a Vermont financial

institution subsidiary shall be required to file an application with the Commissioner on a form prescribed by the Commissioner containing the following information:

(1) The name and address of each person by whom or on whose behalf the acquisition of control is to be effected, referred to in this section as the ~~hereinafter called~~ “acquiring party”), and:

* * *

(2) The source, nature, and amount of the consideration used or to be used in effecting the acquisition of control, a description of any transaction ~~wherein~~ in which funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender’s ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

* * *

(8) A description of the purchase of any equity interest during the 12 calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid ~~therefor~~.

* * *

Sec. 304. 8 V.S.A. § 18101 is amended to read:

§ 18101. EFFECT OF MERGER, SHARE EXCHANGE,

CONSOLIDATION, CONVERSION, OR ACQUISITION

* * *

(c) Effect on judicial proceedings. All pending actions and other judicial proceedings to which the participating or converting institution is a party shall not be deemed to have been abated or to have been discontinued by reason of such merger, consolidation, conversion, or acquisition, but may be prosecuted to final judgment, order, or decree in the same manner as if such merger, consolidation, conversion, or acquisition had not been taken; and such institution resulting from such merger, consolidation, conversion, or acquisition may continue such action in its new name, and any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the participating or converting institution ~~theretofore~~ involved in such judicial proceedings.

* * *

(g) Disposal of property and assets. The resulting financial institution shall have the right to use, control, sell, or dispose of all real and personal estate, rights, or interests of the merged financial institutions and convey the same by deed, assignment, endorsement, contract, or other conveyance, either in its own name, or in the name of any merged financial institutions as ~~hereinafter~~

provided in this section, or in the names of both, as fully and effectively as the merged financial institutions could have done; and may maintain suit in its own name or in the name of any such financial institution, as provided in this subchapter, or in the names of both, to foreclose or recover any title, right, demand, or claim, appertaining to the merged financial institutions. To this end and except as provided in the contract of merger, the corporate existence of each of the merged financial institutions shall be deemed and treated as having continued each separably and distinguishably; for all purposes necessary or convenient to liquidate the assets of any merged financial institutions. Any receipt; assignment; endorsement; transfer; option; contract to sell, convey, or exchange; compromise; acquittance; and release may be executed in its name or in the name of the resulting financial institutions, or both. Any other thing may be done in either or both of these names ~~which~~ that may be necessary or proper for the reduction to cash of any assets of a foreclosure of any rights or titles or the doing of any other acts or things appropriate to the winding up of the affairs of the merging organization as a separate entity. Those contracts and agreements shall be executed and those acts shall be done under the control of the directors of the resulting organization.

Sec. 305. 8 V.S.A. § 19103 is amended to read:

§ 19103. BUSINESS RESTRICTED

During holidays and subject to the provisions of the proclamation, the Commissioner, in addition to all other powers conferred by law, may order any Vermont financial institution to restrict all or any part of its business, and to limit or postpone for any length of time the payment of any amount or proportion of the deposits in savings, commercial, or any other department ~~thereof~~ of the institution, separate and distinct from the other, as the Commissioner may deem necessary or expedient and may regulate further payments ~~therefrom~~ as to time and amount, as the interest of the public or the financial institution or the depositors thereof may require.

Sec. 306. 8 V.S.A. § 19107 is amended to read:

§ 19107. PUBLICATION OF ORDERS

Orders under sections 19103 through 19106 of this title may be ~~promulgated~~ issued and notice thereof given in such manner as the Commissioner determines and may be amended, modified, changed, expanded, or revoked in whole or in part whenever in his or her judgment circumstances warrant or require.

Sec. 307. 8 V.S.A. § 19204 is amended to read:

§ 19204. RIGHTS OF INTERESTED PARTIES

During the time the conservator remains in possession of the Vermont financial institution, the rights of all parties with respect ~~thereto~~ to the institution, subject to the provisions of law, shall be the same as if a receiver had been appointed therefor.

Sec. 308. 8 V.S.A. § 19207 is amended to read:

§ 19207. WITHDRAWALS

While the financial institution is in the hands of the conservator appointed by the Commissioner, the Commissioner may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a rateable basis, such amounts as in the opinion of the Commissioner may safely be used for this purpose. The conservator may borrow money on the assets of the financial institution to provide funds ~~therefor~~ for the purposes specified in this section.

Sec. 309. 8 V.S.A. § 19301 is amended to read:

§ 19301. APPLICATION FOR RECEIVER; PETITION TO DIVIDE
LOSSES

If the Commissioner ascertains ~~in any manner~~ that a Vermont financial institution is insolvent or that it is unsafe for it to continue to transact business, the Commissioner shall apply to the Superior Court of Washington County for

the appointment of a receiver; unless, in case of a mutual or cooperative financial institution, the Commissioner deems it advisable to join with the governing body in a petition to divide the losses among the depositors as ~~hereinafter~~ provided in this subchapter.

Sec. 310. 8 V.S.A. § 19302 is amended to read:

§ 19302. APPOINTMENT OF RECEIVER; NOTICE AND HEARING

The Court shall ~~thereupon~~ issue a notice to the treasurer and executive officer of such Vermont financial institution to appear at a time and place ~~therein~~ named in the notice and show cause why a receiver should not be appointed. If sufficient cause is not shown, the Court shall appoint a receiver to take charge of the property and effects of the financial institution, who shall be subject to the Superior Court.

Sec. 311. 8 V.S.A. § 19308 is amended to read:

§ 19308. ORDER

When on hearing and after such reasonable notice as the Superior judge may direct, any order as to a lien upon assets of a closed Vermont financial institution or of subrogation to the rights of depositors ~~therein shall have been~~ in the institution made by ~~such Superior~~ the judge under the authority of sections 19304 through 19307 of this title, and provided no objections ~~thereto~~ ~~shall~~ have been filed within ~~ten~~ 10 days after the making of the order, the ~~same~~

order shall be binding and effective to the extent necessary to secure the repayment of moneys ~~which shall have been advanced thereon.~~

Sec. 312. 8 V.S.A. § 19313 is amended to read:

§ 19313. AUTHORITY OF COURT TO ENFORCE COMMISSIONER'S
ORDER

The Court shall ~~thereupon~~ issue a notice to the treasurer and president of such financial institution and to any officer who is alleged in such petition to have failed to proceed in conformity with the requirements of law; to appear at a time and place named ~~therein~~ in the notice and show cause why an injunction or proper remedial order should not be issued. If sufficient cause is not shown, the Court shall have power:

* * *

Sec. 313. 8 V.S.A. § 19315 is amended to read:

§ 19315. APPEAL

A person dissatisfied with an order or decree of the Superior judge in any proceeding arising under this chapter may ~~appeal therefrom~~ file an appeal as in other cases.

Sec. 314. 8 V.S.A. § 19403 is amended to read:

§ 19403. DEPOSITOR'S OBJECTION TO PLAN; RECEIVERSHIP

CONTINUED

If any of the depositors of the Vermont financial institution file written objections to the approval of the plan and refuse to consent ~~thereto~~ to the plan, the Court at the hearing may direct the receiver to set aside assets of each class of the receivership, in such amounts and character as the Court finds to be just and equitable. Upon such terms as may be just and equitable, the Court shall continue the receivership as to those assets and those depositors, and direct the receiver to turn over the remainder of the assets of the financial institution in his or her hands to the new or reorganized financial institution when directed so to do by the Commissioner, and discharge the receiver from further liability ~~in relation thereto~~.

Sec. 315. 8 V.S.A. § 19404 is amended to read:

§ 19404. DEPOSITS OF PUBLIC MONEY

If, in any financial institution referred to in section 19401 of this title, there are deposits of public money belonging to the State or any political subdivision ~~thereof~~ of the State, the State Treasurer, if the deposit belongs to the State, and the Treasurer of any political subdivision ~~thereof~~, by and with the consent of the governing body of the political subdivision to which any such deposit may belong, may join with other depositors of the financial institution in a plan for

the reopening or reorganizing ~~thereof~~ of the institution or the establishment of a new financial institution, or the restricting of the withdrawal of deposits and for that purpose may bind the State or political subdivision ~~thereof~~, after being ~~duly~~ authorized ~~so to do as herein provided~~, to limit withdrawals from that deposit over a period of time and in accordance with the plan as may have been agreed to by the other depositors of the financial institution joining in the plan.

Sec. 316. 8 V.S.A. § 19408 is amended to read:

§ 19408. PETITION DENIED; RECEIVER TO WIND UP AFFAIRS

If the petition is denied, the Commissioner shall apply for a receiver to wind up the affairs of the financial institution, as provided in sections 19301 through 19315 of this title. In that case, the deposits, if any, received after petition filed and the resulting assets ~~resulting therefrom~~ shall be administered separately from the other assets and liabilities, and those assets shall be distributed to the depositors by the receiver as soon as possible after his or her appointment and without deduction on account of the expense of the receivership except as provided in section 19407 of this title.

Sec. 317. 8 V.S.A. § 19501(c) is amended to read:

(c) If a person in the home state of the entity or the Federal Deposit Insurance Corporation is appointed receiver subsequent to the appointment of the Commissioner under subsections (a) and (b) of this section, the Commissioner shall notify the Superior Court. The Court may release the

Commissioner as receiver if the Court finds that the interests of Vermont customers or depositors of the entity are adequately protected in the proceedings in the home state of the entity. The Court may impose conditions on the entity to ~~assure~~ ensure protection of its Vermont customers or depositors.

Sec. 318. 8 V.S.A. § 20102 is amended to read:

§ 20102. PROCEDURE FOR ADOPTING A PLAN OF
REORGANIZATION

* * *

(b) Notice to Commissioner. A mutual or cooperative financial institution, having adopted a plan of reorganization in accordance with subsection (a) of this section, shall provide the Commissioner with 60 days' prior written notice of the proposed reorganization. The notice shall include the plan of reorganization, accompanied by certified copies of the votes of its governing body and mutual voters required by subsection (a) of this section, and such other relevant information as the Commissioner shall require. Unless the Commissioner, within such 60-day notice period, disapproves the proposed mutual holding company reorganization, or extends for another 30 days the period during which such disapproval may issue, the proposed reorganization shall be deemed approved and the mutual or cooperative financial institution providing such notice may proceed with the proposed reorganization. The

Commissioner may disapprove any proposed mutual holding company formation only if:

* * *

(c) Notice to depositors. After a mutual or cooperative financial institution has complied with the provisions of subsections (a) and (b) of this section, it shall give its depositors at least 60 days' prior written notice of the effective date of the reorganization. Such notice shall include a brief description of the plan of reorganization and a statement of the depositor's right to withdraw any amount deposited to his or her account without penalty. The form of such notice shall be approved by the Commissioner and shall be sent to each depositor by ~~first-class~~ first-class mail. Any depositor objecting to the reorganization within 60 days ~~of~~ after such notice may withdraw any amounts on deposit and shall be paid the full amount of the deposit, with interest to the date of payment computed at the rate established by the deposit agreement or, in the absence of an agreement, at the rate paid by the financial institution on other similar ~~interest-bearing~~ interest-bearing accounts. Any depositor who does not withdraw the amount deposited to his or her credit prior to the effective date of the reorganization shall be deemed to have assented to the reorganization.

Sec. 319. 8 V.S.A. § 30203 is amended to read:

§ 30203. RULES AND REGULATIONS

The Commissioner may adopt rules ~~and regulations~~ as may be necessary for the proper conduct of credit unions organized or operating under chapters 220–226 of this title.

Sec. 320. 8 V.S.A. § 30701 is amended to read:

§ 30701. ENFORCEMENT POWERS OF COMMISSIONER

* * *

(c)(1) Except as provided in subdivision (2) of this subsection, the Commissioner shall provide notice of any enforcement order proposed pursuant to this section and the grounds therefore by mail to the credit union and to any person named as a party to the enforcement proceeding. The credit union or any person so served may, within 30 days ~~of~~ after service on the credit union, request that the Commissioner hold a hearing. If no hearing is requested, the proposed order shall become final 30 days after service on the credit union or such person. The provisions of 3 V.S.A. chapter 25 and any applicable Department ~~regulations~~ rules shall govern any hearing held by the Commissioner under this section. An appeal under this section shall be filed within 30 days ~~of~~ after the date of the Commissioner's decision and shall be to the Washington Superior Court.

* * *

(d) The hearing on a removal order shall be private unless the Commissioner determines that a public hearing is necessary to protect the public interest. If the Commissioner deems it necessary to ~~assure~~ ensure the continued safety and soundness of the credit union, the Commissioner may, in his or her discretion, order an immediate suspension of any person pending completion of further administrative proceedings on his or her removal.

Sec. 321. 8 V.S.A. § 30702(a)(1) is amended to read:

(1) maintain its accounts in accordance with such ~~regulations~~ rules as the Commissioner may prescribe having regard to the size of the organization;

Sec. 322. 8 V.S.A. § 30901 is amended to read:

§ 30901. TAXATION

Any credit union organized under this or any other credit union statute and all shares and deposits ~~therein~~ in the credit union shall be exempt from all taxation imposed by this jurisdiction before or after the enactment of this section or any taxing authority within this jurisdiction, and no law ~~which~~ that taxes corporations in any form, or the shares or deposits thereof, or the accumulations thereon, shall apply to any credit union, except that any real property and any tangible personal property owned by any credit union shall be subject to taxation to the same extent as other similar property is taxed.

However, this exception shall not permit the imposition of any sales or use taxes on the credit union. The shares of any credit union shall not be subject to

transfer taxes, either when issued or when transferred from one member to another. The participation by a credit union in any government programs providing unemployment, Social Security, old age pension, or other benefits shall not be deemed a waiver of the taxation exemption hereby granted.

Sec. 323. 8 V.S.A. § 31101(a)(6) is amended to read:

(6) documents ~~which~~ that set forth the proposed credit union's organizational structure and business plan, including ~~but not limited to:~~

* * *

Sec. 324. 8 V.S.A. § 31106 is amended to read:

§ 31106. CERTIFICATE TO COMMENCE BUSINESS; INSURANCE;

BOND

* * *

(c) The certificate of authority to commence business shall be conclusive of the facts stated ~~therein~~ in the certificate, and it shall be unlawful for any credit union to begin transacting business until a certificate of authority to commence business has been granted.

* * *

(f) In the case of a violation of this provision, the officers and directors assenting ~~thereto~~ to the activity shall be personally liable for all debts incurred before the certificate is issued and filed.

Sec. 325. 8 V.S.A. § 31302(20) is amended to read:

(20) establish and maintain a system of internal controls consistent with applicable ~~laws and regulations~~ law.

Sec. 326. 8 V.S.A. § 31306(1)(2) is amended to read:

(2) impose the remedies available in subsection (m) of this section, provided any of the conditions specified ~~therein~~ in that subsection are present; and

Sec. 327. 8 V.S.A. § 31311(e) is amended to read:

(e) The supervisory committee shall have the power to suspend at any time, by a two-thirds' vote of its members at a meeting called for that purpose, any director, member of a governing-body-appointed committee, officer, or agent for cause. The suspension shall take effect immediately, and the Commissioner shall be notified promptly of such suspension. Not later than seven business days after the effective date of the suspension, the supervisory committee shall cause notice to be given to all members of the credit union of a special meeting of members to be held for the purpose of hearing the report of the supervisory committee regarding the suspension and voting on removal, provided such notice shall not be given if the person who is subject to suspension resigns. The special meeting shall be held ~~no~~ not more than 21 business days after the date of suspension. The membership of the credit union shall have the authority to accept or reject the report of the supervisory

committee. The supervisory committee shall take any related action ~~with~~
~~respect thereto~~ as the members deem necessary. If such action involves
removal, the credit union shall promptly notify the Commissioner of such
removal.

Sec. 328. 8 V.S.A. § 31401(a)(2)(D) is amended to read:

(D) notwithstanding any change in employment, occupation,
residence, or other condition initially controlling the eligibility for membership
in any credit union, any person properly admitted to membership in a credit
union who may continue membership ~~therein~~ during such person's lifetime.

Sec. 329. 8 V.S.A. § 31507 is amended to read:

§ 31507. STANDARDS

For purposes of this subchapter, in the absence of standards otherwise
prescribed by the Commissioner, a credit union shall follow the standards
established by the National Credit Union Administration (NCUA). In the
event standards ~~promulgated~~ established by the NCUA require the credit union
to accumulate or maintain accounts in an amount in excess of the standard
established by the Commissioner, the credit union shall accumulate and
maintain such accounts in a manner sufficient to satisfy the requirements of the
NCUA.

Sec. 330. 8 V.S.A. § 31701 is amended to read:

§ 31701. GENERAL APPLICATION

(a) Any corporate credit union chartered by the Commissioner shall be subject to such rules,~~regulations~~, and orders as the Commissioner deems appropriate and, except as otherwise specifically provided in such rules,~~regulations~~, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Vermont state-chartered credit unions.

(b) A corporate credit union shall be federally insured by the National Credit Union Administration (NCUA), or its successor, and shall be subject to such ~~rules~~, regulations, and orders as the NCUA or its successor deems appropriate. In the event ~~state~~ State laws or ~~regulations~~ rules are inconsistent with the regulations of the NCUA or its successor, the federal regulations will supersede.

Sec. 331. 8 V.S.A. § 31705 is amended to read:

§ 31705. POWERS

A corporate credit union shall enjoy the powers and privileges of any other credit union incorporated under this part in addition to those powers enumerated in this subchapter, notwithstanding any limitation or restrictions found elsewhere in this part. The Commissioner may adopt such rules ~~and~~ ~~regulations~~ concerning the establishment and operation of corporate credit

unions as he or she deems necessary and proper. Subject to such ~~regulations~~
rules, a corporate credit union may:

* * *

Sec. 332. 8 V.S.A. § 31706 is amended to read:

§ 31706. RESERVES

Each corporate credit union shall maintain such reserves and accounts as
required by the ~~rules and~~ regulations of the National Credit Union
Administration, or its successor, as amended from time to time.

Sec. 333. 8 V.S.A. § 32102 is amended to read:

§ 32102. GENERAL POWERS

(a) Subject to applicable ~~laws and regulations~~ law, a Vermont credit union
may exercise the following powers:

* * *

(17) assess fees and charges to members subject to applicable ~~laws and~~
~~regulations~~ law, for failure to meet promptly their obligations to the credit
union;

* * *

(19) subject to applicable ~~state~~ State and federal ~~laws and regulations~~
law, including applicable insurance laws, act as the agent for any fire, life,
accident, health, credit life, disability, or other insurance company, other than a
title insurance company, authorized by the State of Vermont, by soliciting and

selling insurance and collecting premiums on policies issued by such company; and receive for services so rendered such fees or commissions as may be agreed upon by the credit union and the insurance company for which it may act as agent; provided, however, that no such credit union shall in any case assume or guaranty the payment of any premium on insurance policies issued through its agency by its principal; and provided further that the credit union shall not guaranty the truth of any statement made by an insured in filing his or her application for insurance;

* * *

(c) Subject to the limitations of this part and other applicable ~~laws and regulations~~ law, a Vermont credit union may exercise the powers granted nonprofit corporations under Title 11B. In the event of any conflict between the provisions of Title 11B and this title, the provisions of this title ~~shall~~ govern.

Sec. 334. 8 V.S.A. § 32201(c) is amended to read:

(c) Cash reserve on deposits and accounts. A credit union shall maintain reserves on deposits or accounts as required from time to time by the Federal Reserve Act, as amended, and any regulations adopted ~~thereunder~~ pursuant to the Act.

Sec. 335. 8 V.S.A. § 32301 is amended to read:

§ 32301. LOAN AUTHORITY

* * *

(e) Limitations. The total direct or indirect liabilities of any one member, however incurred, to a credit union shall not exceed, at the time incurred, the greater of \$200.00 or ~~ten~~ 10 percent of the credit union's total assets.

(1) Loans or extensions of credit to one person will be attributed to another person, and each person shall be deemed a borrower as follows:

* * *

(F) In the case of obligations of a corporation or limited liability company, the amount of a loan made to any other person to the extent that the proceeds of the loan directly or indirectly are to be:

* * *

(ii) used for the acquisition from the corporation or limited liability company of any equity interest ~~therein~~ in the corporation or company; and

* * *

(2) The following shall not be counted as indebtedness subject to the limitation of this subsection:

* * *

(D) Indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in warehouses or elevators with warehouse or elevator receipts attached, or goods released on trust receipts, when the value of the security is not less than 125 percent of the indebtedness, and the financial institution's interest ~~therein~~ is insured against loss by insurance policies or certificates of insurance attached.

* * *

(H) Any portion of any indebtedness ~~which~~ that the ~~United States~~ U.S. government, or an agency or instrumentality of the United States, unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest, including loans insured or guaranteed under the National Housing Act or the Servicemen's Readjustment Act of 1944, as amended.

* * *

Sec. 336. 8 V.S.A. § 32302(b) is amended to read:

(b) Appraised value. The appraisal of real estate securing a real estate related transaction entered into by a credit union shall comply with Part 722 of the National Credit Union Administration ~~rules and~~ regulations, as amended from time to time.

Sec. 337. 8 V.S.A. § 32703(a)(3) is amended to read:

(3) preserve all of its books and records in accordance with ~~regulations~~
rules adopted by the Commissioner applicable to credit unions;

Sec. 338. 8 V.S.A. § 32711 is amended to read:

§ 32711. RULES AND REGULATIONS

The Commissioner may adopt such additional rules ~~and regulations~~
governing CUSOs as the Commissioner deems appropriate.

Sec. 339. 8 V.S.A. § 33102(b)(3) is amended to read:

(3) the credit union has a record of compliance with the requirements of
applicable ~~state~~ State and federal laws, ~~rules, and regulations~~ law; and

Sec. 340. 8 V.S.A. § 33103(e)(2) is amended to read:

(2) The state credit union has violated the laws of this State or lawful
rules, ~~regulations~~, or orders issued by the Commissioner.

Sec. 341. 8 V.S.A. § 34101(e)(2) is amended to read:

(2) Upon receipt of the items in subdivision (1) of this subsection and
evidence that the participating credit unions have complied with all applicable
~~federal laws, state laws, and regulations~~ State and federal law, the
Commissioner shall issue to the continuing credit union a certificate specifying
the name of each participating credit union and the name of the continuing
credit union. The continuing credit union shall file a copy of the certificate
with the Secretary of State for recording. This certificate is conclusive

evidence of the merger and of the correctness of all proceedings relating to the merger in all courts and places. The certificate may be filed in the appropriate land records offices to evidence the new name in which property of each participating credit union is to be held.

Sec. 342. 8 V.S.A. § 34103 is amended to read:

§ 34103. EFFECT OF MERGER OR CONVERSION

* * *

(c) Effect on judicial proceedings. All pending actions and other judicial proceedings to which the participating or converting credit union is a party shall not be deemed to have been abated or to have been discontinued by reason of such merger or conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if such merger or conversion had not been taken; and such credit union resulting from such merger or conversion may continue such action in its new name, and any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the participating or converting credit union ~~therefore~~ involved in such judicial proceedings.

* * *

(f) Disposal of property and assets. The continuing credit union shall have the right to use, control, sell, or dispose of all real and personal estate, rights, or interests of the merged credit unions and convey the same by deed,

assignment, endorsement, contract, or other conveyance, either in its own name or in the name of any merged credit unions as ~~hereinafter~~ provided in this section, or in the names of both, as fully and effectively as the merged credit unions could have done; and may maintain suit in its own name or in the name of any such credit union, as provided in this subchapter, or in the names of both, to foreclose or recover any title, right, demand, or claim appertaining to the merged credit unions. To this end and except as provided in the contract of merger, the existence of each of the merged credit unions shall be deemed and treated as having continued each separably and distinguishably for all purposes necessary or convenient to liquidate the assets of any merged credit unions. Any receipt, assignment, endorsement, transfer, option, compromise, acquittance, release, or contract to sell, convey, or exchange may be executed in its name or in the name of the continuing credit unions, or both. Any other thing may be done in either or both of these names ~~which~~ that may be necessary or proper for the reduction to cash of any assets of a foreclosure, of any rights or titles, or the doing of any other acts or things appropriate to the winding up of the affairs of the merging organization as a separate entity. Those contracts and agreements shall be executed, and those acts shall be done under the control of the directors of the continuing organization.

Sec. 343. 8 V.S.A. § 35101(k) is amended to read:

(k) ~~Regulations~~ Rules of the Commissioner. The Commissioner shall issue such ~~regulations~~ rules governing the conversion of a credit union organized under this chapter to a federal credit union and the conversion of a federal credit union to a credit union organized under this chapter as the Commissioner deems necessary or appropriate.

Sec. 344. 8 V.S.A. § 36101(b) is amended to read:

(b) Voluntary liquidation. At a meeting specially called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, if a copy of the notice was mailed to the members of the credit union at least ten days prior ~~thereto~~ to the meeting. Any member not present at the meeting may within the next 20 days vote in favor of dissolution by signing a statement in a form approved by the Commissioner, and the vote shall have the same force and effect as if cast at the meeting. The credit union shall thereupon immediately cease to do business except for the purposes of liquidation, and the chairperson of the governing body and secretary shall, within five days following the meeting, notify the Commissioner of the credit union's intention to liquidate and shall include in the notification a list of the names and addresses of the directors and officers of the credit union.

Sec. 345. 16 V.S.A. § 1707(a) is amended to read

(a) ~~Appeal.~~

(1) A party aggrieved by a final decision of a hearing panel may, within 30 days ~~of~~ after the decision, appeal that decision by filing a notice of appeal with the administrative officer of the hearing panel, who shall refer the case to the Director of the Office of Professional Regulation. The parties may agree to waive this review by written stipulation filed with the administrative officer of the hearing panel. The Director of the Office of Professional Regulation shall assign the case to an appellate officer, who shall conduct a review on the basis of the record created before the hearing panel and shall allow the presentation of evidence regarding alleged irregularities in hearing procedure not shown in the record.

* * *

Sec. 346. 18 V.S.A. § 251(5) is amended to read:

(5) “Health equity data” means demographic data, including, ~~but not limited to,~~ race, ethnicity, primary language, age, gender, socioeconomic position, sexual orientation, disability, homelessness, or geographic data that can be used to track health equity.

Sec. 347. 18 V.S.A. § 4803(b) is amended to read:

(b)~~(1)~~ Membership.

(1) The agenda of the Council shall be determined by an executive committee composed of the following members:

* * *

Sec. 348. 19 V.S.A. § 10b(c)(2)(A) is amended to read:

(2)(A) Consider the safety and accommodation of all transportation system users—, including motorists, bicyclists, public transportation users, and pedestrians of all ages and abilities—, in all State- and municipally managed transportation projects and project phases, including planning, development, construction, and maintenance, except in the case of projects or project components involving unpaved highways. If, after the consideration required under this subdivision, a State-managed project does not incorporate complete streets principles, the project manager shall make a written determination, supported by documentation and available for public inspection at the Agency, that one or more of the following circumstances exist:

Sec. 349. 19 V.S.A. § 10g(g)(2) is amended to read:

(2) all projects for which total estimated costs have increased by more than \$8,000,000.00 or by more than 100 percent from the estimate in the prior fiscal year's approved Transportation Program; and

Sec. 350. 19 V.S.A. § 10i(a) is amended to read:

(a) Long-range systems plan. The Agency shall establish and implement a planning process through the adoption of a long-range multi-modal systems plan integrating all modes of transportation. The long-range multi-modal systems plan shall be based upon Agency transportation policy developed under section 10b of this title; other policies approved by the General

Assembly; Agency goals, mission, and objectives, ~~and~~; demographic and travel forecasts; design standards; performance criteria; and funding availability. The long-range systems plan shall be developed with participation of the public and local and regional governmental entities and pursuant to the planning goals and processes set forth in 1988 Acts and Resolves No. 200. The plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b.

Sec. 351. 19 V.S.A. § 42(b)(1)(B) is amended to read:

(B) be modeled on the Federal Transit Administration's National Transit Database Program with such modifications as appropriate for the various services and guidance found in the most current State policy plan; and

Sec. 352. 19 V.S.A. § 704 is amended to read:

§ 704. SURVEY AND BOUNDARIES

When ~~selectmen accept, lay out, or alter~~ the selectboard accepts, lays out, or alters a highway, as provided in this chapter, ~~they~~ it shall cause a survey to be made in accordance with the provisions of section 33 of this title and shall mark each termination of the survey by a permanent monument or boundary or refer the termination or survey by course and distance, to some neighboring permanent monument. The survey shall describe the highway and the right-of-way by courses, distances, and width, and shall describe the monuments and boundaries.

Sec. 353. 19 V.S.A. § 710 is amended to read:

§ 710. SURVEY OR ORDER OF DISCONTINUANCE

After examining the premises and hearing any interested parties, and if the ~~selectmen judge~~ selectboard judges that the public good, necessity, and convenience of the inhabitants of the municipality require the highway to be laid out, altered, or reclassified as claimed in the petition, ~~they~~ it shall cause the highway to be surveyed in accordance with the provisions of section 33 of this title if the highway right-of-way cannot be determined and shall place suitable monuments to properly mark the bounds of the survey. If ~~they decide~~ the selectboard decides to discontinue a highway, the discontinuance shall be in writing setting forth a completed description of the highway.

Sec. 354. 19 V.S.A. § 713 is amended to read:

§ 713. TIME FOR VACATING LAND

When the ~~selectmen lay out or alter~~ the selectboard lays out or alters a highway, ~~they~~ it shall fix in ~~their~~ its order the time within which the owner of the lands taken shall remove ~~his or her~~ the owner's buildings, fences, timber, wood, or trees. Without the consent of the owner, the time shall not be less than two months; but if the lands taken have buildings, the time shall not be less than six months; nor, in either case, until compensation for damages is paid; if the sum fixed by the ~~selectmen~~ selectboard is accepted or damages are awarded by referees. Notice of the time when the removal shall be made shall

be given to the owner and included in the ~~selectmen's~~ selectboard's order. An appeal of the damages awarded shall not stay the work contemplated.

Sec. 355. 19 V.S.A. § 714 is amended to read:

§ 714. POSSESSION AFTER TIME EXPIRES

When a highway is laid out or altered, the ~~selectmen~~ selectboard may take possession of the land within the surveyed limits, at any time after the expiration of the time fixed by the ~~selectmen~~ selectboard unless appealed to the Superior Court for landowners to remove their buildings, fences, trees, timber, or wood. ~~They~~ The selectboard may remove obstructions, and open the lands for working and travel, if ~~they have~~ the selectboard previously paid or tendered to the landowners the damages awarded by ~~them~~ the selectboard or by the commissioners laying out or altering the highway. An appeal of the damages awarded shall not stay the work contemplated.

Sec. 356. 19 V.S.A. § 729 is amended to read:

§ 729. COMMISSIONERS; SELECTION

When the parties do not agree with any other method of appointing commissioners, the court may make a list of 18 disinterested ~~people~~ individuals. Each party may object to six on the list, and out of the number not objected to, the court shall select three for commissioners.

Sec. 357. 19 V.S.A. § 790 is amended to read:

§ 790. LAYING OUT HIGHWAY OR BRIDGE ON OR NEAR LINE
BETWEEN TWO TOWNS

The ~~selectmen~~ selectboards of two adjoining towns may, by agreement, lay out, reclassify, or discontinue a highway on the line between the towns, or erect a bridge over a stream between the towns, if a majority of the ~~selectmen~~ selectboard members of each town assent.

Sec. 358. 19 V.S.A. § 791 is amended to read:

§ 791. APPORTIONING EXPENSES

When a highway is or has been previously laid out on the line between the towns, ~~they~~ the towns may agree as to what part of the highway shall be built and repaired and what share of the damages paid by each town. When a bridge is so erected, ~~they~~ the towns may agree upon the proportion that each town shall pay towards making and keeping ~~it~~ the bridge in repair.

Sec. 359. 19 V.S.A. § 793 is amended to read:

§ 793. PROCEEDINGS BY ~~SELECTMEN~~ SELECTBOARDS

The ~~selectmen~~ selectboards shall proceed in the same manner as the ~~selectmen~~ selectboard of one town in laying out highways or building bridges. A copy of ~~their~~ the selectboards' findings shall be filed with the clerk of each town within six months from the time of final hearing on the application and ~~their~~ the selectboards' order and surveys shall be recorded in each town clerk's

office and ~~their~~ the selectboards' decision shall be binding on their respective towns.

Sec. 360. 19 V.S.A. § 794(b) is amended to read:

(b) When the ~~selectboard~~ selectboards of the towns are petitioned as provided in this chapter and do not lay out, alter, reclassify, or discontinue a highway on or near a line between two towns, individuals who are either voters or landowners, and whose number is at least five percent of the voters, of the towns may apply to the Superior Court. The court shall inquire and render judgment using the same proceedings as in the case of a highway extending into or through two or more towns. The court may inquire of and receive recommendations from a commissioner or commissioners, but the court shall issue the order. The court shall direct in its order which part of the highway each town shall make, ~~or~~ repair, or reclassify, and what damages shall be paid by each, if a highway is made or altered.

Sec. 361. 19 V.S.A. § 796 is amended to read:

§ 796. PETITION BY ~~SELECTMEN~~ SELECTBOARD

When a bridge is required between two towns and the ~~selectmen~~ selectboards of the towns do not agree to build it, the ~~selectmen~~ selectboard of either town may petition the Superior Court. The petition and citation shall be served on one or more ~~of the selectmen~~ selectboard members of the other town, and the same proceedings shall be had as though application had been

made by persons who are either voters or landowners; and whose number is at least five percent of the voters.

Sec. 362. 19 V.S.A. § 959 is amended to read:

§ 959. USE AND DISCONTINUANCE

The ~~selectmen~~ selectboard may fix the length of time and conditions of use for the right-of-way. ~~They~~ The selectboard may order ~~it~~ the right-of-way closed or discontinued when in ~~their~~ the selectboard's judgment it is necessary to do so.

Sec. 363. 19 V.S.A. § 1111(d)(2) is amended to read:

(2) reimbursement of the Agency by the permit applicant for the actual costs of the review, inspection, and engineering services provided by the Agency for these installations; and

Sec. 364. 19 V.S.A. § 1602(5) is amended to read:

(5) "Utility" means a privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power electricity, light, heat, gas, oil, crude products, water, steam, waste, stormwater not connected with the highway drainage, or any other similar commodity, including any fire or police signal system or highway lighting system, which directly or indirectly serves the public. The term "utility" also ~~shall mean~~ means the utility company inclusive of any wholly owned or controlled subsidiary.

Sec. 365. 19 V.S.A. § 1605(b)(1) is amended to read:

(1) relocation is required by construction or reconstruction of ~~limited~~
~~access~~ limited-access facilities; ~~or~~

Sec. 366. 19 V.S.A. § 1711(2) is amended to read:

(2) make a left turn, or a semicircular, or U-turn except through an
opening provided for the purpose in the dividing curb section, separation, or
line;

Sec. 367. 19 V.S.A. § 1903(b) is amended to read:

(b) When the entire section of an existing State highway, which is replaced
or to be replaced as contemplated by section 1901 of this title, is not in fact
ultimately acquired by the United States, and so much of the section as is not
so acquired is, in the judgment of the Board, no longer needed as a part of the
State highway system, the Board may relinquish control of that portion to the
town in which that portion is located. However, for the provisions of this
chapter, the Dwight D. Eisenhower National System of Interstate and Defense
Highways shall not be considered as a replacement for existing State
highways.

Sec. 368. 19 V.S.A. § 2101(5) is amended to read:

(5) "Moving expense" means the cost of dismantling, disconnecting,
crating, loading, insuring, temporary storage, transporting, unloading, and
reinstalling of personal property, exclusive of the cost of any additions,

improvements, alterations, or other physical changes in or to any structure in connection with effecting the reinstallation.

Sec. 369. 19 V.S.A. § 2305(1) is amended to read:

(1) may acquire, in accordance with the procedures of ~~19 V.S.A.~~ chapter 5 of this title or by gift, any real property or interest in real property that shall be necessary or appropriate for the development of bicycle routes; and

Sec. 370. 20 V.S.A. § 3(b)(2) is amended to read:

(2) maintain liaison and cooperation with emergency management agencies and organizations of the federal government, other states, and Canada; and

Sec. 371. 20 V.S.A. § 19 is redesignated to read:

§ 19. POWERS OUTSIDE ~~OF~~ TOWN OF APPOINTMENT

Sec. 372. 20 V.S.A. § 20(a) is amended to read:

(a) Except in the case of willful misconduct or gross negligence, the State; any of its agencies; State employees as defined in 3 V.S.A. § 1101; political subdivisions; local emergency planning committees; or an individual, partnership, association, or corporation involved in emergency management activities shall not be liable for the death of or any injury to persons or loss or damage to property resulting from an emergency management service or response activity, including the development of local emergency plans and the

response to those plans. Nothing in this section shall exclude the State, its agencies, political subdivisions, or employees from the protections and rights provided in 12 V.S.A. chapter 189.

Sec. 373. 20 V.S.A. § 24 is amended to read:

§ 24. PENALTIES

Any person violating any provision of this chapter or any rule, ~~or order, or~~ ~~regulation made~~ adopted pursuant to this chapter, which rule, ~~or order, or~~ ~~regulation~~ shall be filed with the Secretary of State, shall, upon conviction ~~thereof~~, be punishable by a fine not exceeding \$500.00 or imprisonment not exceeding six months, or both.

Sec. 374. 20 V.S.A. § 33(b)(5) is amended to read:

(5) ensure that response team personnel are organized, trained, and exercised in accordance with the standards set by the Fire Service Training Council and the State Emergency Response Commission; and

Sec. 375. 20 V.S.A. § 35 is amended to read:

§ 35. COMMUNITY DISASTER LOANS

Whenever, at the request of the Governor, the President has declared a “major disaster” to exist in this State, the Governor is authorized:

(1) upon ~~his or her~~ the Governor’s determination that a local government of the State will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to

perform its governmental functions, to apply to the federal government, on behalf of the local government, for a loan and to receive and disburse the proceeds of any approved loan to any applicant local government;

(2) to determine the amount needed by any applicant local government to restore or resume its governmental functions and to certify the same to the federal government; provided, however, that no application amount shall exceed 25 percent of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs; and

(3) to recommend to the federal government, based upon ~~his or her~~ the Governor's review, the cancellation of all or any part of repayment when, in the first three full fiscal year period following the major disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character.

Sec. 376. 20 V.S.A. § 39(c)(3) is amended to read:

(3) persons engaged in farming as defined in 10 V.S.A. § 6001; and

Sec. 377. 20 V.S.A. § 1543(3) is amended to read:

(3) unmarried widows or widowers of deceased ex-service personnel who served on active duty in the U.S. Armed Forces during any war, or in any campaign or expedition for which a campaign badge has been authorized, or

during the period specified in subdivision (5) of this section and who were separated from active duty under honorable conditions; ~~and~~

Sec. 378. 20 V.S.A. § 1544 is amended to read:

§ 1544. STATE PAY FOR MILITARY SERVICE

(a) Each enlisted ~~man and woman~~ individual in the ~~military or naval forces of the United States~~ U.S. Armed Forces subsequent to August 5, 1964 and not later than March 31, 1973, who resided in the State of Vermont at the time of ~~his or her~~ the individual's enlistment or induction into the ~~service of the United States~~ U.S. Armed Forces shall be entitled to receive from the State, in addition to the pay received from the federal government, the sum of \$10.00 for each month not exceeding a total of twelve months served in such forces. Payment may be made upon honorable discharge from service, or upon death in service, or upon honorable separation from active federal service; ~~and~~ and in the case of the death of the enlisted ~~man or woman~~ individual after discharge and prior to the receipt of payment, it shall be paid to ~~his or her~~ the individual's spouse; or, if there is no spouse living, to the next of kin who are lineal heirs.

(b) In case any enlisted ~~man or woman~~ individual dies while in service, ~~his or her~~ the individual's spouse; or, if there is no spouse living, the next of kin who are lineal heirs; shall be entitled to receive from the State the sum of \$120.00, except that if any claim is made under this section by a claimant other than a spouse or issue of the deceased, the claim shall not be paid for a period

of nine months after the decease of ~~such the~~ enlisted man or woman individual, and payment made by the State after ~~such nine months'~~ the nine-month period shall be in and constitute full compliance with this section.

(c) No person shall receive compensation from the State of Vermont under this section if ~~he or she~~ the individual enlisted with the ~~armed services~~ U.S. Armed Forces for a period of six months or less for the sole purpose of training.

(d) No person shall receive compensation from the State of Vermont for any service performed subsequent to ~~the date that the President or the Congress of the United States declares that the so-called Vietnam action has ceased~~ the end of the Vietnam era as set forth in 38 U.S.C. § 101, May 7, 1975.

Sec. 379. 20 V.S.A. § 1547 is amended to read:

§ 1547. PATRIOT'S MEDAL

(a) The Governor or the Governor's designee, at an appropriate time and place, shall present the Vermont Patriot's Medal and accompanying certificate to the families of Vermont residents killed in action while serving in the ~~armed forces~~ U.S. Armed Forces after February 28, 1961.

* * *

(c) The Governor or the Governor's designee, at an appropriate time and place, shall present the Vermont Patriot's Medal and accompanying certificate to the family of a Vermont resident member or nonresident member of the

Vermont National Guard or other reserve unit located in Vermont, who is killed in action while serving in the ~~armed forces~~ the U.S. Armed Forces after February 28, 1961.

Sec. 380. 20 V.S.A. § 1581(a) is amended to read:

(a) The Vermont Veterans' Memorial Cemetery Advisory Board is created to advise the Adjutant and Inspector General on all matters relating to the establishment and operation of a Vermont veterans' memorial cemetery to be known as the Vermont Veterans' Memorial Cemetery. The Board shall consist of:

(1) The Commissioner ~~of the Department~~ of Buildings and General Services, who shall serve as Chair of the Board.

* * *

Sec. 381. 20 V.S.A. § 1601 is amended to read:

§ 1601. AID TO NEEDY VETERANS

(a) The monies annually available for the purposes of this chapter, or ~~so much thereof as may be~~ the amount of those monies that is necessary, shall be expended under the supervision of the Vermont Office of Veterans' Affairs at the direction of the Adjutant and Inspector General. The Office of Veterans' Affairs shall disburse ~~such the~~ the funds, ~~or such part thereof as may be~~ necessary, in aiding, caring for, and educating needy veterans and needy persons who are legal dependents of veterans. The Office of Veterans' Affairs shall award

funds to applicants approved for assistance based on criteria approved by the Adjutant and Inspector General. Monetary assistance will be given only to applicants who would not be better served by other State, federal, or private assistance programs. The Adjutant and Inspector General shall determine conditions for eligibility and ~~will~~ shall ensure that the program is managed to the limit imposed by the available funding. The Office of Veterans' Affairs shall submit an annual report to the Adjutant and Inspector General on all fund activities at the end of each fiscal year. In addition, the Adjutant and Inspector General ~~will~~ shall review all fund expenditures at least once per fiscal year.

(b) The Office of Veterans' Affairs shall develop application and operating procedures for the fund, which must be approved by the Office of the Adjutant and Inspector General. Any deviation from the application and operating procedures shall be approved by the Adjutant and Inspector General. The application and operating procedures shall be available for review by applicants, service providers, and others that may have an interest in the fund.

Sec. 382. 20 V.S.A. § 1715(3) is amended to read:

(3) report to the Governor at least once annually on all matters concerning the Board and the Home; and

Sec. 383. 20 V.S.A. § 1720(1) is amended to read:

(1) supervise the engineering, construction, improvement, repair, alteration, demolition, and replacement of and addition to buildings, structures, and facilities of the ~~home~~ Home; and

Sec. 384. 20 V.S.A. § 1814 is amended to read:

§ 1814. COOPERATION GENERALLY

The Department shall cooperate and exchange information with any other department or authority of the State or with other police forces, both within and ~~without~~ outside this State, including federal authorities, for the purpose of preventing and detecting crime and apprehending criminals.

Sec. 385. 20 V.S.A. § 1871 is amended to read:

§ 1871. DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER

(a) Department of Public Safety. The Department of Public Safety, created by 3 V.S.A. § 212, shall include a Commissioner of Public Safety.

(b) Head of the Department. The head of the Department shall be the Commissioner of Public Safety, who shall be a citizen of the United States and shall be selected on the basis of training, experience, and qualifications. The Commissioner shall be appointed by the Governor, with the advice and consent of the Senate.

(c) Contract for security and traffic control. The Commissioner of Public Safety may contract for security and related traffic control, and receive

reimbursement for reasonable costs that shall include costs associated with providing personnel, benefits, equipment, vehicles, insurances, and related expenses. These reimbursements shall be credited to a special fund established pursuant to 32 V.S.A. chapter 7, subchapter 5, and be available to offset costs of providing those services.

(d) Collection of fees. The Commissioner of Public Safety shall collect fees for the termination of alarms at State Police facilities and for response to false alarms.

* * *

(g) Response ~~Terminations~~ terminations.

* * *

(2) When in the opinion of the station commander, with the concurrence ~~with~~ of the troop commander, there exists a chronic false alarm problem that the alarm holder appears not to have taken reasonable measures to correct, the station commander may send notification that the State Police will no longer respond to alarms at that location until the problem is corrected even if the alarm holder is not in default on fees assessed.

* * *

(i) Contract for dispatch functions. The Commissioner of Public Safety may enter into contractual arrangements to perform dispatching functions for State, municipal, or other emergency services.

(j) Charges collected. Charges collected under subsections (e), (f), and (i) of this section shall be credited to the Vermont Law Telecommunications Special Fund and shall be available to the Department to offset the costs of providing the services.

Sec. 386. 20 V.S.A. § 1883(a)(5) is amended to read:

(5) Providing for the Commissioner of Public Safety, with the approval of the Governor and in consultation with the Commissioners of Motor Vehicles, of Fish and Wildlife, and of Liquor and Lottery, to assume the role of lead coordinator of statewide law enforcement units in the event of elevated alerts, critical incidents, and ~~all-hazard~~ all-hazards events. The lead coordinator shall maintain control until in ~~his or her~~ the lead coordinator's judgment the event no longer requires coordinated action to ensure the public safety.

Sec. 387. 20 V.S.A. § 2059 is amended to read:

§ 2059. RELATIONSHIP TO DEPARTMENTS OF CORRECTIONS AND
OF MOTOR VEHICLES

This chapter shall not apply to traffic offenses or any provisions of Title 23, ~~3 V.S.A. § 3116a~~ 5 V.S.A. § 2001, or those sections of Title 32 that are administered by the Commissioner of Motor Vehicles. Notwithstanding any other provisions of this chapter, the Department of Corrections shall be only required to furnish statistical, identification, and status data, and the provisions

shall not extend to material related to case supervision or material of a confidential nature, such as presentence investigation, medical reports, or psychiatric reports.

Sec. 388. 20 V.S.A. § 2060 is amended to read:

§ 2060. RELEASE OF RECORDS

The Center is authorized to release records or information requested under 33 V.S.A. § ~~309~~ or 6914, 26 V.S.A. § 1353, 24 V.S.A. § 4010, or 16 V.S.A. chapter 5, subchapter 4.

Sec. 389. 20 V.S.A. § 2307(d) is amended to read:

(d) ~~Fees.~~

* * *

Sec. 390. 20 V.S.A. § 2358(b)(2)(B)(i)(XXII) is amended to read:

(XXII) 18 V.S.A. §§ 4230(a) and ~~4230d (cannabis possession)~~;

Sec. 391. 20 V.S.A. § 2482 is amended to read:

§ 2482. BODY CORPORATE; FIRST MEETING

The inhabitants of ~~such~~ the district shall be a body corporate. The first meeting shall be called by the selectboard in the manner provided for warning fire district meetings. The ~~first selectman,~~ selectboard chair or, in ~~his or her~~ the chair's absence, either of the others shall preside at such meeting.

Sec. 392. 20 V.S.A. § 2757 is amended to read:

§ 2757. CIGARETTES; REDUCED IGNITION PROPENSITY

(a) As used in this section:

* * *

(7) ~~“Stamping agent” means any stamping agent pursuant to 33 V.S.A. § 1916. [Repealed.]~~

* * *

(e) A manufacturer shall provide a copy of certifications to all licensed wholesale dealers ~~and stamping agents~~ to which the manufacturer sells cigarettes and shall provide sufficient copies of an illustration of the packaging marking approved and used by the manufacturer pursuant to subsection (d) of this section for each of the retail dealers that purchases cigarettes from any of those licensed wholesale dealers ~~and stamping agents~~. ~~Wholesale Licensed~~ wholesale dealers ~~and stamping agents~~ shall provide a copy of the illustration to all retail dealers to which they sell cigarettes. ~~Wholesale Licensed~~ wholesale dealers, ~~stamping agents~~, and retail dealers shall permit the Commissioner of Public Safety or the Commissioner of Liquor and Lottery or their designees to inspect markings on cigarette packaging at any time.

(f) The Commissioner:

(1) may adopt rules necessary to implement and administer this section;

(2) in consultation with the Commissioner of Liquor and Lottery, may adopt rules regarding the conduct of random inspections of licensed wholesale dealers, importers, and retail dealers, ~~and stamping agents~~ to ensure compliance with this section; and

* * *

Sec. 393. 20 V.S.A. § 2831 is amended to read:

§ 2831. INVESTIGATIONS

(a) The Fire Marshal and ~~his or her~~ the Fire Marshal's assistants are authorized to investigate the cause, origin, and circumstances of every fire within the State that causes injury to any person or that causes damage or loss of property in excess of \$200.00. The Fire Marshal and ~~his or her~~ the Fire Marshal's assistants shall make a special investigation of any fire of suspicious origin. In any investigation carried out by the Fire Marshal, ~~he or she~~ the Fire Marshal shall cooperate with the local fire department.

(b) The chief of a volunteer or paid fire department or ~~his or her~~ the chief's designee and, in towns lacking a fire department, the ~~first~~ selectboard ~~member,~~ chair shall investigate the cause, origin, and circumstances of every fire occurring in ~~his or her~~ the jurisdiction that causes injury to any person or that causes damage or loss of property in excess of \$200.00. ~~He or she~~ The chief or the selectboard chair may make a special investigation as to whether a fire was

the result of carelessness or accident and shall make a special investigation of any fire of suspicious origin.

Sec. 394. 20 V.S.A. § 2833(a) is amended to read:

(a) The chief of a volunteer or paid fire department or, if there is no fire department, the ~~first select person~~ selectboard chair of a town, shall within five days of the occurrence of a fire within ~~his or her~~ the jurisdiction that causes serious injury to any person or loss or damage to property that exceeds \$200.00 forward a report of the fire to the State Fire Marshal on forms provided by the Fire Marshal. If the reporting officer has reason to believe that a fire is of suspicious origin, ~~he or she~~ the officer shall report that fact to the State Fire Marshal immediately. No fee shall be paid or allowed any officer for rendering the report required by this subsection.

Sec. 395. 20 V.S.A. § 2992 is amended to read:

§ 2992. DEFINITION

The term “private fire department” includes fire protection organizations operated by industries, institutions, and establishments for self-protection and also nonprofit volunteer fire associations. Nothing contained in this subchapter shall be construed to interfere with the exclusive jurisdiction vested by law in the State Forester and ~~his or her~~ the State Forester’s subordinates over forest fires as provided in ~~10 V.S.A. § 1305 or 10 V.S.A. chapter 53, subchapter 4~~ 10 V.S.A. § 2603(d), 10 V.S.A. chapter 83, subchapters 4 and 7, or 10 V.S.A.

chapter 81, nor to affect the laws governing prevention or extinguishment of forest fires. Nothing contained in this subchapter shall be construed to interfere with general authorization vested by law in a chief engineer of a fire district or chief of a volunteer fire department to give outside aid as provided in sections 2674 and 2961 of this title.

Sec. 396. 20 V.S.A. § 3074 is amended to read:

§ 3074. APPEALS

Any person denied a license for failing to satisfy the requirements enumerated in subsection 3072(b) of this title or whose license is revoked may, within 15 days ~~of~~ after the date of the written denial of ~~his or her~~ the person's application, request a hearing before the Commissioner of Public Safety. The Commissioner of Public Safety shall record any evidence offered by or on behalf of the person seeking the license, and also shall record any evidence denying or revoking the license, and list findings of fact upon which a decision was based. In the event the license is again denied or its revocation continued for ~~any of the reasons~~ failure to satisfy the requirements enumerated in subsection 3072(b) of this title, an appeal may be taken to the appropriate Superior Court.

Sec. 397. 20 V.S.A. § 3075 is redesignated to read:

§ 3075. ~~RULES AND REGULATIONS~~

Sec. 398. 20 V.S.A. § 3133(a) is amended to read:

(a) Nothing in this subchapter shall be construed to prohibit the use of fireworks by railroads, other transportation agencies, or law enforcement officers for signal purposes or illumination; the sale or use of blank cartridges for a show or theatre, for signal or ceremonial purposes in athletics or sports, or for use by military organizations; the use of explosives for blasting or similar purposes; or the use of fireworks by farmers to control birds in crops.

Sec. 399. 20 V.S.A. § 3134 is amended to read:

§ 3134. SEIZURE

The State Fire Marshal, ~~his or her~~ the Fire Marshal's deputy, a State Police officer, a sheriff, a deputy sheriff, a police officer, or a constable may seize ~~such~~ articles held by a person in violation of this subchapter and hold the ~~same~~ articles subject to the order of the court taking jurisdiction of the offense.

Sec. 400. 20 V.S.A. § 3171 is amended to read:

§ 3171. DEFINITIONS

~~For purposes of~~ As used in this chapter:

* * *

(3) "Emergency personnel" means:

(A) firefighters as defined in subdivision 3151(3) of this title; and

(B) ~~ambulance service, emergency medical, first responder service,~~
personnel and volunteer personnel as defined in 24 V.S.A. § 2651.

* * *

Sec. 401. 20 V.S.A. § 3172(a) is amended to read:

(a) There is created the Emergency Personnel Survivors Benefit Review Board, which shall consist of the State Treasurer or designee, the Attorney General or designee, the ~~Executive Director~~ Chief Fire Service Training Officer of the Vermont Fire Service Training Council or designee, and one member of the public to represent the interests of emergency personnel appointed by the Governor for a term of two years. Survivors of emergency personnel, employed by or who volunteer for the State of Vermont, a county or municipality of the State, or a nonprofit entity that provides services in the State, who die in the line of duty or of an occupation-related illness may request the Board award a monetary benefit under section 3173 of this title. The Board shall be responsible for determining whether to award monetary benefits under section 3173. A decision to award monetary benefits shall be made by unanimous vote of the Board, and shall be made within 60 days after the receipt of all information necessary to enable the Board to determine eligibility. The Board may request any information necessary for the exercise of its duties under this section. Nothing in this section shall prevent the Board from initiating the investigation or determination of a claim before being requested by a survivor or employer of emergency personnel.

Sec. 402. 20 V.S.A. § 3173(b) is amended to read:

(b) The State Treasurer shall disburse from the ~~Trust~~ Special Fund established in section 3175 of this title the monetary benefit described in subsection (a) of this section and shall adopt necessary procedures for the disbursement of such funds.

Sec. 403. 20 V.S.A. § 3551 is amended to read:

§ 3551. SEARCH WARRANTS

An officer who has attempted to seize a domestic pet or wolf-hybrid under sections 3546, 3549, 3624, ~~3745~~, 3806, or 3807 of this chapter and has not been permitted to search for or take the animal, may apply to a judicial officer authorized to issue search warrants for a warrant to search the properties of the owner of the animal or any other property if the officer has reasonable cause to believe that the animal may be on it. If the judicial officer is satisfied that there is a reasonable cause to believe that the animal is on a property, the judicial officer shall issue a search warrant authorizing a law enforcement officer of the State of Vermont to search the property and premises for the animal within a specified period of time not to exceed 10 days and to seize the animal. The warrant shall be served between the hours of 6:00 a.m. and 10:00 p.m. unless the warrant directs that it may be served at any time. The judicial officer may, by appropriate provision in the warrant, and for

reasonable cause shown, authorize its execution at other times. The warrant shall designate the court to which it shall be returned.

Sec. 404. 20 V.S.A. § 3816(b)(2) is amended to read:

(2) gifts from private donors; and

Sec. 405. 20 V.S.A. § 4504(b)(7) is amended to read:

(7) the general nature of the assembly and the arrangements made to protect the public health and safety during the conduct of the assembly, including arrangements with respect to traffic direction, crowd control, and sanitation facilities; and

Sec. 406. 21 V.S.A. § 491 is amended to read:

§ 491. ABSENCE ON MILITARY SERVICE AND TRAINING;

EMPLOYMENT AND REEMPLOYMENT RIGHTS

(a)(1) Any ~~duly-qualified~~ member of the Reserve Components of the U.S. Armed Forces, of the Ready Reserve, or ~~an organized unit~~ of the Vermont National Guard or the National Guard of another state shall, when called to state or federal service, receive the same benefits, privileges, and protections in employment regardless of the activation authority or location of service.

(2)(A) Upon request, a ~~duly-qualified~~ member of the Reserve Components of the U.S. Armed Forces, of the Ready Reserve, or of the Vermont National Guard or the National Guard of another state shall be

entitled to a leave of absence to engage in military drill, training, or other temporary duty pursuant to state or federal military orders.

* * *

Sec. 407. 21 V.S.A. § 495i(b) is amended to read:

(b) An employer shall not:

(1) ~~Fail~~ fail or refuse to hire or recruit; ~~discharge;~~ or otherwise discriminate against an individual with respect to employment; ~~compensation;~~ or a term, condition, or privilege of employment because of the individual's credit report or credit history; ~~or~~

(2) ~~Inquire~~ inquire about an ~~applicant~~ applicant's or employee's credit report or credit history.

Sec. 408. 21 V.S.A. § 1329 is amended to read:

§ 1329. COLLECTION OF UNPAID CONTRIBUTIONS; SUIT

(a)(1) If any employer fails to make, when due, any contributions or payments required of ~~him or her~~ the employer under this chapter, the obligation shall carry interest at the rate of:

~~(A) one percent per month from due date if the due date is prior to July 31, 1983;~~

~~(B) two and one half percent per month from due date if the due date is subsequent to July 31, 1983 and on or prior to July 31, 1987;~~

~~(C)~~ one and one-half percent per month from the due date ~~if the due date is subsequent to July 31, 1987.~~

(2)(A) It shall be the duty of the Commissioner to collect the overdue obligations and interest. Interest ~~so~~ collected shall be paid into the Contingent Fund ~~provided in~~ established pursuant to section 1365 of this title. ~~Provided,~~ ~~that if~~

(B) If an employer has paid ~~such~~ the contributions or payments timely to another state through error, the Commissioner may waive ~~such~~ the interest. ~~Provided further, that the~~

(C) The Commissioner may waive all or a portion of ~~such~~ the interest ~~in any case in which, in the Commissioner's determination, if the Commissioner determines that~~ the untimeliness of the payment was not caused by fault, neglect, or bad faith on the part of the employer.

* * *

(f) The provisions of subsection (e) of this section shall not apply where an employer ~~by willful failure or refusal~~ intentionally fails or refuses to file a report with the Commissioner or to include in any report all wages that ~~he~~ the employer has paid, or otherwise ~~has attempted~~ attempts to avoid or reduce liability for the payment of contributions.

Sec. 409. 21 V.S.A. § 1338(i) is amended to read:

(i) ~~Income tax withholding.~~

* * *

Sec. 410. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

(1) For not more than 15 weeks nor less than six weeks immediately following the filing of a claim for benefits ~~(in addition to the~~ any applicable ~~waiting period)~~, as may be determined by the Commissioner according to the circumstances in each case, if the Commissioner finds that:

(A) ~~he or she~~ The individual has been discharged by ~~his or her~~ the individual's last employing unit for misconduct connected with ~~his or her~~ the individual's work; ~~or,~~

(B) ~~he or she~~ The individual was separated from ~~his or her~~ the individual's last employing unit because ~~he or she~~ the individual became unable to perform all or an essential part of ~~his or her~~ the individual's normal duties in ~~such~~ the employment without good cause attributable to ~~such~~ the employing unit because of the consequences that flow from ~~his or her~~ the individual's conviction ~~of~~ for a felony or misdemeanor or from an action or order of a judge or court in any criminal or civil matter. In the event a conviction or the action or order of any judge or court in any criminal or civil matter is rescinded or expunged, the individual may be eligible for benefits from the time the individual would have otherwise been eligible for benefits.

(2) For any week benefits are claimed, except as provided in subdivision ~~(a)~~(3) of this ~~section~~ subsection, until ~~he or she~~ the individual has presented evidence to the satisfaction of the Commissioner that ~~he or she~~ the individual has performed services in employment for a bona fide employer and has had earnings in excess of six times ~~his or her~~ the individual's weekly benefit amount if the Commissioner finds that ~~such~~ the individual is unemployed because:

(A) ~~He or she has~~ The individual left the employ of ~~his or her~~ the individual's last employing unit voluntarily without good cause attributable to ~~such~~ the employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if the individual left such employment to accompany a spouse who:

* * *

(B) ~~He or she~~ The individual has been discharged by ~~his or her~~ the individual's last employing unit for gross misconduct connected with ~~his or her~~ the individual's work. As used in this section, "gross misconduct" means conduct directly related to the employee's work performance that demonstrates a flagrant, wanton, and intentional disregard of the employer's business interest; and that has direct and significant impact upon the employer's business interest, including theft, fraud, intoxication, intentional serious

damage to property, intentional infliction of personal injury, any conduct that constitutes a felony, or repeated incidents after written warning of either unprovoked insubordination or public use of profanity. An individual shall not suffer more than one disqualification by reason of such separation.

(C) ~~He or she~~ The individual has failed, without good cause, either to apply for available, suitable work when ~~so~~ directed by the employment office or the Commissioner, or to accept suitable work when offered ~~him or her~~, or has during the course of a job interview for available employment made verbal statements that are either untrue, show an unreasonable lack of interest, or are calculated to preclude an offer of work or a directive being made, or to return to ~~his or her~~ the individual's customary self-employment, if any, when ~~so~~ directed by the Commissioner. An individual shall not suffer more than one disqualification for these causes.

(D) In determining whether or not any work or employment is suitable for an individual for purposes of this subdivision, the Commissioner shall consider the degree of risk involved to ~~his or her~~ the individual's health, safety, and morals, ~~his or her;~~ the individual's physical fitness and prior training, ~~his or her;~~ the individual's experience and prior earnings, ~~his or her;~~ the individual's length of unemployment and prospects for securing local work in ~~his or her~~ the individual's customary occupation; and the distance of the available work from ~~his or her~~ the individual's residence.

* * *

(F)(i) Notwithstanding any other provisions of this chapter, ~~no~~
~~otherwise eligible individual shall be denied benefits for any week because:~~

(I) ~~he or she~~ An otherwise eligible individual shall not be
denied benefits for any week if the individual is in training approved under
section 236(a)(1) of the Trade Act of 1974, 19 U.S.C. § 2296(a);

~~(H) nor shall such individual be denied benefits with respect to~~
~~any week in which he or she~~ or the individual is in ~~such~~ approved training by
reason of leaving work to enter ~~such~~ training, provided the work left is not
suitable employment, as defined in section 236(e) of the Trade Act of 1974,
19 U.S.C. § 2296(e); ~~or.~~

~~(H)(II)~~ An otherwise eligible individual shall not be denied
benefits for any week because of the application to any ~~such~~ week in approved
training of provisions in this law ~~or any federal unemployment insurance law~~
administered by ~~this agency~~ the Department, relating to availability for work,
active search for work, or refusal to accept work.

(ii) ~~Provided that, benefits~~ Benefits paid to an eligible claimant
regularly attending a training course approved under the Trade Act of 1974,
19 U.S.C. § 2296(e), following a refusal of work, or leaving of unsuitable
work, shall not be charged against the experience-rating record of any
employer, but shall be charged to the Fund.

* * *

(3) For not more than six weeks nor less than one week immediately following the filing of a claim for benefits (in addition to ~~the~~ any applicable waiting period), as may be determined by the Commissioner according to the circumstances in each case, if the Commissioner finds that ~~he or she~~ the individual has left the employ of ~~his or her~~ the individual's last employing unit, without good cause attributable to ~~such~~ the employing unit, because of a health condition, as certified by a health care provider, as defined in 18 V.S.A. § 9432(9), ~~which~~ that precludes the discharge of duties inherent in such employment.

(4) For any week with respect to which the Commissioner finds that ~~his or her~~ the individual's total or partial unemployment is due to a stoppage of work that exists because of a labor dispute at the factory, establishment, or other premises at which ~~he or she~~ the individual is or was last employed, provided that this subdivision shall not apply if:

* * *

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

* * *

(E)(i) A pension (~~which shall include a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic~~

~~payment~~) under a plan maintained or contributed to by a base period or chargeable employer, which shall include a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment. The weekly benefit amount payable to ~~such an~~ individual for ~~such the~~ week in which the individual receives remuneration from a pension, retirement or retired pay, annuity, or similar payment shall be reduced (, but not below zero):

* * *

(II) by no part of the pension if the entire contributions to the plan were provided by ~~such the~~ individual, or by the individual and an employer (, or any other person or organization); or

(III) by no part of the pension if the services performed by the individual during the base period (, or remuneration received for ~~such the~~ services), for ~~such the~~ employer did not affect the individual's eligibility for, or increase the amount of, ~~such the~~ pension, retirement or retired pay, annuity, or similar payment.

(ii) ~~Provided that if such~~ If the remuneration specified in this subdivision, (after applying the provisions of this subdivision), is less than the benefits that would otherwise be due under this chapter, ~~he or she~~ the individual shall be entitled to receive for ~~such the~~ week, if otherwise eligible, benefits reduced by the amount of ~~such the~~ remuneration (, after applying the provisions of this subdivision), and after rounding ~~such the~~ remuneration to the

next higher dollar, and the provisions of subdivision 1301(9) and sections 1338a and 1339 of this title do not apply.

* * *

(6) For any week with respect to which or a part of which ~~he or she~~ the individual has received or is seeking to receive unemployment benefits under an unemployment compensation law of another state or of the United States, provided that if the appropriate agency of ~~such~~ the other state or of the United States finally determines that ~~he or she~~ the individual is not entitled to ~~such~~ unemployment benefits, this disqualification shall not apply.

(b) In periods of “high level unemployment” an individual shall be disqualified for benefits for not more than 12 nor less than six consecutive weeks immediately following the filing of a claim for benefits, as may be determined by the Commissioner according to the circumstances, when it is found that ~~he or she~~ the individual would otherwise be disqualified under the provisions of subdivision (a)(2)(A) of this section, and except that the disqualification provided by this subdivision shall terminate if an individual has performed service in any employment as provided by subdivision (a)(2) of this section.

* * *

Sec. 411. 23 V.S.A. § 4(42)(A)(v) is amended to read:

(v) dealers, owners of motor vehicle auction sites, and automobile repair shop owners when engaged in the transportation of motor vehicles to and from their place of business for repair purposes; or

Sec. 412. 23 V.S.A. § 4(48) is amended to read:

(48) “License to operate a motor vehicle:” ~~Any~~ means any operator’s license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this State, including:

(A) any temporary license or learner’s permit;

(B) the privilege of any person to operate a motor vehicle whether or not such person holds a valid license; and

(C) any nonresident’s operating privilege.

Sec. 413. 23 V.S.A. § 115(b) is amended to read:

(b) Every identification card shall expire, unless earlier canceled, at 12:00 midnight on the eve of the fourth anniversary of the date of birth of the cardholder following the date of original issue, and may be renewed every four years upon payment of a \$24.00 fee. A renewed identification card shall expire, unless earlier canceled, at 12:00 midnight on the eve of the fourth anniversary of the date of birth of the cardholder following the expiration of the card being renewed. At least 30 days before an identification card will expire, the Commissioner shall mail first-class to the cardholder or send the

cardholder electronically an application to renew the identification card; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification. An individual born on February 29 shall, for the purposes of this section, be considered as born on March 1.

Sec. 414. 23 V.S.A. § 603(e)(2)(B) is amended to read:

(B) a valid consular identification document issued by the government of Mexico or of Guatemala or by any other government with comparable security standards and protocols, as determined by the Commissioner; and

Sec. 415. 23 V.S.A. § 704(4) is amended to read:

(4) have the equipment necessary to the giving of proper instruction in the operation of motor vehicles; and

Sec. 416. 23 V.S.A. § 941(d)(1) is amended to read:

(1) the liability insurer of the other motor vehicle is unable, because of its insolvency, to make payment with respect to the legal liability of its insured within the limits specified in its policy; ~~and~~

Sec. 417. 23 V.S.A. § 1009(c) is amended to read:

(c) The Traffic Committee may authorize the stopping of a school bus on a controlled-access highway to pick up or discharge passengers, except the Traffic Committee may only authorize the stopping of a school bus on the Dwight D. Eisenhower National System of Interstate and Defense Highways if,

after a traffic and engineering study, it determines that there is no viable alternative and that adequate safety, ~~both~~ for the passengers, school bus, and other highway users, can be maintained.

Sec. 418. 23 V.S.A. § 1042(b)(3) is amended to read:

(3) the length of the alternative route; and any increase in time made necessary by use of the alternative route; and

Sec. 419. 23 V.S.A. § 1259(f)(2) is amended to read:

(2) \$50.00 for a second violation; and

Sec. 420. 23 V.S.A. § 2015(a)(3) is amended to read:

(3) the date of purchase by the applicant, the name and address of the person from whom the vehicle was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements, and, if a new vehicle, the application shall be accompanied by a manufacturer's or importer's certificate of origin; and

Sec. 421. 23 V.S.A. § 3206(b)(1)(A) and (B) are amended to read:

(A) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; ~~and~~

(B) the operator brings the snowmobile to a complete stop before entering the traveled portion of the highway; ~~and~~

Sec. 422. 23 V.S.A. § 3206(b)(5)(A) is amended to read:

(A) the operator is the owner, or member of the immediate family of the owner or lessee of the land or private body of water; ~~or~~

Sec. 423. 23 V.S.A. § 3206(b)(8)(B)(iii) is amended to read

(iii) any person who is under the direct supervision of a certified snowmobile safety instructor; and

Sec. 424. 23 V.S.A. § 3302(17) is amended to read:

(17) “Vessel” means every description of watercraft, other than a seaplane on the water or a racing shell or rowing scull occupied exclusively by ~~persons~~ individuals over 12 years of age, used or capable of being used as a means of transportation on water.

Sec. 425. 23 V.S.A. § 3305(c)(1)(E) is amended to read:

(E) for the private business or pleasure use of the dealer and members of ~~his or her~~ the dealer’s immediate family residing in the same household; and

Sec. 426. 23 V.S.A. § 3305(c)(3)(A) is amended to read:

(A) for the registration and first number applied for, \$42.00; and

Sec. 427. 23 V.S.A. § 3307(a)(5) is amended to read:

(5) licensed, numbered, or otherwise registered under New Hampshire laws for operation on waters in that state, but only when it is operated on such parts of the Connecticut River and impoundments of the river as may lie in Vermont and only when and to the same extent as New Hampshire laws allow

motorboats licensed, numbered, or otherwise recognized by Vermont laws as being registered for lawful operation on waters within Vermont to be operated on such parts of the Connecticut River and impoundments of the river as may be in New Hampshire; or

Sec. 428. 23 V.S.A. § 3307a(e)(1) and (2) are amended to read:

(1) an individual ~~may~~ shall not operate the motorboat on the waters of the State; and

(2) the owner ~~may~~ shall not knowingly permit the motorboat to be operated on the waters of the State.

Sec. 429. 23 V.S.A. § 3317(e)(1) is amended to read:

(1) for a first offense, not less than \$200.00 nor more than \$750.00; and

Sec. 430. 23 V.S.A. § 3502(a)(2)(C) is amended to read:

(C) for official use by a federal, State, or municipal agency if the ATV is identified with the name or seal of the agency in a manner approved by the Commissioner; or

Sec. 431. 23 V.S.A. § 4103(4)(B)(iii) is amended to read:

(iii) equipment owned or operated by the U.S. Department of Defense, including the National Guard, and operated by ~~noncivilian~~ non-civilian personnel or by National Guard military technicians (civilians who are required to wear military uniforms) and ~~active-duty~~ active-duty U.S. Coast Guard personnel; and

Sec. 432. 23 V.S.A. § 4121(b)(1) is amended to read:

(1) is currently licensed, has experience operating a school bus, and has a good operating record; or

Sec. 433. 29 V.S.A. § 182(1) is amended to read:

(1) “Capitol Complex” means all of the land and buildings in the City of Montpelier, excluding so much of State Street as lies within the boundaries thereof, enclosed within the following described bounds: commencing at the juncture of Taylor Street, so-called, and north line of the Winooski River, thence northerly along the westerly line of Taylor Street, crossing State Street and continuing northerly along the westerly line of ~~the extension of Taylor Street~~ Governor Davis Avenue, crossing Court Street at an angle to the westerly line of Greenwood Terrace, thence continuing northerly along the westerly line of Greenwood Terrace to a point on a line extension of the southerly line of Mather Terrace, thence westerly along the aforesaid line extension to Mather Terrace, thence westerly along the southerly line of Mather Terrace and Terrace Street to the intersection of Terrace Street and the easterly line of Bailey Avenue, thence southerly along the easterly line of Bailey Avenue crossing State Street and continuing along the easterly line of Bailey Avenue extension to the Winooski River, thence easterly along the northerly line of the Winooski River to the point of the beginning.

Sec. 434. 30 V.S.A. § 218(e) is amended to read:

(e) Notwithstanding any other provisions of this section, the Commission, on its own motion or upon petition of any person, may issue an order approving a rate schedule, tariff, agreement, contract, or settlement that provides reduced rates for low-income electric utility consumers better to ~~assure~~ ensure affordability. As used in this subsection, “low-income electric utility consumer” means a customer who has a household income at or below 185 percent of the current federal poverty level. When considering whether to approve a rate schedule, tariff, agreement, contract, or settlement for low-income electric utility consumers, the Commission shall take into account the potential impact on, and cost-shifting to, other utility customers.

Sec. 435. 30 V.S.A. § 218d(o) is amended to read:

(o)(1) Notwithstanding subsections (a) and (n) of this section and sections 218, 225, 226, 227, and 229 of this title, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to offer innovative rates or services to their customers as pilot programs without obtaining prior approval from the Commission if the rate or service:

(A) is designed to satisfy the requirements of subdivision 8005(a)(3) of this title or to advance the goals of the State Comprehensive Energy Plan;

(B) has a duration of 18 months or less; and

(C) shall not result in:

(i) additions of more than two percent of the municipal company's or electric cooperative's net ~~asset~~ assets; or

(ii) an increase in the municipal company's or electric cooperative's overall cost-of-service by more than two percent.

Sec. 436. 32 V.S.A. § 5(b)(4)(B)(i) is amended to read:

(B)(~~i~~) Notification required.

(i) The receiving agency shall promptly notify the Secretary of Administration and Joint Fiscal Office of the source, value, and purpose of any items received under this subdivision; provided, however, that no notification is required for an item received under this subdivision with a value of less than \$1,500.00.

Sec. 437. 32 V.S.A. § 103 is amended to read:

§ 103. ACCOUNT WITH SUCCESSOR

If the Treasurer goes out of office, ~~he or she~~ the Treasurer shall exhibit to ~~his or her~~ the Treasurer's successor a true and particular account of the money received and paid out since the last examination of ~~his or her~~ the Treasurer's books and accounts as provided in section 801 of this title, and, within 10 days after ~~his or her~~ the Treasurer's successor is declared elected or is appointed, with ~~such~~ the successor and the Auditor, ~~he or she~~ the Treasurer shall adjust and strike the balance found against ~~him or her~~ the Treasurer within such time

as is prescribed by the Auditor, or be liable ~~therefor~~ for that balance to the State in a civil action.

Sec. 438. 32 V.S.A. § 164 is amended to read:

§ 164. CERTIFIED COPIES

The Auditor shall be a certifying officer, and a certified copy of a record or paper belonging to ~~his or her~~ the Auditor's Department or that is lodged there by law shall be admitted as evidence by the courts in any cause, civil or criminal. ~~He or she~~ The Auditor shall furnish copies of records or papers upon being paid the legal fees ~~therefor~~ for the copies by the person requesting the same copies.

Sec. 439. 32 V.S.A. § 202 is amended to read:

§ 202. DUTIES OF COMMISSIONER

In addition to the duties expressly set forth elsewhere by law, the Commissioner of Finance and Management through ~~his or her~~ the Commissioner's Department shall:

- (1) perform the following duties with respect to the budget:

* * *

(D) assist the Governor and, on request, the ~~Legislature~~ General Assembly on budget matters;

* * *

Sec. 440. 32 V.S.A. § 303 is amended to read:

§ 303. DELIVERY OF ESTIMATES AND STATEMENTS WHEN NO
GOVERNOR ELECTED BY POPULAR VOTE

In the event of no election of Governor by the voters at the November election, the Secretary of Administration shall deliver the statements and estimates ~~herein~~ provided for under this chapter to the person elected Governor by the General Assembly.

Sec. 441. 32 V.S.A. § 305 is amended to read:

§ 305. POWER TO REVISE ESTIMATES

In making up the budget, the Governor-elect shall have the power to revise, increase, decrease, or eliminate the sum estimated to be needed for or by each activity hereinbefore referred to and shall include in ~~his or her~~ the message dealing with the budget, as provided in section 306 of this title, the reasons for ~~his or her~~ the Governor-elect's action ~~thereon~~.

Sec. 442. 32 V.S.A. § 307(b) is amended to read:

(b) The budget shall also include in detail definite recommendations of the Governor relative to the amounts that should be appropriated to each of the activities ~~herein~~ referred to under this section. It shall also include definite recommendations of the Governor relative to the financing of the expenditures recommended and the appropriate amounts to be raised from ordinary revenue, direct taxes, bonds, or loans. The financing of the expenditures recommended,

as proposed by the Governor, shall not include the funds from the ~~budget stabilization trust fund~~ Budget Stabilization Reserve as established in section 308 of this title. With the budget, the Governor shall submit to the General Assembly such messages, statements, or supplemental data with reference to the same, as the Governor may deem expedient; however, budget documentation shall include to the extent possible the following:

* * *

Sec. 443. 32 V.S.A. § 308b(c)(2) is amended to read:

(2) A sub-account for Medicaid-related pressures related to caseload, utilization, changes in federal participation in existing human services programs, and settlement costs associated with managing the Global Commitment waiver. Any decrease in the amount of required reserves in subdivision (1) of this subsection shall first be reserved in the 27/53 Reserve under section 308e of this title in order to fund the current fiscal year obligation for the next year in which a 53rd week of Medicaid payments is due, next scheduled to occur in fiscal year 2022. The remainder shall result in an offsetting increase in the account for Medicaid-related pressures, as defined in this subdivision (2) ~~of this subsection~~. Any increase in the amount of required reserve in subdivision (1) of this subsection shall require a corresponding transfer from the funds reserved in this subdivision (2) ~~of this subsection~~, to the extent there are funds available.

Sec. 444. 32 V.S.A. § 308c(b) is amended to read:

(b) ~~Use of General Fund Balance Reserve.~~

(1) The General Assembly may specifically appropriate the use of up to 50 percent of the amounts added in the prior fiscal year from the General Fund Balance Reserve to fund unforeseen or emergency needs.

* * *

Sec. 445. 32 V.S.A. § 309(a)(4) is amended to read:

(4) The capital budget shall not include requests for debt financing of State agency operating expenses not directly related to a capital investment as required ~~hereinabove~~ under this subsection (a). The latter operating expenses shall be accounted for in the Governor's annual general operating budget request.

Sec. 446. 32 V.S.A. § 312(d) is amended to read:

(d) Every tax expenditure, as defined in subsection (a) of this section, in the tax expenditure report required by this section shall be accompanied in statute by a statutory purpose explaining the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. The statutory purpose shall appear as a separate subsection or subdivision in statute and shall bear the title "Statutory Purpose." Notwithstanding any other provision of law, a tax expenditure listed in the tax expenditure report that lacks a statutory purpose in statute shall not be implemented or enforced until a statutory purpose is

provided. The Department of Taxes shall notify the General Assembly when it has determined that a tax expenditure listed in the tax expenditure report lacks a statutory purpose, and the Department shall specify a date, ~~no~~ not later than one year after its determination, that it will cease implementation or enforcement of the tax expenditure.

Sec. 447. 32 V.S.A. § 434 is amended to read:

§ 434. INVESTMENT OF CERTAIN FUNDS

(a)(1) A Trust Investment Account is hereby created to maximize the earnings of individual funds by associating them together for common investment.

* * *

(3) The State Treasurer may invest and reinvest the funds in the account and hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. § 902. The Treasurer shall apply the same investment objectives and policies adopted by the Vermont State Employees' Retirement System, where appropriate, to the investment of funds in the Trust Investment Account.

* * *

(b) The State Treasurer may invest and reinvest the monies deposited into the Tobacco Litigation Settlement Fund established by section 435a of this title

and may hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. § 902.

Sec. 448. 32 V.S.A. § 435(b) is amended to read:

(b) The General Fund shall be composed of revenues from the following sources:

* * *

(3) ~~electrical energy tax levied pursuant to chapter 213 of this title;~~

[Repealed.]

* * *

(9) ~~revenues from the Racing Special Fund consistent with 31 V.S.A.~~

~~§ 630; [Repealed.]~~

* * *

Sec. 449. 32 V.S.A. § 436 is amended to read:

§ 436. INTERFUND BORROWING

Notwithstanding any provisions of law, the State Treasurer, with the approval of the Governor, may borrow from any funds ~~heretofore or hereafter~~ created by the ~~Legislature~~ General Assembly available amounts as ~~he or she~~ the Treasurer may determine to be necessary or desirable for the purpose of defraying the expenses of government, including the payment of notes issued for ~~such~~ these purposes. ~~Such borrowing~~ Borrowing may be only made twice

a year; first, during the period commencing 15 business days prior to the end of the State's fiscal year and ending 15 business days after the end of the State's fiscal year, and second, during the period commencing on December 10, or the preceding Friday if December 10 ~~shall fall~~ falls on a Saturday or Sunday, and ending on January 10 of the succeeding year. ~~No~~ Not later than the last day of the period during which the funds were borrowed, the State Treasurer shall transfer to any ~~such~~ fund from which ~~such~~ initial borrowing has been made an amount equal to ~~such~~ the borrowed amount, together with interest ~~thereon~~ at ~~such~~ the rate as the State Treasurer in ~~his or her~~ the Treasurer's sole discretion shall determine.

Sec. 450. 32 V.S.A. § 464 is amended to read:

§ 464. ITEMIZED STATEMENTS AND RECEIPTS REQUIRED

When required by the Commissioner of Finance and Management and before payment ~~therefor~~ is made by the State, all claimants for compensation for services rendered or expense incurred for the State shall furnish the Commissioner of Finance and Management itemized statements in ~~such~~ the form as the Commissioner of Finance and Management may from time to time prescribe and shall be verified by written declarations or, if specifically authorized by the Commissioner of Finance and Management, by electronic signature as defined at 9 V.S.A. § 271(9) that they are made under the pains

and penalties of perjury, and a person who willfully makes a false statement shall be guilty of perjury and be punished accordingly.

Sec. 451. 32 V.S.A. § 465 is amended to read:

§ 465. ONLY LAWFUL CLAIMS ALLOWED; WARRANTS

The Commissioner of Finance and Management shall allow only a valid and legal claim except as otherwise specifically directed. ~~He or she~~ The Commissioner shall issue ~~his or her~~ the warrant ~~conformably hereto pursuant to this section~~, and no other officer shall issue a warrant on the State Treasurer.

Sec. 452. 32 V.S.A. § 466 is amended to read:

§ 466. REQUISITIONS

(a) Upon requisition of an officer having authority to expend money for the payment of expenses chargeable to the State, with the approval of the Governor, the Commissioner of Finance and Management is authorized to issue ~~his or her~~ a warrant on the Treasurer for funds necessary for ~~such~~ the expenses. ~~Such advances~~ Advances shall not be made until ~~such~~ the officer files with the State Treasurer a good and sufficient bond, approved by the Governor and Commissioner of Finance and Management, to indemnify the State against all loss or shortage of sums so advanced. The expense of ~~such~~ the bond shall be paid by the State.

(b) The State Treasurer may advance funds for travel when the travel has been approved by the Governor or the Governor's delegated representatives.

The amounts to be advanced and the requirements for settlement will be determined by rules ~~and regulations established~~ adopted by the State Treasurer.

* * *

Sec. 453. 32 V.S.A. § 475 is amended to read:

§ 475. DISASTERS ON STATE PROPERTIES

The Commissioner of Finance and Management is hereby directed to issue ~~his or her~~ warrants, on certificate of the Attorney General that ~~he or she~~ the Attorney General has authorized the services or expenditures, in the following cases:

(1) to fire departments or municipalities maintaining the same, for services rendered by them in fighting fires, except forest fires, which are provided for in 10 V.S.A. §§ ~~1485, 1486, and 1487~~ 2643, or dealing with disasters on State-owned or -operated properties; and

(2) for services rendered and expenses incurred in operations directed at the recovery of bodies or persons lost or perished by reason of disasters or drowning.

Sec. 454. 32 V.S.A. § 503 is amended to read:

§ 503. PAYMENT OF MONIES INTO TREASURY

Quarterly and ~~often~~ more frequently if the Commissioner of Finance and Management so directs, Superior Court clerks and other collectors and

receivers of public money, ~~except justices,~~ shall pay all ~~such~~ money collected or held by them into the State Treasury.

Sec. 455. 32 V.S.A. § 508 is amended to read:

§ 508. RECEIPTS GIVEN BY STATE OFFICERS

State officers, except Superior Court clerks and Superior judges, and every person in the employ of the State under salary or per diem established by statute, receiving money belonging to or for the use of the State, shall give the person paying ~~such~~ the money a receipt ~~therefor~~ for payment in ~~such~~ the form as shall be prescribed by the State Treasurer.

Sec. 456. 32 V.S.A. § 605(a) is amended to read:

(a) The Governor shall, ~~no~~ not later than the third Tuesday of every annual legislative session, submit a consolidated Executive Branch fee report and request to the General Assembly, which shall accompany the Governor's annual budget report and request submitted to the General Assembly as required by section 306 of this title, except that the first fee report shall be submitted by October 1, 1996 to the House Committee on Ways and Means, the Senate Committee on Finance, and the House and Senate Committees on Government Operations. The first fee request shall be submitted during the 1997 session as provided ~~herein~~ under this section. The content of each annual report and request for fees concerning State agency public records maintained pursuant to 1 V.S.A. chapter 5, subchapter 3 shall be prepared by the Secretary

of State, who shall base all recommended fee amounts on “actual cost.” The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 457. 32 V.S.A. § 631(a)(8) is amended to read:

(8) enter into a written agreement or contract with an official of the State or its agent knowing the information contained ~~therein~~ in the agreement or contract is false;

Sec. 458. 32 V.S.A. § 633(c) is amended to read:

(c) If the Attorney General elects not to proceed with the action, the relator who initiated the action shall have the right to conduct the action. If the Attorney General so requests, ~~it~~ the Attorney General shall be served with copies of all pleadings filed in the action in accordance with the Rules of Civil Procedure and shall be supplied with copies of all deposition transcripts at the State’s expense. When a relator proceeds with the action, the court, without limiting the status and rights of the relator, may nevertheless permit the Attorney General to intervene at a later date upon a showing of good cause.

Sec. 459. 32 V.S.A. § 634 is amended to read:

§ 634. ALTERNATE REMEDIES AVAILABLE TO DETERMINE CIVIL
PENALTY

Notwithstanding sections 632 and 633 of this chapter, the Attorney General may elect to pursue ~~its~~ the Attorney General’s claim through any alternate

remedy available to the State under any other law or regulation, including any administrative proceeding to determine a civil monetary penalty. If any such alternate remedy is pursued in another proceeding, a relator shall have the same rights in such proceeding as said relator would have had if the action had continued under this section.

Sec. 460. 32 V.S.A. § 641(b) is amended to read:

(b) It is the intent of the ~~Legislature~~ General Assembly that in construing this chapter, the courts of this State will be guided by the construction of similar terms contained in the Federal False Claims Act, 31 U.S.C. §§ 3729–3733, as from time to time amended by the U.S. Congress and the courts of the United States.

Sec. 461. 32 V.S.A. § 642 is amended to read:

§ 642. CIVIL INVESTIGATIVE DEMANDS

* * *

(h) Oral examinations.

* * *

(4) Transcript of testimony. When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance that the

witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given ~~therefor~~.

* * *

(6) Furnishing or inspection of transcript by witness. Upon payment of reasonable charges ~~therefor~~, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness' testimony.

* * *

(k) Definitions. As used in this section:

* * *

(5) "Official use" means any use that is consistent with the law, and the ~~regulations~~ rules and policies of the Office of the Attorney General, including

use in connection with internal office memoranda and reports; communications between the office and a federal, State, or local government agency, or a contractor of a federal, State, or local government agency, undertaken in furtherance of an office investigation or prosecution of a case; interviews of any qui tam relator or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda, and briefs submitted to a court or other tribunal; and communications with government investigators, auditors, consultants, experts, the counsel of other parties, arbitrators, and mediators, concerning an investigation, case, or proceeding.

Sec. 462. 32 V.S.A. § 704(a) is amended to read:

(a) The General Assembly recognizes that acts of appropriations and their sources of funding reflect the priorities for expenditures of public funds enacted by the ~~Legislature~~ General Assembly and that major reductions or transfers, when required by reduced State revenues or other reasons, ought to be made whenever possible by an act of the ~~Legislature~~ General Assembly reflecting its revisions of those priorities. Nevertheless, the General Assembly also recognizes that when it is not in session, it may be necessary to reduce authorized appropriations and their sources of funding, and funds may need to be transferred, to maintain a balanced State budget. Under these limited circumstances, it is the intent of the General Assembly that appropriations may

be reduced and funds transferred when the General Assembly is not in session pursuant to the provisions of this section.

Sec. 463. 32 V.S.A. § 704a(a) is amended to read:

(a) The Governor and every other officer or employee of the Executive Branch shall faithfully execute the laws relating to appropriations so as to effectuate the intent of the ~~Legislature~~ General Assembly in enacting such laws, including the provisions of this chapter, the annual appropriations act, and any budget adjustment act.

Sec. 464. 32 V.S.A. § 932a(d) is amended to read:

(d) If a claim is approved under this section, the Commissioner of Finance and Management shall issue ~~his or her~~ a warrant for the amount of the award, the acceptance of which shall be a full discharge of all claims against the State arising out of the matters involved ~~therein~~ in the award. If the claim is disapproved, the person may proceed to file the claim under section 932 of this title.

Sec. 465. 32 V.S.A. § 933(c) is amended to read:

(c) Upon award of damages by the Small Claims Court, the Commissioner of Finance and Management shall issue a warrant for ~~such~~ the amount, the acceptance of which shall be a full discharge of all claims against the State arising out of the matters involved ~~therein~~ in the award.

Sec. 466. 32 V.S.A. § 951 is amended to read:

§ 951. APPLICABILITY

This subchapter shall apply to all bonds ~~hereafter~~ authorized by the ~~Legislature~~ General Assembly, provided that provisions in authorizing acts inconsistent ~~herewith~~ with this subchapter shall control, except as provided in section 957 of this title.

Sec. 467. 32 V.S.A. § 952 is amended to read:

§ 952. DENOMINATIONS; HOW ISSUED

The bonds may be issued at one time or in series from time to time, in any form permitted by law. Except for zero coupon bonds or capital appreciation bonds designated as such by the State Treasurer, with the approval of the Governor, each series shall be payable in substantially equal or diminishing amounts annually, the first of ~~such~~ the annual payments to be made not later than five years after the date of ~~such~~ the bonds and the last of the payments to be made not later than 20 years after the date. All bonds shall mature not later than 20 years after the date of ~~such~~ the bonds. The principal, interest, investment returns, and maturity value of ~~such~~ the bonds shall be payable in lawful money of the United States or of the country in which the bonds were sold and for ~~such~~ the payments the full faith and credit of the State are hereby pledged. ~~Such bonds~~ Bonds shall be signed by the State Treasurer or ~~his or her~~ the State Treasurer's deputy and countersigned by the manual or facsimile

signature of the Secretary of State or ~~his or her~~ the Secretary of State's deputy, and shall bear the Seal of the State or a facsimile ~~thereof~~ of the Seal of the State, and the interest coupons ~~thereon~~ on the bonds shall bear the facsimile signature of the State Treasurer. ~~Such bonds~~ Bonds shall be registered as provided by this subchapter. The date of issuance, place of payment, rate of interest (which may be fixed or variable) or the manner of determining ~~such~~ the rate of interest, original stated value, investment returns or manner of determining the same, maturity value, time of maturity, provisions with respect to redemption prior to maturity, at par or at a premium, sinking fund and reserve requirements, and other particulars as to the form of ~~such~~ the bonds, within the limitations mentioned ~~herein~~ under this section, shall be determined by the State Treasurer with the approval of the Governor as ~~he or she~~ the State Treasurer may deem for the best interests of the State. ~~Such bonds~~ Bonds shall contain on ~~the~~ their face ~~thereof~~ the statement that they are issued for the purposes mentioned in, under the authority of, and in conformity with the authorizing act, and that ~~the~~ their form and other particulars and details ~~thereof~~ have been duly determined by the State Treasurer, with the approval of the Governor; and ~~such~~ the statement shall be conclusive evidence of the liability of the State to any bona fide holder ~~thereof~~, and the bonds so issued shall be the lawful obligations of the State.

Sec. 468. 32 V.S.A. § 954 is amended to read:

§ 954. PROCEEDS

(a) The proceeds arising from the sale of ~~such~~ bonds, inclusive of any premiums, shall be applied to the purposes for which they were authorized, and ~~such~~ the purposes shall be considered to include the expenses of preparing, issuing, and marketing ~~such~~ the bonds and any notes issued under section 955 of this title, and amounts for reserves, but no purchasers of ~~such~~ the bonds shall be in any way bound to see to the proper application of the proceeds ~~thereof~~. The State Treasurer shall pay the interest on, principal of, investment return on, and maturity value of ~~such~~ the bonds and notes as the same fall due or accrue without further order or authority. The State Treasurer, with the approval of the Governor, may establish sinking funds, reserve funds, or other special funds of the State as ~~he or she~~ the State Treasurer may deem for the best interests of the State. To the extent not otherwise provided, the amount necessary each year to fulfill the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all ~~such~~ the bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of State government, and ~~such~~ the principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for ~~the~~ their

fulfillment ~~thereof~~ have been made shall be fulfilled from the applicable debt service fund.

* * *

(c) Notwithstanding any other provisions of law, the State Treasurer, with the approval of the Secretary of Administration, is hereby authorized to transfer to any authorized projects unspent proceeds derived from the sale of State bonds or notes previously issued for projects ~~heretofore~~ previously authorized, and the State Treasurer is hereby further authorized to issue bonds or notes of the State to replenish such transferred funds for application to the original authorized capital projects.

Sec. 469. 32 V.S.A. § 957 is amended to read:

§ 957. CONSOLIDATION

The bonds authorized by one or more acts of the ~~Legislature~~ General Assembly may in the discretion of the officers issuing the ~~same~~ bonds be combined upon their issue into one or more consolidated issues. The particular bonds of ~~such~~ the consolidated issue issued under each authority may but need not be designated by number or otherwise. The bonds of ~~such~~ the consolidated issues may be designated by ~~such~~ titles as may be deemed appropriate by ~~such~~ the officers (which shall be in substitution for any titles prescribed by the authorizing acts) and shall contain on ~~the~~ their face ~~thereof~~ the statement that they are issued for the purposes mentioned in, under the authority of, and in

conformity with the authorizing acts (instead of the statement prescribed above or in the authorizing act) and ~~such~~ the statement shall be conclusive evidence of the liability of the State to any bona fide holder ~~thereof~~, and the bonds so issued shall be the lawful obligations of the State.

Sec. 470. 32 V.S.A. § 958 is amended to read:

§ 958. EXPIRATION OF OFFICE

Any bonds or notes issued pursuant to this subchapter, if properly executed by the officers of the State in office on the date of the signing or on the date of imprinting of the facsimile signature, as the case may be, shall be valid and binding according to their terms, notwithstanding that before ~~the~~ their delivery ~~thereof~~ and payment ~~therefor~~, any or all ~~such~~ executing officers shall have for any reason ceased to hold office.

Sec. 471. 32 V.S.A. § 961 is amended to read:

§ 961. REFUNDING BONDS

(a) The State Treasurer, with the approval of the Governor, is hereby authorized to issue general obligation bonds in order to refund all or any portion of one or more issues of outstanding general obligation bonds at any time after the issuance of the bonds to be refunded. The State Treasurer, with the approval of the Governor, is authorized to refinance outstanding certificates of participation or outstanding long-term lease purchase agreements through the issuance of general obligation bonds or notes of the State of Vermont or

certificates of participation. To the extent available, any reduction in debt service coming from ~~such~~ the refunding shall be used to offset General Fund debt service in the fiscal year of ~~such~~ the reductions.

(b) The State Treasurer, prior to the issuance of refunding bonds, shall have authority to contract on behalf of the State with a bank or trust company authorized to do business in this State for the purpose of having ~~such~~ the bank or trust company act as the escrow agent of the proceeds, inclusive of any premium, from the sale of ~~such~~ the refunding bonds, together with all income derived from the investment of ~~such~~ the proceeds, and any other monies to be provided by the State to effectuate the refunding.

(c) The proceeds, inclusive of any premium, from the sale of refunding bonds, immediately upon receipt, shall be placed in escrow with the escrow agent in accordance with the escrow contract. That portion of ~~such~~ the proceeds ~~which shall be~~ required for the payment of the principal of and interest on or investment return or maturity value of the bonds to be refunded, including any redemption premiums, shall be irrevocably committed and pledged to ~~such~~ that purpose and the holders of ~~such~~ the bonds to be refunded shall have a lien upon ~~such~~ the monies and ~~the~~ investments ~~thereof~~ held by the escrow holder. The pledge and lien provided for in this subsection shall become valid and binding upon the issuance of the refunding bonds and the monies and investments held by the escrow agent shall immediately be subject

~~thereto~~ to the pledge and lien without any further act. ~~Such~~ The pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether ~~such~~ the parties have received notice ~~thereof~~. Neither the escrow contract, nor any other instrument relating to ~~such~~ the pledges and liens, need be filed or recorded.

(d) The refunding bonds authorized by this section shall be issued in accordance with the provisions of this chapter, provided that installments on ~~such~~ refunding bonds need not be payable in substantially equal or diminishing amounts and provided further that no notes may be issued in anticipation of the proceeds of ~~said~~ the refunding bonds.

* * *

Sec. 472. 32 V.S.A. § 981 is amended to read:

§ 981. F ORM OF BONDS OR NOTES

Notwithstanding any general or special law to the contrary, the State may issue bonds or notes in coupon form payable to the bearer, in registered form without coupons, or in book entry form. Bonds or notes other than those in book entry form shall be signed by the manual or facsimile signature of the State Treasurer or ~~his or her~~ the State Treasurer's deputy and countersigned by the manual or facsimile signature of the Secretary of State or ~~his or her~~ the Secretary of State's deputy, and the interest coupons ~~thereon~~ on the bonds or

notes, if any, shall bear the facsimile signature of the State Treasurer. The Seal of the State shall be affixed or imprinted on the bonds or notes. The date of issuance, place of payment, rate of interest (which may be fixed or variable) or manner of determining ~~such~~ the rate of interest, original stated value, investment returns or manner of determining the same, maturity value, time of maturity, provisions with respect to redemption prior to maturity, at par or at a premium, sinking fund and reserve requirements, and other particulars as to the form of ~~such~~ the bonds within the limitations mentioned ~~herein~~ under this section, shall be determined by the State Treasurer with the approval of the Governor as ~~he or she~~ the State Treasurer may deem for the best interests of the State.

Sec. 473. 32 V.S.A. § 983 is amended to read:

§ 983. CONFIDENTIAL REGISTRY

The books of registry held by the State Treasurer or other designated registrar shall be confidential and the information contained ~~therein~~ in the books of registry shall not be available to the public.

Sec. 474. 32 V.S.A. § 985 is amended to read:

§ 985. APPLICATION

This subchapter supersedes any existing general or special law of the State with respect to the matters contained ~~herein~~ under this subchapter as they apply

to bonds or notes issued by the State, but shall not diminish or restrict any powers ~~heretofore~~ previously granted by law.

Sec. 475. 32 V.S.A. § 994(a) is amended to read:

(a)~~(1)~~ Creation; composition.

(1) There is created a Private Activity Bond Advisory Committee, which shall consist of the following members:

(A) the State Treasurer or ~~his or her~~ designee;

(B) the Secretary of Administration or ~~his or her~~ designee;

(C) the Secretary of Commerce and Community Development or ~~his or her~~ designee;

(D) two members who shall be representatives of the public, appointed by the Governor.

* * *

Sec. 476. 32 V.S.A. § 995 is amended to read:

§ 995. AGREEMENTS FOR THE EXEMPTION OF INTEREST

(a) It is hereby found and determined that proposed amendments to the Internal Revenue Code of 1986, including, particularly, ~~Section 103 thereof~~ 26 U.S.C. § 103, and the relevant regulations of the U.S. Treasury Department ~~thereunder~~, require the State, municipal corporations, and agencies and instrumentalities thereof (~~hereinafter~~ collectively referred to as “Issuers”) to enter into agreements, make covenants with the holders of their respective

obligations, or take other actions as a condition to the noninclusion of interest on their respective obligations in gross income of recipients ~~thereof~~ for federal income tax purposes. It is hereby further found and determined that it is in the best interests of ~~such~~ the issuers to leave no ambiguity as to whether ~~such~~ the issuers have the authority to enter into such agreements, make ~~such~~ the covenants, or take ~~such~~ other actions.

(b) Issuers are hereby authorized and empowered to enter into any agreement, make any covenant, or take any other action required to assure that interest on their respective bonds is not included in gross income of the recipients ~~thereof~~ for federal income tax purposes.

(c) Notwithstanding the provisions of 24 V.S.A. §§ 4648 and 1753, ~~24 V.S.A. § 4648~~, and ~~32 V.S.A. § section~~ 954 of this title, or any other general, special, or local law to the contrary, issuers are hereby authorized to appropriate and pay to the U.S. Treasury Department, or any other agency of the United States, all or a portion of the income received by ~~such~~ the issuers from the investment or reinvestment of the proceeds of their respective bonds, in the amount and to the extent necessary to assure that interest on their respective bonds is not included in gross income of the recipients ~~thereof~~ for federal income tax purposes.

Sec. 477. 32 V.S.A. § 997 is amended to read:

§ 997. STATE COVENANT

To the extent that an issuer has entered into an agreement, covenanted, or acted to assure that interest on its obligations is not included in the gross income of the recipients ~~thereof~~ for federal income tax purposes pursuant to this chapter, the State will not limit or alter the power to perform ~~such~~ the agreement or covenant or take ~~such~~ action or in any way impair the rights and remedies of any ~~such~~ holders, until ~~such~~ the bonds, together with the interest ~~thereon~~ on the bonds, and all costs and expenses in connection with any action or proceeding by or on behalf of ~~such~~ the holders, are fully paid and discharged. Issuers are hereby authorized to include this pledge and agreement of the State in any agreement with the holders of their respective obligations.

Sec. 478. 32 V.S.A. § 1001 is amended to read:

§ 1001. CAPITAL DEBT AFFORDABILITY ADVISORY COMMITTEE

* * *

(b) Committee duties.

* * *

(2) The Committee shall conduct ongoing reviews of the amount and condition of bonds, notes, and other obligations of instrumentalities of the State for which the State has a contingent or limited liability or for which the ~~State Legislature~~ General Assembly is permitted to replenish reserve funds,

and, when deemed appropriate, recommend limits on the occurrence of such additional obligations to the Governor and to the General Assembly.

* * *

(c) Committee estimate of a prudent amount of net State tax-supported debt; affordability considerations. On or before September 30 of each year, the Committee shall submit to the Governor and the General Assembly the Committee's estimate of net State tax-supported debt that prudently may be authorized for the next fiscal year, together with a report explaining the basis for the estimate. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. In developing its annual estimate, and in preparing its annual report, the Committee shall consider:

* * *

(5) The principal amounts currently outstanding, and balances for the next fiscal year, and annually for the following nine fiscal years, of existing:

* * *

(B) any other long-term debt of instrumentalities of the State not secured by the full faith and credit of the State, or for which the ~~State~~ Legislature General Assembly is permitted to replenish reserve funds; and

* * *

Sec. 479. 32 V.S.A. § 1111 is amended to read:

§ 1111. EXEMPTION FROM LICENSING RENEWAL FEES; PERSONS 80
YEARS OF AGE AND ~~OVER~~ OR OLDER

* * *

Sec. 480. 32 V.S.A. § 1142(b) is amended to read:

(b) Probate judges shall be entitled to be paid by the State for their actual and necessary expenses under the rules ~~and regulations~~ pertaining to classified State employees. The compensation for the Probate judge of the Chittenden District shall be for full-time service.

Sec. 481. 32 V.S.A. § 1147 is amended to read:

§ 1147. COURTROOM EXPENSES

The expense of providing a suitable courtroom, without the county courthouse, including rent, heat, and light ~~therefor~~, with office furniture for the use of the court, shall be paid by the State if the contract for the same is approved by the Commissioner of Buildings and General Services.

Sec. 482. 32 V.S.A. § 1183(b) is amended to read:

(b) In settlement of their accounts, the Commissioner of Finance and Management shall allow the State's Attorneys the expense of printing briefs in cases in which the State's Attorney has represented the State and their necessary and actual expenses under the rules ~~and regulations~~ pertaining to classified State employees.

Sec. 483. 32 V.S.A. § 1261(a) is amended to read:

(a) Unless otherwise provided, all persons in the employ of the State when away from home and office on official duties shall be reimbursed for expenses necessarily incurred for travel, subsistence, postage, telephone, telegraph, express, and incidentals, which shall be paid out of the biennial appropriation made for the support of their respective departments. Nothing contained ~~herein~~ in this section shall authorize payment to an administrative official or employee, except the Governor, for travel between ~~his or her~~ the person's place of residence and office, or subsistence ~~thereat~~ at that place except for mileage reimbursement when an employee is called in and required to work at any time other than continuously into ~~his or her~~ the employee's normally scheduled shift. Compensation for subsistence, travel, and other expenses occurring while conducting business for the State shall be the subject of collective bargaining as defined in 3 V.S.A. § 904(a). Whenever it shall be necessary to effect the transfer of an employee of the State from one official station to another by direction of the head of a department, ~~said~~ the employee shall be reimbursed for ~~his or her~~ the employee's reasonable and necessary moving expenses actually incurred. However, the reasonableness of the expense shall be determined by the Commissioner of Human Resources and no ~~such~~ expense shall be allowed unless the transfer is made for the convenience of the State and in no event where it is effected for the convenience or at the

request of the employee. ~~Such~~ The expense, when allowed, shall be paid out of the biennial appropriation made for the support of the respective departments. When an administrative official or employee works out of ~~his or her~~ the official's or employee's home in the usual course of employment rather than out of an office, ~~he or she~~ the official or employee shall be reimbursed for expenses in the same manner as though ~~he or she~~ the official or employee were working out of an office, and for the purposes of this section, ~~his or her~~ the official's or employee's home shall be considered as ~~his or her~~ the official's or employee's office.

* * *

Sec. 484. 32 V.S.A. § 1266 is amended to read:

§ 1266. CLERICAL ASSISTANCE

Each department, board, or commission, unless otherwise specifically provided, is empowered to employ ~~such~~ assistance, clerical or otherwise, as the Governor deems necessary and, subject to ~~his or her~~ the Governor's approval, to fix the compensation to be paid ~~therefor~~ for the assistance.

Sec. 485. 32 V.S.A. § 1281 is amended to read:

§ 1281. ADJUSTMENTS TO COMPENSATION AND BENEFITS OF
EXECUTIVE AND JUDICIAL BRANCH EMPLOYEES

* * *

(b) During the first year of the legislative biennium, the ~~Legislature~~ General Assembly shall hear testimony from representatives of the Departments of Human Resources and of Finance and Management, the Office of the Defender General, the Court Administrator, and the collective bargaining representative before introducing a bill that increases funding for pay and benefits for employees of the Executive or Judicial Branches of the State of Vermont.

(c) Prior to the second year of the legislative biennium, if there are any requests to increase funding beyond what has already been agreed to as a result of the collective bargaining process, the request shall be presented to the Chairs of the House Committees on Appropriations and on Government Operations, after consultation with the Secretary of Administration, ~~no~~ not later than November 1 of the year preceding the beginning of the second year of the biennium. If the Committee Chairs request a review, the proposal to increase funding for pay and benefits shall be submitted for study to a Committee that shall be known as the Pay Act Committee. The Pay Act Committee shall consist of two members of the House Committee on Appropriations and three members of the House Committee on Government Operations. The Pay Act Committee shall meet ~~no~~ not more than twice before the beginning of the legislative session to hear testimony from interested parties. The Pay Act Committee shall present a report on the proposal to the

House Committees on Appropriations and on Government Operations ~~no~~ not later than January 15 for further consideration.

Sec. 486. 32 V.S.A. § 1401 is amended to read:

§ 1401. DISPOSITION OF FEES

All lawful fees received by any state, county, or municipal official shall belong to ~~such~~ the official, unless other provision ~~therefor~~ for the disposition of the fees is made by law.

Sec. 487. 32 V.S.A. § 1402 is amended to read:

§ 1402. RECEIPT FOR FEES

Unless otherwise provided, any person or official lawfully entitled to charge, demand, and receive fees for services rendered shall deliver to any person paying ~~such~~ the fees a receipt ~~therefor~~ for payment, if so requested, ~~which~~ and the receipt shall show the items of ~~such~~ the fees, the sum ~~thereof~~ of the fees, ~~together with~~ the date when ~~such~~ the services were rendered, and the date of payment.

Sec. 488. 32 V.S.A. § 1431(c)(2) is amended to read:

(2)(A) Except as provided in subdivision (B) of this subdivision (2), fees paid to the clerk pursuant to this subsection (c) shall be divided as follows: 50 percent of the fee shall be for the benefit of the county and 50 percent of the fee shall be for the benefit of the State.

(B) In a county where court facilities are provided by the State, all fees paid to the clerk pursuant to this subsection (c) shall be for the benefit of the State.

Sec. 489. 32 V.S.A. § 1591 is amended to read:

§ 1591. SHERIFFS AND OTHER OFFICERS

There shall be paid to sheriffs' departments and constables in civil causes and to sheriffs, deputy sheriffs, and constables for the transportation and care of prisoners, juveniles, and patients with a mental condition or psychiatric disability the following fees:

(1) Civil process:

(A) For serving each process, the fees shall be as follows:

(i) \$10.00 for each reading or copy ~~wherein~~ in which the officer is directed to make an arrest;

* * *

(2) For the transportation and care of prisoners, juveniles, and patients with a mental condition or psychiatric disability:

* * *

(C) For each mile of actual travel, for transporting prisoners, juveniles, and patients with a mental condition or psychiatric disability:

* * *

(ii) \$0.20 more per mile than the rate allowed State employees under the terms of the prevailing contract between the State and the Vermont State Employees' Association, Inc. when four or more prisoners, juveniles, or ~~people~~ patients receiving mental health services are transported in a single vehicle designed to carry six or more passengers in addition to the driver.

(D) The amount actually awarded ~~by the claims commission established under section 931 et seq. under chapter 13, subchapter 2~~ of this title in a small claims proceeding pursuant to 12 V.S.A. chapter 187 for which the law enforcement personnel or agency have not otherwise been compensated from insurance or other source for damages caused to a law enforcement agency's vehicle or to a law enforcement officer's personal vehicle by a prisoner, juvenile, or mental health patient while being transported by the officer in the performance of the officer's duty.

Sec. 490. 32 V.S.A. § 1593 is amended to read:

§ 1593. ~~SERVICE WITHOUT~~ OUTSIDE THE STATE

An officer required to serve a requisition or execute process ~~without~~ outside the State shall receive ~~therefor~~ \$3.00 a day and necessary expenses.

Sec. 491. 32 V.S.A. § 1634 is amended to read:

§ 1634. ~~PER DIEM FOR APPRAISERS~~

~~Appraisers appointed under section 4447 of this title shall each receive from the State \$15.00 a day for time actually spent in the discharge of their duties~~

~~and their necessary expenses when away from home on official business.~~

[Repealed.]

Sec. 492. 32 V.S.A. § 1671(a) is amended to read:

(a) For the purposes of this section, a “page” is defined as a single side of a leaf of paper on which is printed, written, or otherwise placed information to be recorded or filed. The maximum covered area on a page shall be 7 1/2 inches by 14 inches. All letters shall be at least one-sixteenth inch in height or in at least eight-point type. Unless otherwise provided by law, the fees to town clerks shall be as follows:

* * *

(2) For filing or recording a copy of a complaint to foreclose a mortgage as provided in 12 V.S.A. § ~~4523(b)~~ 4932(b), \$15.00 per page.

* * *

Sec. 493. 32 V.S.A. § 1751 is amended to read:

§ 1751. FEES WHEN NOT OTHERWISE PROVIDED

(a)(1) Officers and persons whose duty it is to record deeds, proceedings, depositions, or make copies of records, proceedings, docket entries, or minutes in their offices, when no other provision is made, shall be allowed:

(A) the sum of \$0.60 a folio ~~therefor~~ with a minimum fee of \$1.00;

(B) the sum of \$2.00 for each official certificate;

(C) for the authentication of documents, \$2.00; and

(D) for other services ~~such, the~~ sum as is in proportion to the fees established by law.

(2) Provided, however, that no fees shall be charged to honorably discharged veterans of the U.S. Armed Forces ~~of the United States~~, or to their dependents or beneficiaries, for copies of records required in the prosecution of any claim for benefits from the U.S. government, or any State agency, and fees for copies of records so furnished at the rates provided by law shall be paid ~~such the~~ officers by the town or city ~~wherein such~~ in which the record is maintained.

* * *

Sec. 494. 32 V.S.A. § 3101 is amended to read:

§ 3101. POWERS AND DUTIES OF COMMISSIONER

* * *

(b) The Commissioner shall:

* * *

(9) Prepare and provide at a reasonable fee to all who request them copies of relevant tax statutes and ~~regulations~~ rules.

(10) Administer and enforce all taxes within ~~his or her~~ the Commissioner's jurisdiction.

(11) From time to time prepare and publish statistics reasonably available with respect to the operation of this title, including amounts

collected, classification of taxpayers, tax liabilities, and ~~such~~ other facts as the Commissioner or the General Assembly considers pertinent.

* * *

Sec. 495. 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~~ the offender 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:

* * *

(8) to the Attorney General; the Data Clearinghouse established in the October 2017 Non-Participating Manufacturer Adjustment Settlement Agreement, which the State of Vermont joined in 2018; the National Association of Attorneys General; and counsel for the parties to the Agreement

as required by the Agreement and to the extent necessary to comply with the Agreement and only as long as the State is a party ~~thereto~~ to the Agreement.

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

* * *

(7) To any person, or ~~his or her~~ that person's duly authorized representative, provided that the information is necessary to determine that person's liability for a tax administered by the Commissioner and cannot reasonably be obtained from another source.

* * *

~~(12) To the Joint Fiscal Office or its agent, provided the disclosure relates to a taxpayer claiming a tax credit pursuant to section 5930n, 5930p, 5930q, or 5930r of this title or the credits claimed thereunder, and the disclosure is reasonably necessary for the Joint Fiscal Office or its agent to perform its duties. [Repealed.]~~

* * *

(f) Notwithstanding the provisions of this section, information obtained from the Commissioner for Children and Families under 33 V.S.A. § 112(c), ~~from~~ the Vermont Student Assistance Corporation under 16 V.S.A. § 2843, or

the Dental Health Program under 33 V.S.A. § 4507, ~~or a job development zone under subsection 5926(e) of this title~~ shall be confidential, and it shall be unlawful for anyone to divulge such information except in accordance with a judicial order or as provided under another provision of law.

* * *

(k) Notwithstanding subsection (j) of this section, the Commissioner or a municipal official acting as ~~his or her~~ the Commissioner's agent may provide the information in subsection 6066a(f) of this title to the following ~~people~~ persons without incurring liability under this section:

* * *

(2) a lawyer, including a paralegal or assistant of the lawyer; an employee or agent of a financial institution as that term is defined in 8 V.S.A. § 11101; an employee or agent of a credit union as that term is defined in 8 V.S.A. § 30101; a realtor; or a certified public accountant as that term is defined in 26 V.S.A. § 13(12), who represents that ~~he or she~~ the individual has a need for the information as it pertains to a real estate transaction or to a client or customer relationship; and

* * *

(n) Data reported to the Commissioner of Taxes by a deposit initiator under 10 V.S.A. § 1530 shall not be considered confidential return or return information under this section, provided that the Commissioner may only

disclose the data in summary or aggregated form that does not directly or indirectly identify individual deposit initiators except when the Commissioner discloses data regarding individual deposit initiators to the Secretary of Natural Resources in relation to the administration of 10 V.S.A. chapter 53.

Sec. 496. 32 V.S.A. § 3108(b) is amended to read:

(b) Whenever the Commissioner is authorized or directed to pay interest on an overpayment of any taxes, nevertheless no interest shall be paid on such overpayment:

* * *

(2) for any period of time prior to 45 days after the date the return other than a corporate income tax return was due, including any extensions of time ~~thereto~~ or 45 days after the return was filed, whichever is the later date, and with respect to corporate income tax returns, for any period of time prior to 90 days after the date the return was due or 90 days after the return was filed, whichever is the later date;

(3) in the case of overpayments that result from carrybacks, for a period of time prior to 45 days after the end of the tax year in which the event giving rise to the carryback occurred; or

(4) to the extent the overpayment is paid at the direction of the taxpayer to a municipality for credit against the taxpayer's homestead property tax liabilities.

~~(5)(c)(1)~~ For the purposes of ~~this~~ subsection (b) of this section, a return shall not be treated as filed until it is filed in processible form, which means that ~~such~~ the return is filed on a permitted form and ~~such~~ the return contains the taxpayer's name, address, ~~and~~ identifying number ~~and~~, the required signature, and ~~contains~~ sufficient information (whether on the return or on required attachments) to permit the mathematical verification of the tax liability shown on the return.

~~(6)(2)~~ The provisions of ~~this~~ subsection (b) of this section shall apply notwithstanding any other provision of law to the contrary.

Sec. 497. 32 V.S.A. § 3109(a) is amended to read:

(a) The Commissioner may contract with one or more sheriffs or constables for the collection of taxes by the sheriff's or constable's ~~performing~~ performance of services that he or she is authorized by law to provide, for compensation that may be in lieu of any statutory fees. The compensation terms of such contracts shall be uniform throughout the State unless the Commissioner certifies that differential terms are required because of unusual circumstances in a particular case, and recites such circumstances in the contract. When contracting with the Commissioner under this subsection, constables are authorized to avail themselves of all statutory remedies available to sheriffs to collect taxes. Notwithstanding section 502 of this title,

the Commissioner may charge against such collections an agreed-upon fixed rate or percentage of collections.

Sec. 498. 32 V.S.A. § 3113 is amended to read:

§ 3113. REQUIREMENT FOR OBTAINING LICENSE,

GOVERNMENTAL CONTRACT, OR EMPLOYMENT

(a) As used in this section, “agency” means any unit of State government, including agencies, departments, boards, commissions, authorities, or public corporation.

(b) No agency of the State shall grant, issue, or renew any license or other authority to conduct a trade or business (including a license to practice a profession) to, or enter into, extend, or renew any contract for the provision of goods, services, or real estate space with any person unless ~~such~~ the person shall first sign a written declaration under the pains and penalties of perjury that the person is in good standing with respect to or in full compliance with a plan to pay any and all taxes due as of the date ~~such~~ the declaration is made, except that the Commissioner may waive this requirement as the Commissioner deems appropriate to facilitate the Department of Financial Regulation’s participation in any national licensing or registration systems for persons required to be licensed or registered by the Commissioner of Financial Regulation under Title 8, Title 9, or 18 V.S.A. chapter 221.

(c) Every agency shall, upon request of the Commissioner, furnish a list of licenses and contracts issued or renewed by ~~such~~ the agency during the reporting period; provided, however, that the Secretary of State shall, with respect to certificates of authority to transact business issued to foreign corporations, furnish to the Commissioner only those certificates originally issued by the Secretary of State during the reporting period and not renewals of such certificates. The lists shall include the name, address, Social Security or federal identification number of ~~such~~ the licensee or provider, and ~~such~~ other information as the Commissioner may require.

(d) If the Commissioner determines that any person who has agreed to furnish goods, services, or real estate space to any agency has neglected or refused to pay any tax administered by the Commissioner and that the person's liability for such tax is not under appeal, or if under appeal, the Commissioner has determined that the tax or interest or penalty is in jeopardy, the Commissioner shall notify the agency and the person in writing of the amount owed by ~~such~~ the person. Upon receipt of such notice, the agency shall thereafter transfer to the Commissioner any amounts that would otherwise be payable by the agency to the taxpayer, up to the amount certified by the Commissioner. The Commissioner may treat any ~~such~~ payment as if it were a payment received from the taxpayer. As used in this section, "any person who has agreed to furnish goods, services, or real estate space to any agency"

includes a provider of Medicaid services that receives reimbursement from the State under Title 33.

(e) No agency of the State shall make final payment of any amount owed under a contract that contemplates the employment of any person within the State or the use of any property within the State, or otherwise release any person from the obligations of any ~~such~~ contract, unless ~~such~~ the person shall first obtain a certificate issued by the Commissioner that the person is in good standing with respect to or in full compliance with a plan to pay any and all taxes due as of the date of issuance of the certificate.

(f) Upon written request by the Commissioner and after notice and hearing to the licensee as required under any applicable provision of law, an agency shall revoke or suspend any license or other authority to conduct a trade or business (including a license to practice a profession) issued to any person if the agency finds that taxes administered by the Commissioner have not been paid and that the taxpayer's liability for ~~such~~ the taxes is not under appeal. For purposes of ~~such~~ the findings, the written representation to that effect by the Commissioner to the agency shall constitute prima facie evidence thereof. The Commissioner shall have the right to intervene in any hearing conducted with respect to ~~such~~ the license revocation or suspension. Any findings made by the agency with respect to ~~such~~ the license revocation or suspension shall be made only for the purposes of ~~such~~ the proceeding and shall not be relevant to or

introduced in any other proceeding at law, except for any appeal from ~~such~~ the license revocation or suspension. Any license or certificate of authority suspended or revoked under this section shall not be reissued or renewed until the agency receives a certificate issued by the Commissioner that the licensee is in good standing with respect to any and all taxes payable to the Commissioner as of the date of issuance of ~~such~~ the certificate. Any person aggrieved by the decision of the agency may appeal ~~therefrom~~ the decision in accordance with the provisions of 3 V.S.A. chapter 25.

* * *

(i) No agency of the State shall hire any person as a full-time, part-time, temporary, or contractual employee unless the person shall first sign a written declaration under the pains and penalties of perjury that the person is in good standing with respect to or in full compliance with a plan to pay any and all taxes due as of the date ~~such~~ the declaration is made. This requirement applies only to the initial hire of an individual into a position that is paid using the State of Vermont federal taxpayer identification number, other than as a county employee, and not to an employee serving in ~~such~~ the position or who returns to any position in State government as a result of a placement right or reduction in force recall right.

Sec. 499. 32 V.S.A. § 3113a is amended to read:

§ 3113a. ABANDONED PROPERTY; SATISFACTION OF TAX

LIABILITIES

The Commissioner may request from the Office of the Treasurer the names and Social Security or federal identification numbers of apparent owners of ~~unclaimed~~ presumed abandoned property prior to notice being given to ~~such persons~~ pursuant to 27 V.S.A. § ~~1249~~ chapter 18, subchapter 5. If any ~~such~~ apparent owner owes taxes to the State, the Commissioner, after notice to the owner, may request and the Treasurer shall transfer the abandoned property of ~~such~~ the owner to the Department for setoff of the taxes owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if the tax debt is not the owner's debt, or if the debt has been paid, or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined, or if the debt was discharged in bankruptcy.

Sec. 500. 32 V.S.A. § 3114 is amended to read:

§ 3114. BONDING REQUIREMENTS

(a) When the Commissioner, in ~~his or her~~ the Commissioner's discretion, deems it necessary to protect the revenues collectible by the Commissioner, ~~he~~ ~~or she~~ the Commissioner may require any person required to collect, withhold, remit, or pay any tax administered by the Commissioner (other than the

personal income tax) to file with ~~him or her~~ the Commissioner a bond, issued by a surety company authorized to transact business in this State and approved by the Commissioner of Financial Regulation of this State as to solvency and responsibility, in an amount fixed by the Commissioner, to secure the payment of any tax or penalties or interest due or that may become due from that person. In determining whether a person should be required to obtain a bond, the Commissioner is specifically authorized to consider the filing and payment history, with respect to any tax administered by the Commissioner, of such person or any individual, corporation, partnership, or other legal entity with which ~~such~~ the person is or was associated as principal, partner, officer, director, employee, agent, or incorporator.

(b) In the event that the Commissioner determines that ~~such~~ the person is to file a bond, ~~he or she~~ the Commissioner shall give notice to that effect, specifying the amount of the bond required and the period for which such bond is required. That person shall file a bond within five days after the giving of the notice unless within those five days ~~he or she~~ the person shall request in writing a hearing before the Commissioner at which the necessity, propriety, and amount of the bond shall be determined by the Commissioner. The determination of the Commissioner shall be complied with within 15 days after the giving of notice ~~thereof~~. Any person aggrieved by a determination of the Commissioner may appeal ~~therefrom~~ from the determination in accordance

with section 5885 of this title, but the determination of the Commissioner may be overturned on appeal only for abuse of discretion.

(c) Notwithstanding any appeal to the Commissioner or to the courts, no person shall operate any trade or business with respect to which a bond has been demanded during any period for which ~~such~~ the bond is not in effect. In case of operation in violation of this section, the Commissioner may cause to be posted, at every public entrance of the vendor's premises, a notice identifying the person and the location and informing the public that the person has not filed a bond and that no business may be conducted at that location. No person shall cover or deface the posted notice, and the posted notice may not be removed until the bond is posted or removal is otherwise authorized by the Commissioner or a court.

(d) In lieu of a bond, securities approved by the Commissioner or cash in ~~such~~ an amount as ~~he or she~~ the Commissioner may prescribe may be deposited, which shall be kept in the custody of the State Treasurer who may at any time upon instructions from the Commissioner without notice to the depositor apply them to any tax or interest or penalties due, and for that purpose the securities may be sold by ~~him or her~~ the Commissioner at public or private sale without notice to the depositor ~~thereof~~.

Sec. 501. 32 V.S.A. § 3201(a) is amended to read:

(a) Commissioner authority. In the administration of taxes, the Commissioner may:

(1) Adopt, amend, and enforce reasonable rules, and orders, ~~and regulations~~ in administering the taxes within the Commissioner's jurisdiction.

* * *

(3) Hold hearings, administer oaths, and examine under oath any person relating to ~~his or her~~ that person's business or relating to any matter within the Commissioner's jurisdiction.

(4) For the purpose of ascertaining the correctness of any return or making a determination of the tax liability of any taxpayer, examine or cause to be examined by any agent or representative designated by ~~him or her~~ the Commissioner for that purpose any books, papers, records, or memoranda of the taxpayer bearing upon the matters required to be included in any return. The Commissioner or ~~such~~ the Commissioner's designated officers may require the attendance of the taxpayer or of any other person having knowledge in the premises, at any place in the county where the taxpayer or person resides or has a place of business, ~~or~~ in Washington County if the taxpayer is a nonresident individual, estate, or trust, or is a corporation or business entity not having a place of business in this State, ~~and~~; may take testimony and require proof material; and may administer oaths or take acknowledgment in respect

of any return or other information required by this title or the rules, ~~regulations,~~ and decisions of the Commissioner. If an individual, estate, trust, corporation, or other business entity fails after request to provide books, records, or memoranda at either its place of business within the State or Washington County, the Commissioner may charge the person a reasonable per diem fee and expenses for the auditor making the examination out of state. The charges shall be payable within 30 days of the date billed and may be collected in the manner provided for the collection of taxes in this title.

(5) Upon making a record of the reasons therefor, waive, reduce, or compromise any of the taxes, penalties, interest, or other charges or fees within ~~his or her~~ the Commissioner's jurisdiction.

(6) Determine the form in which returns and reports shall be filed and what shall constitute a signature on ~~such~~ returns and reports, including those filed in other than paper form, such as electronically or over telephone lines.

* * *

Sec. 502. 32 V.S.A. § 3202 is amended to read:

§ 3202. INTEREST AND PENALTIES

(a) Failure to pay; interest. When a taxpayer fails to pay a tax liability imposed by this title (except the motor vehicle purchase and use tax) on the prescribed date ~~prescribed therefor~~ of payment, the Commissioner may assess and the taxpayer shall then pay a sum of interest computed at the rate per

annum established by the Commissioner pursuant to section 3108 of this title on the unpaid amount of that tax liability for the period from the prescribed date to the date of full payment of the liability.

(b) Penalties.

(1) Failure to file. When a taxpayer fails to file a tax return required by this title (other than a return required by chapter 151, subchapter 5 of this title for estimation of nonwithheld income tax), on the prescribed date ~~prescribed therefor of payment~~ or the date as extended pursuant to section 5868 of this title, unless the taxpayer affirmatively shows that ~~such~~ the failure is due to reasonable cause and not due to willful neglect, then in addition to any interest payable pursuant to subsection (a) of this section, the Commissioner may assess and the taxpayer shall then pay a penalty that shall be equal to five percent of the outstanding tax liability for each month, or portion thereof, that the tax return is not filed; provided, however, that in no event shall the amount of any penalty imposed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment. If the return is not filed within 60 days after the prescribed date ~~prescribed therefor of payment~~, there shall be assessed a minimum penalty of \$50.00 regardless of whether there is a tax liability.

* * *

(3) Failure to pay. When a taxpayer fails to pay a tax liability imposed by this title (other than a return required by chapter 151, subchapter 5 of this title for estimation of nonwithheld income tax) on the prescribed date ~~prescribed therefor~~ of payment, then in addition to any interest payable pursuant to subsection (a) of this section, the Commissioner may assess and the taxpayer shall then pay a penalty that shall be equal to, for income tax under chapter 151, subchapters 2 and 3 of this title, one percent and, for all other taxes, five percent of the outstanding tax liability for each month, or portion thereof, that the tax liability is not paid in full; provided, however, that in no event shall the amount of any penalty assessed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment.

* * *

(5) Fraudulent failure to pay. When a taxpayer fraudulently or with willful intent to defeat or evade a tax liability imposed by this title fails to pay a tax liability on the prescribed date ~~prescribed therefor~~ of payment, requests and receives a refund of a tax liability, or requests but does not receive a refund of a tax liability, then, in addition to any interest payable pursuant to subsection (a) of this section, the Commissioner may assess and the taxpayer shall then pay a penalty equal to the amount of the tax liability unpaid on the prescribed date of payment, the amount received as a refund subsequent to that date, or the amount requested but not received as a refund.

(6) Violation based on income from illegal activity. The penalties provided in subdivisions (1)–(5) of this subsection shall be doubled if the violation is based on income derived from illegal activity. The penalty provided in this subdivision ~~(6)~~ shall be in addition to any other civil or criminal penalties provided by law.

* * *

Sec. 503. 32 V.S.A. § 3205(b) is amended to read:

(b) The Taxpayer Advocate shall have the following functions and duties:

* * *

(6) educate tax professionals concerning the Department of ~~Taxes~~ ~~regulations~~ Taxes' rules and interpretations by issuing bulletins and other written materials; and

* * *

Sec. 504. 32 V.S.A. § 3330(b)(2) is amended to read:

(2) The Council may approve the following enhanced incentives:

(A) an enhanced incentive for a business in a labor market area with higher than average unemployment or lower than average wages pursuant to section 3334 of this title; and

(B) an enhanced incentive for an environmental technology business pursuant to section 3335 of this title; ~~and~~.

(C) ~~an enhanced incentive for a business that participates in a State workforce training program pursuant to section 3336 of this title.~~ [Repealed.]

Sec. 505. 32 V.S.A. § 3332(b) is amended to read:

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

* * *

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

* * *

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

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

* * *

Sec. 506. 32 V.S.A. § 3333 is amended to read:

§ 3333. CALCULATING THE VALUE OF AN INCENTIVE

Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title; or an enhanced incentive for an environmental technology business under section 3335 of this title; ~~or an enhanced incentive for workforce training under section 3336 of this~~

~~the~~, the Council shall calculate the value of an incentive for an award year as follows:

* * *

Sec. 507. 32 V.S.A. § 3339(a) is amended to read:

(a) Recapture.

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

* * *

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

* * *

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

* * *

(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~~ not later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, ~~no~~ not 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.

Sec. 508. 32 V.S.A. § 3401 is amended to read:

§ 3401. POWERS AND DUTIES OF DIRECTOR

The Director may examine any inventory in the hands of listers, shall from time to time confer and advise with them touching their official duties, shall furnish them printed instructions and directions relating ~~thereto~~ to their official duties, and shall issue ~~such~~ any bulletins as in ~~his or her~~ the Director's judgment will aid in enforcing the law. When a board of listers or members ~~thereof so request~~ requests, the Director shall furnish ~~such~~ any information as ~~he or she~~ the Director shall deem pertinent.

Sec. 509. 32 V.S.A. § 3402 is amended to read:

§ 3402. DIRECTOR TO COLLECT DATA

The Director shall collect such data and information touching methods of taxation and exemption ~~therefrom~~ and the work of listers in the various towns as ~~he or she~~ the Director shall deem advisable.

Sec. 510. 32 V.S.A. § 3411 is amended to read:

§ 3411. POWERS OF THE DIVISION OF PROPERTY VALUATION AND
REVIEW

The Division of Property Valuation and Review shall through its Director:

* * *

(7) to the extent of available resources, to prepare and provide tax maps for all municipalities not having the same;

(8) from time to time, to develop and recommend to the General Assembly improved methods for standardizing property assessment procedures and to administer the current use program in accordance with chapter 124 of this title;

* * *

Sec. 511. 32 V.S.A. § 3435 is amended to read:

§ 3435. LISTERS TO ATTEND MEETINGS FOR INSTRUCTIONS

Except as ~~herein~~ otherwise provided in this section, at least one lister, or more if the town so votes, shall attend all meetings or schools for instruction to which they are summoned in writing by the Director. When a lister is unable to attend, ~~he or she~~ the lister shall ~~forthwith~~ immediately notify the Director, stating the cause of ~~such~~ the lister's inability to attend. In ~~his or her~~ the Director's discretion, the Director may summon ~~such~~ the lister to attend ~~such~~ either another meeting as ~~he or she~~ the Director shall designate. Listers who attend ~~such~~ the meetings shall receive ~~therefor~~ for their attendance from their respective towns the per diem ~~thereby~~ voted for listers or \$10.00 per day, whichever is the greater, and their necessary expenses.

Sec. 512. 32 V.S.A. § 3485(b) is amended to read:

(b) Failure on the part of the town clerk to furnish the ~~aforsaid~~ copies required under subsection (a) of this section shall not render the town liable in damages to any person. A town clerk who willfully fails to furnish ~~such~~ the copies required under subsection (a) of this section shall be fined \$10.00 for each offense.

Sec. 513. 32 V.S.A. § 3603(b) is amended to read:

(b) Nothing ~~herein~~ in this section shall be construed to tax as personal property registered automobiles or motor vehicles owned or used by public utilities authorized to do business in the State in the maintenance or construction of their properties nor shall this section be construed to amend section 3802 of this title.

Sec. 514. 32 V.S.A. § 3610 is amended to read:

§ 3610. TAXATION OF PERPETUAL LEASED LANDS

(a) The term “perpetual lease” as used in this section includes every leasehold interest in land located in Vermont, and every estate in Vermont land other than fee simple absolute, arising out of or created by an instrument of lease that conveys to a person designated as lessee, ~~his or her~~ the lessee’s heirs, executors, administrators, and assigns, the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity, whether or not the instrument of lease contains restrictions on the use of the subject land by the person designated as lessee and whether or not the subject land may be repossessed by

the owner because of nonpayment of rent or of other default under the instrument of lease. The term “lessee” as used in this section means the person entitled to possess, enjoy, and use land subject to a perpetual lease.

(b) The listers of each town and the appraisers of each unorganized town and gore shall list every perpetual lease in a separate record in which shall be shown as to each lease a brief description of the leased land, the fair market value of the land as appraised by them, the name of the lessor, the annual rental payable ~~thereunder~~ under the lease, and as of April 1 of each year the name and address of the lessee. If for any reason the lease is exempt under subsection (d) of this section, the reason for the exemption shall be noted.

(c) For purposes of section 3481 of this title, the appraised value of each perpetual lease not exempt under subsection (d) of this section shall be its market value as determined by the listers or appraisers, taking into consideration all limitations upon the use of the land by the lessee that substantially diminish the value of ~~his or her~~ the lessee’s right to occupy, use, or enjoy the land; but in no event is the appraised value of a perpetual lease to be in excess of the fair market value of the subject land as determined by the listers or appraisers.

* * *

(i) A perpetual lease is subject to sale in the same manner and subject to the same procedures, notices, defenses, and statutes of limitations as in the case of

tax sales of real estate. Any person acquiring a perpetual lease, under the authority of this section, is subject to ~~his or her~~ the person's portion of the annual rental due the grantee.

Sec. 515. 32 V.S.A. § 3701(1) is amended to read:

(1) “State-owned property” means

(A) State-owned buildings, including buildings of the Vermont State Colleges that are tax-exempt under 16 V.S.A. § 2178; buildings of the University of Vermont and State Agricultural College used for educational and not commercial purposes; and buildings of the Agency of Transportation and the Department of the Military; but excluding the value of land on which the buildings are located, and excluding all highways and bridges and any land pertaining ~~thereto~~ to them; and

(B) State-owned lands that pertain to State correctional facilities.

Sec. 516. 32 V.S.A. § 3708(b) is amended to read:

(b) The State shall annually pay to each municipality a payment in lieu of taxes (PILOT) that shall be the base payment as set forth ~~herein~~ under this section, for all ANR land, excluding buildings or other improvements thereon, as of April 1 of the current year.

Sec. 517. 32 V.S.A. chapter 124 is amended to read:

CHAPTER 124. AGRICULTURAL LANDS AND ~~FOREST LANDS~~
FORESTLANDS

Subchapter 1. Agricultural Land and Managed ~~Forest Land~~ Forestland Use
Value Program

* * *

Subchapter 2. ~~Working Farm Tax Abatement Program~~ [Repealed.]

* * *

Sec. 518. 32 V.S.A. § 3751 is amended to read:

§ 3751. STATEMENT OF PURPOSE

The purpose of this subchapter is to encourage and assist the maintenance of Vermont's productive agricultural land and forestland; to encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems; to prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land; to achieve more equitable taxation for undeveloped lands; to encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; and to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety, and welfare.

Sec. 519. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

As used in this subchapter:

(1) “Agricultural land” means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock, cultivate trees bearing edible fruit, or produce an annual maple product, and that is 25 acres or more in size, except as provided in this subdivision (1). Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets’ Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that the land is used for agricultural purposes if:

* * *

(B) it is used by a farmer as part of ~~his or her~~ the farmer’s farming operation under written lease for at least three years; or

* * *

(12) “Use value appraisal” means, with respect to land, the price per acre that the land would command if it were required to remain henceforth in ~~agriculture~~ agricultural or forest use, as determined in accordance with the terms and provisions of this subchapter. With respect to farm buildings, “use value appraisal” means zero percent of fair market value.

* * *

Sec. 520. 32 V.S.A. § 3754 is amended to read:

§ 3754. POWERS AND DUTIES OF BOARD

(a) The Board shall meet at least annually, prior to February 1, to review all past current use land values for agricultural land and managed forestland recommended by past boards, to review the criteria for lands previously established, and to establish new criteria and values as legislation and land management practices may indicate, to establish a schedule of criteria and values to be recommended for the current tax year, and to recommend such changes and improvement in the administration of this subchapter as experience and public reaction may recommend. The Board's criteria and recommended values may reflect the class, type, grade, and location of the land, together with its productive capacity and the income-producing capability of agricultural land and forestland.

* * *

(d) The Board may adopt rules under the authority granted to agencies by 3 V.S.A. §§ ~~801-808~~ chapter 25, subchapter 1 to interpret and carry out the provisions of this subchapter.

(e) A member of the Board shall not vote on any issue on which ~~he or she~~ the member, or when applicable ~~his or her~~ the member's agency, has a conflict of interest.

Sec. 521. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

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

(e) Any applicant for appraisal under this subchapter bears the burden of proof as to ~~his or her~~ the applicant's qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of 1 V.S.A. § 317(c)(6).

* * *

Sec. 522. 32 V.S.A. § 3800(c) is amended to read:

~~(c) The statutory purpose of the exemption for college fraternities and societies in subdivision 3802(5) of this title is to provide a tax benefit to college fraternities and societies. [Repealed.]~~

Sec. 523. 32 V.S.A. § 3802(11) is amended to read:

(11)(A)(i) Real and personal property to the extent of \$10,000.00 of appraisal value, except any part used for business or rental, occupied as the established residence of and owned in fee simple by a veteran, ~~his or her~~ the veteran's spouse, widow, widower, or child, or jointly by any combination of them, if one or more of them are receiving disability compensation for at least 50 percent disability, death compensation, dependence and indemnity compensation, or pension for disability paid through any military department or the Veterans Administration if, before May 1 of each year, there is filed with the Office of Veterans Affairs:

~~(i) A(I) a written application therefor. for the compensation or pension; and~~

~~(ii) A(II) a written statement from the Military Department or the Veterans Administration showing that the compensation or pension is being paid.~~

(ii) Only one exemption may be allowed on a property.

Application for an exemption under this section based upon permanent

disability is only required to be filed with the Office of Veterans Affairs before May 1 of the first year for which the exemption is sought, and the exemption shall remain on the grand list until title to the property is transferred.

(B) The terms used in this subdivision (11) shall have the same definitions as in 38 U.S.C. § 101, except that:

* * *

(C) An unremarried widow or widower of a previously qualified veteran shall be entitled to the exemption provided in this subdivision (11) whether or not ~~he or she~~ the individual is receiving government compensation or pension. By majority vote of those present and voting at an annual or special meeting warned for the purpose, a town may increase the veterans' exemption under this subdivision to up to \$40,000.00 of appraisal value. Any increase in exemption shall take effect for the taxable year for which it was voted, and shall remain in effect for future taxable years until amended or repealed by a similar vote.

Sec. 524. 32 V.S.A. § 3802a is amended to read:

§ 3802a. REQUIREMENT TO PROVIDE INSURANCE INFORMATION

Before April 1 of each year, owners of property exempt from taxation under subdivisions 3802(4)-2 (6), (9), ~~and (12)-2~~ and (15) and under subdivisions 5401(10)(D), (F), (G), and (J) of this title shall provide their local assessing officials with information regarding the insurance replacement cost of the

exempt property or with a written explanation of why the property is not insured.

Sec. 525. 32 V.S.A. § 3803 is amended to read:

§ 3803. EXEMPTIONS FROM LOCAL TAXATION

Except as otherwise provided, the following property shall not be set in the grand list to the owner thereof:

(1) real and personal estate used in operating a railroad, and appraised under sections 8281–8286, ~~8301–8306~~, and 8321–8322 of this title, including the section of the North Stratford, New Hampshire to Beecher Falls, Vermont railroad line owned by the State of New Hampshire and situated in the Town of Canaan exempted from taxation under section 8286 of this title;

* * *

Sec. 526. 32 V.S.A. § 5132 is amended to read:

§ 5132. CONFERENCES; BULLETINS; FORMS

The Director may examine a tax list in the hands of a collector; shall confer from time to time with collectors ~~and~~, advise them concerning their official duties, and furnish them printed instructions and directions relating thereto; shall issue such bulletins as in ~~his or her~~ the Director's judgment will aid in enforcing the law; and shall formulate and furnish the necessary forms for the use of officials required to make returns to ~~him or her~~ the Director.

Sec. 527. 32 V.S.A. § 5400 is amended to read:

§ 5400. STATUTORY PURPOSES

* * *

(b) ~~The statutory purpose of the exemption for municipalities hosting large power plants in subsection 5402(d) of this title is to compensate businesses and residents of the community hosting a nuclear power facility. [Repealed.]~~

(c) The statutory purpose of the exemption for qualified housing in subdivision 5404a(a)(6) of this title is to ensure that taxes on this rent-restricted housing provided to ~~low and moderate income~~ Vermonters of low and moderate income are more equivalent to property taxed using the State homestead rate and to adjust the costs of investment in rent-restricted housing to reflect more accurately the revenue potential of such property.

* * *

(f) ~~The statutory purpose of the large power plants alternative tax method in subdivision 5401(10)(B) of this title is to provide an alternative to the traditional valuation method for a unique property. [Repealed.]~~

* * *

Sec. 528. 32 V.S.A. § 5401(10) is amended to read:

(10) “Nonhomestead property” means all property except:

* * *

(B) Property that is subject to the tax on railroads imposed by chapter 211, subchapter 2 of this title; or the tax on telephone companies imposed by chapter 211, subchapter 6 of this title; ~~or the tax on electric generating plants imposed by chapter 213 of this title.~~

* * *

Sec. 529. 32 V.S.A. § 5404a is amended to read:

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

* * *

(g) Any use of education property tax increment approved under subsection (f) of this section shall be in addition to any other payments to the municipality under 16 V.S.A. chapter 133, ~~and~~ shall remain available to the municipality for the full period authorized under 24 V.S.A. § 1894, and shall be restricted only to the extent that the real property development giving rise to the increased value to the grand list fails to occur within the authorized period or by the enforcement provided by subsection (j) of this section.

(h) To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

- (1) Application review.

(A) Review each application to determine that the infrastructure improvements proposed to serve the tax increment financing district and the proposed development in the district would not have occurred as proposed in the application, or would have occurred in a significantly different and less desirable manner than as proposed in the application, but for the proposed utilization of the incremental tax revenues.

* * *

Sec. 530. 32 V.S.A. § 5409(3) is amended to read:

(3) In any case of administration under subdivision (2) of this section by the Commissioner of Taxes of education property tax:

(A) Sections 3202, 3203, 5868, ~~5875~~, 5882–5887, and 5891–5895 of this title, as amended, shall apply in the same manner as to income tax.

* * *

Sec. 531. 32 V.S.A. § 5410 is amended to read:

§ 5410. DECLARATION OF HOMESTEAD

* * *

(b) Annually, on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the Commissioner, which shall be verified under the pains and penalties of perjury, declare ~~his or her~~ the owner's homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made.

* * *

(j) A taxpayer may appeal a determination of domicile for purposes of a homestead declaration or an assessment of fraud penalty under this section to the Commissioner in the same manner as an appeal under chapter 151 of this title. A taxpayer may appeal an assessment of any other penalty under this section to the listers within 14 days after the date of mailing of notice of the penalty, and from the listers to the board of civil authority, and thereafter to the courts, in the same manner as an appraisal appeal under chapter 131 of this title. The legislative body of a municipality shall have authority in cases of hardship to abate all or any portion of a penalty appealable to the listers under this section and any tax, penalty, and interest arising out of a corrected property classification under this section, and shall state in detail in writing the reasons for its grant or denial of the requested abatement. The legislative body may delegate this abatement authority to the board of civil authority or the board of abatement for the municipality. Requests for abatement shall be made to the municipal treasurer or other person designated to collect current taxes, and that person shall forward all requests, with ~~his or her~~ that person's recommendation, to the body authorized to grant or deny abatement.

* * *

(l) "Hardship" under this section means an owner's inability to pay as certified by the Commissioner of Taxes, in ~~his or her~~ the Commissioner's

discretion, or means an ~~owner's~~ owner filing an incorrect, or failing to file a correct, homestead declaration due to one or more of the following:

* * *

Sec. 532. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

* * *

(3) “Corporation” means any business entity subject to income taxation as a corporation, and any entity qualified as a small business corporation, under the laws of the United States, with the exception of the following entities that are exempt from taxation under this chapter:

* * *

(B) credit unions organized under 8 V.S.A. chapter ~~71~~ 221 and federal credit unions;

* * *

(6) “Individual” means a natural person. However, if, for any taxable year, a ~~husband and wife~~ spouse or a surviving spouse file a joint income tax return under this chapter, they shall be considered to be a single individual for that taxable year.

* * *

(11) “Residency.”

* * *

(B) A trust qualifies for residency in this State if it is:

(i) a trust, or a portion of a trust, consisting of property transferred by will or by a decedent who at ~~his or her~~ the decedent’s death was domiciled in this State; or

* * *

(12) “Resident estate” means the estate of a decedent who, at ~~his or her~~ the decedent’s death, was domiciled in this State.

* * *

(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 that under the laws of the United States is exempt from taxation by the states:

* * *

(19) ~~“Commercial film production” means production of motion pictures intended for theater or video release or exhibition on international or national television by a network, cable network, or for syndication; or production of television advertisements; or production of a pilot for, or an~~

~~episode or segment of, an internationally or nationally televised series by a network, cable network, or for syndication or video release.~~ [Repealed.]

* * *

Sec. 533. 32 V.S.A. § 5813(r) and (s) are amended to read:

(r) The statutory purpose of the Vermont low-income child and dependent care tax credit in section 5828c of this title is to provide cash relief to ~~lower-income~~ employees with low income who incur dependent care expenses in certified centers to enable them to remain in the workforce.

(s) The statutory purpose of the Vermont earned income tax credit in section 5828b of this title is to provide incentives for ~~low-income~~ working families and individuals with low income and to offset the effect on these Vermonters of conventionally regressive taxes.

Sec. 534. 32 V.S.A. § 5830e(1) is amended to read:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or qualifying ~~widow or widower~~ surviving spouse:

Sec. 535. 32 V.S.A. §§ 5844(c) and (d) are amended to read:

(c) Withholding penalties.

(1) Failure to file; failure to withhold; failure to remit. Any employer, including any corporate officer or agent, who knowingly fails to file a return, fails to withhold a tax, or fails to remit a tax required under this subchapter

shall be imprisoned not more than one year or fined not more than \$1,000.00,
or both.

* * *

(d) Withholding liability. Any amount required to be deducted and withheld, and to be paid over to the Commissioner, by a person under this subchapter shall be considered to be a tax liability of the person for purposes of this chapter. The person shall be subject, with respect to that tax liability, to the provisions of this chapter, including the provisions governing returns, fees for late filing of returns, interest and penalties for nonpayment of tax liabilities, liens, levies, and appeals, except as those provisions conflict with the express provisions of this subchapter. Any report required under subsection 5842(c) of this title or ~~regulations~~ rules issued under that section shall be considered to be a return for the purposes of this chapter.

Sec. 536. 32 V.S.A. § 5847(a) and (b) are amended to read:

(a) ~~General rule.~~ Except as otherwise provided in this section, in the case of any sale or exchange of real property located in Vermont by a nonresident of Vermont, the transferee shall be required to withhold and transmit to the Commissioner within 30 days of such sale or transfer, a withholding tax equal to 2 1/2 percent of the consideration paid for the transfer. Any transferee who fails to withhold such amount shall be personally liable for the amount of such tax.

(b) ~~Exemptions.~~ Subject to subsection (d) of this section, no person shall be required to withhold any amount under subsection (a) of this section if:

* * *

Sec. 537. 32 V.S.A. § 5859(e) and (f) are amended to read:

(e) The application of this subsection to taxable years of less than 12 months shall be in accordance with ~~regulations prescribed~~ rules adopted by the Commissioner.

(f) The Commissioner may provide by ~~regulation~~ rule for a credit against estimated taxes for any taxable year of any amount determined by the taxpayer or by the Department to be an overpayment of the tax imposed by this title for a preceding taxable year.

Sec. 538. 32 V.S.A. § 5861(g) is amended to read:

(g) ~~Upon a homeowner's request, the listers shall certify to him or her the value of the dwelling and up to two acres. [Repealed.]~~

Sec. 539. 32 V.S.A. § 5866(a) is amended to read:

(a) If, after the time for filing any return required by this chapter, a taxpayer:

(1) becomes aware of any information that makes that return materially false, inaccurate, or incomplete; ~~or~~

(2) is notified of any assertion by the United States, whether under ~~Section 6212 of the Internal Revenue Code of 1986~~ 26 U.S.C. § 6212 or

otherwise, that the taxpayer's taxable income under the laws of the United States is other than the amount stated in the return; or

(3) files an amended return under the laws of the United States, the taxpayer shall, within 180 days of the receipt of that information or notification of that assertion or filing that amended return, notify the Commissioner thereof, and of such particulars as may be relevant to the amount of any tax liability of the taxpayer under this chapter.

Sec. 540. 32 V.S.A. § 5886(a) is amended to read:

(a) Upon notification to a taxpayer of any deficiency, and upon assessment against the taxpayer of any penalty or interest, under sections 3202 and 3203 of this title, the amount of the assessment shall be payable ~~forthwith~~ immediately and the amount of the deficiency and assessment shall be collectible by the Commissioner 60 days after the date of the notification or assessment. The collection by the Commissioner of the deficiency, penalty, or interest shall be stayed:

(1) ~~If~~ if the taxpayer files a petition for determination by the Commissioner in accordance with section 5883 of this title, collection shall be stayed until 30 days after the notification of the taxpayer of the determination; ~~and~~

(2) ~~If~~ if within 30 days of the notification of determination the taxpayer files a notice of appeal, collection shall be stayed pending judgment of the court upon the appeal; and

(3) ~~Under~~ under such further circumstances and upon such terms as the Commissioner prescribes.

Sec. 541. 32 V.S.A. § 5888 is amended to read:

§ 5888. DETERMINATION OF TAXABLE INCOME AND INCOME TAX
LIABILITY UNDER THE LAWS OF THE UNITED STATES

For purposes of this chapter, a taxpayer's taxable income or income tax liability under the laws of the United States shall be determined by reference to the judicial decisions and administrative rulings of the United States.

(1) A determination by the United States that establishes the amount of a taxpayer's taxable income or income tax liability under the laws of the United States for any taxable year shall be binding on the taxpayer and the State in calculating the taxpayer's liability to Vermont under this chapter. As used in this section, "determination by the United States" means:

* * *

(B) a closing agreement under ~~Section 7121 of the Internal Revenue Code of 1986~~ 26 U.S.C. § 7121; or

(C) an agreement executed under ~~Section 1313(a)(4) of the Internal Revenue Code of 1986~~ 26 U.S.C. § 1313(a)(4).

* * *

(3) For purposes of this section, the affidavit of any U.S. District Director of Internal Revenue that a taxpayer:

(A) has paid a specified aggregate amount of income tax;

(B) has received a specified amount of refund with respect to ~~his or her~~ the taxpayer's income tax payments; or

(C) has paid any amount of tax calculated with respect to specified items of income, deductions, exemptions, or credits, shall be prima facie evidence of the truth of those matters set forth in the affidavit.

* * *

Sec. 542. 32 V.S.A. § 5895(b)(1) is amended to read:

§ 5895. TAX LIABILITY AS PROPERTY LIEN

* * *

(b) The Commissioner shall issue to the taxpayer a certificate of release of the lien if:

(1) the Commissioner finds that the liability for the amount demanded, together with costs, has been satisfied or has become unenforceable by reason of lapse of time; ~~or~~

* * *

(c) The lien provided for by this section may be foreclosed at any time after the tax liability with respect to which the lien arose becomes collectible under

section 5886 of this title. In the case of real property, the lien may be foreclosed in the manner prescribed in 12 V.S.A. §§ ~~4931 through 4954~~ chapter 172, subchapters 1–3 and in such rules as the Supreme Court may promulgate for the foreclosure of mortgages on real estate. In the case of personal property, the lien may be satisfied in the manner prescribed in 9A V.S.A. article 9 for the disposition of collateral under a security interest or in the manner provided by law for the foreclosure of other security interests in personal property.

Sec. 543. 32 V.S.A. § 5910(a) is amended to read:

(a) ~~In As used in this subchapter, the following terms shall mean:~~

(1) “C corporation”: means a corporation that is not an S corporation.

(2) “Code”: means the Internal Revenue Code of 1986, as amended and as applicable to the taxable period; references to sections of the Code shall be deemed to refer to corresponding provisions of prior and subsequent federal tax laws.

(3) “Income attributable to Vermont”: means items of income, loss, deduction, or credit of the S corporation allocated and apportioned to Vermont pursuant to section 5833 of this title.

(4) “Income not attributable to Vermont”: means all items of income, loss, deduction, or credit of the S corporation other than income attributable to Vermont.

(5) “Pro rata share”~~:~~ means the portion of any item attributable to an S corporation shareholder for a taxable period determined in the manner provided in, and subject to any election made under, subsection 1377(a) or 1362(e), as the case may be, of the Code.

(6) “S corporation”~~:~~ means a corporation for which a valid election under subsection 1362(a) of the Code is in effect.

(7) “Taxable period”~~:~~ means any taxable year or portion of a taxable year during which a corporation is an S corporation.

Sec. 544. 32 V.S.A. § 5911(b) is amended to read:

(b) For the purposes of section 5823 of this title, each shareholder’s pro rata share of the S corporation’s income attributable to Vermont and each resident shareholder’s pro rata share of the S corporation’s income not attributable to Vermont shall be taken into account by the shareholder in the manner provided in ~~Section 1366 of the Code~~ 26 U.S.C. § 1366.

Sec. 545. 32 V.S.A. § 5914(a) is amended to read:

(a) An S corporation that engages in activities in Vermont that would subject a C corporation to the requirement to file a return under section 5862 of this title shall file with the Commissioner an annual return, in the form prescribed by the Commissioner, on or before the due date prescribed for the filing of S corporation returns under ~~subsection 6072(b) of the Internal Revenue Code~~ 26 U.S.C. § 6072(b). The return shall set forth the name,

address, and Social Security or federal identification number of each shareholder; the income attributable to Vermont and income not attributable to Vermont with respect to each shareholder as determined under this subchapter; and such other information as the Commissioner may by regulation prescribe. The S corporation shall, on or before the day on which such return is filed, furnish to each person who was a shareholder during the year a copy of such information shown on the return as the Commissioner may by regulation prescribe.

Sec. 546. 32 V.S.A. § 5922 is amended to read:

§ 5922. FINANCIAL SERVICES DEVELOPMENT TAX CREDIT

* * *

(c) Claims. A credit available in subsection (b) of this section to a qualified person who is a partnership, limited liability company, subchapter S corporation, or trust may not be claimed by the entity, but may be claimed by the entity's partners, members, shareholders, or beneficiaries on their distributive share of the income from sources defined in subsection (a) of this section. The credit allowed shall be the pre-credit tax on the distributive share of income, multiplied by the qualified person's apportioned ratio and payroll ratio. No credit shall be allowed under this section based upon income received by the claimant for services as an employee.

* * *

(f) Applicability of credit. A qualified person who claims and is awarded tax credits under this section shall report, on a form approved by the Commissioner of Taxes, such person's qualified payroll expenses as of July 1, 1996. No credits shall be available for taxable years beginning on or after January 1, 2007, unless the General Assembly specifically authorizes the allowance of credits under this section for taxable years 2007 and after. The Department of Economic Development shall evaluate the effectiveness of the financial services development tax credit.

Sec. 547. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) Definitions. 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 liability or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

* * *

(g) Credit allocation.

(1) In any fiscal year, the allocating agency may award up to:

* * *

(h) Credit allocation; Down Payment Assistance Program.

(1) In fiscal year 2016 through fiscal year 2019, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section.

* * *

Sec. 548. 32 V.S.A. § 5930cc(a) is amended to read:

(a) Historic rehabilitation tax credit. The qualified applicant of a qualified historic rehabilitation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, corporate income tax, or bank franchise or insurance premiums tax liability a credit of 10 percent of qualified rehabilitation expenditures as defined in ~~the Internal Revenue Code~~, 26 U.S.C. § 47(c), properly chargeable to the federally certified rehabilitation.

Sec. 549. 32 V.S.A. § 5935(a) is amended to read:

(a) With respect to State income tax refunds under chapter 151 of this title and renter credit payments due a claimant under chapter 154 ~~based on rental payments~~, when the Department transfers funds payable on a joint return to a claimant agency and only one of the spouses filing the return is identified as a debtor of the claimant agency, the nondebtor spouse may, within 30 days of the date of mailing of the notice to the taxpayer described in subsection 5934(c) of

this subchapter, petition the Department in writing for a return of that portion of the refund attributable to the income of the nondebtor spouse. The Commissioner shall thereafter conduct a hearing at which the nondebtor spouse shall bear the burden of establishing what portion of a refund transferred to a claimant agency, if any, is attributable to ~~his or her~~ the nondebtor's income.

Sec. 550. 32 V.S.A. § 5937 is amended to read:

§ 5937. PRIORITIES IN CLAIMS TO SETOFF

(a) Priority in multiple claims to refunds allowed to be set off under the provisions of this chapter shall be in descending order of magnitude.

(b) Notwithstanding the priority set forth ~~above~~ in subsection (a) of this section, the Department may apply a refund to the outstanding Vermont State tax liability of a taxpayer, including a taxpayer's liability for interest, penalties, and fees, before any portion of a refund is transferred to a claimant agency.

Sec. 551. 32 V.S.A. § 5941(b) is amended to read:

(b) ~~Sections~~ Subsection 5934(c) and section 5936 of this title, relating to the procedure for contesting the debt, shall not apply to a court seeking setoff from a judgment debtor under this subchapter.

Sec. 552. 32 V.S.A. § 6061 is amended to read:

§ 6061. DEFINITIONS

As used in this chapter unless the context requires otherwise:

(1) “Property tax credit” means a credit of the prior tax year’s statewide or ~~local share~~ municipal property tax liability or a homestead owner credit, as authorized under section 6066 of this title, as the context requires.

* * *

(11) “Housesite” means that portion of a homestead, as defined under subdivision 5401(7) of this title but not under subdivision 5401(7)(G) of this title, that includes as much of the land owned by the claimant surrounding the dwelling as is reasonably necessary for use of the dwelling as a home, but in no event more than two acres per dwelling unit; and in the case of multiple dwelling units, ~~no~~ not more than two acres per dwelling unit up to a maximum of 10 acres per parcel.

* * *

(13) “Homestead” means a homestead as defined under subdivision 5401(7) of this title, but not under subdivision 5401(7)(G); of this title, and declared on or before October 15 in accordance with section 5410 of this title.

* * *

Sec. 553. 32 V.S.A. § 6066 is amended to read:

§ 6066. COMPUTATION OF PROPERTY TAX CREDIT AND RENTER
CREDIT

* * *

(g) Notwithstanding subsection (d) of this section, if the land surrounding a homestead is owned by a nonprofit corporation or community land trust with tax exempt status under 26 U.S.C. § 501(c)(3), the homeowner may include an allocated amount as property tax paid on the land with the amount of property taxes paid by the homeowner on the home for the purposes of computation of the credit under this section. The allocated amount shall be determined by the nonprofit corporation or community land trust on a proportional basis. The nonprofit corporation or community land trust shall provide to that homeowner, by January 31, a certificate specifying the allocated amount. The certificate shall indicate the proportion of total property tax on the parcel that was assessed for municipal property tax, ~~for local share property tax,~~ and for statewide property tax.

(h) ~~State property tax reduction incentive.~~ A homestead owner shall be entitled to an additional property tax credit amount equal to one percent of the amount of income tax refund that the claimant elects to allocate to payment of homestead property tax under subdivision 6068 of this title.

* * *

Sec. 554. 32 V.S.A. § 6069(a) is amended to read:

(a) On or before January 31 of each year, the owner of land rented as a portion of a homestead in the prior calendar year shall furnish a certificate of rent to the Department of Taxes and to each claimant who owned a portion of

the homestead and rented that land as a portion of a homestead in the prior calendar year. The certificate shall indicate the proportion of total property tax on that parcel that was assessed for municipal property tax, ~~for local share property tax,~~ and for statewide property tax.

Sec. 555. 32 V.S.A. § 7305 is amended to read:

§ 7305. ALLOWANCE FOR EXEMPTIONS, DEDUCTIONS, AND
CREDITS

* * *

(c) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or ~~his or her~~ the decedent's estate shall inure to the proportionate benefit of all persons liable to apportionment.

* * *

(e) To the extent that property passing to or in trust for a surviving spouse or any charitable, public, or similar gift or bequest does not constitute an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property shall not be included in the computation provided for in section 7302 of this title, and to that extent no apportionment shall be made against the property. The sentence immediately preceding shall not apply to any case where the result will be to deprive the estate of a deduction otherwise

allowable under ~~Section 2053(d) of the Internal Revenue Code of 1986 of the United States as amended,~~ 26 U.S.C. § 2053(d) relating to deductions for State death taxes on transfers for public, charitable, or religious uses.

Sec. 556. 32 V.S.A. § 7308 is amended to read:

§ 7308. ACTION BY NONRESIDENT, RECIPROCITY

Subject to this section, a fiduciary acting in another state or a person required to pay the tax who is a resident in another state may institute an action in the courts of this State and may recover a proportionate amount of the federal estate tax or an estate tax payable to another state or of a death duty due by a decedent's estate to another state from a person interested in the estate who is either a resident in this State or who owns property in this State subject to attachment or execution. For the purposes of the action, the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state shall be prima facie correct. The provisions of this section shall apply only if the state in which such apportionment was made affords a substantially similar remedy.

Sec. 557. 32 V.S.A. § 7402 is amended to read:

§ 7402. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

(1) “Commissioner” means the Commissioner of Taxes appointed under ~~section 3101 of this title~~ 3 V.S.A. § 2251.

* * *

(13) “Vermont gross estate” means for any decedent the value of the federal gross estate as provided under ~~Section 2031 of the Internal Revenue Code~~ 26 U.S.C. § 2031, excluding the value of property that has its situs outside Vermont.

(14) “Vermont taxable estate” means the federal taxable estate as provided under ~~Section 2051 of the Internal Revenue Code~~ 26 U.S.C. § 2051, without regard to whether the estate is subject to the federal estate tax:

(A) Increased by the amount of the deduction for state death taxes allowed under ~~Section 2058 of the Internal Revenue Code~~ 26 U.S.C. § 2058, to the extent deducted in computing the federal taxable estate.

(B) Increased by the amount of the deduction for foreign death taxes allowed under ~~Section 2053(d) of the Internal Revenue Code~~ 26 U.S.C. § 2053(d), to the extent deducted in computing the federal taxable estate.

(C) Increased by the aggregate amount of taxable gifts as defined in ~~Section 2503 of the Internal Revenue Code~~ 26 U.S.C. § 2503, made by the decedent within two years of the date of death. For purposes of this subdivision, the amount of the addition equals the value of the gift under

~~Section 2512 of the Internal Revenue Code~~ 26 U.S.C. § 2512 and excludes any value of the gift included in the federal gross estate.

(15) “Situs of property” means, with respect to:

* * *

(C) a qualified work of art, as defined in ~~Section 2503(g)(2) of the Internal Revenue Code~~ 26 U.S.C. § 2503(g)(2), owned by a nonresident decedent and that is normally kept or located in this State because it is on loan to an organization, qualifying as exempt from taxation under ~~Section 501(e)(3) of the Internal Revenue Code~~ 26 U.S.C. § 501(c)(3), that is located in Vermont, the situs of the art is deemed to be outside Vermont; and

* * *

Sec. 558. 32 V.S.A. § 7444 is amended to read:

§ 7444. RETURN BY EXECUTOR

(a) An executor shall submit a Vermont estate tax return to the Commissioner, on a form prescribed by the Commissioner, when a decedent has an interest in property with a situs in Vermont and one or both of the following apply:

(1) a federal estate tax return is required to be filed under ~~Section 6018 of the Internal Revenue Code~~ 26 U.S.C. § 6018; or

(2) the sum of the federal gross estate and federal adjusted taxable gifts, as defined in ~~Section 2001(b) of the Internal Revenue Code~~ 26 U.S.C.

§ 2001(b), made within two years of the date of the decedent's death exceeds \$2,750,000.00.

(b) If the executor is unable to make a complete return as to any part of the gross estate of the decedent, ~~he or she~~ the executor shall include in ~~his or her~~ the executor's return (to the extent of ~~his or her~~ the executor's knowledge or information) a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the Commissioner, such person shall in like manner make a return as to such part of the gross estate. A return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this section shall contain a statement that the return is, to the best of the knowledge and belief of the fiduciary, true and correct.

Sec. 559. 32 V.S.A. § 7460(b) and (c) are amended to read:

(b) A tax is hereby imposed upon every generation-skipping transfer in which the original transferor is a resident of the State at the date of original transfer, in an amount equal to the amount allowable as a credit for State death taxes under 26 U.S.C. § 2604, as in effect on January 1, 2001, ~~of the Internal Revenue Code of the United States.~~

(c) A tax is hereby imposed upon every generation-skipping transfer in which the original transferor is not a resident of the State at the date of the original transfer, in an amount equal to the amount allowable as a credit, with

regard to the real or tangible personal property in Vermont, for State death taxes under 26 U.S.C. § 2604, as in effect on January 1, 2001,~~of the Internal Revenue Code of the United States.~~

Sec. 560. 32 V.S.A. § 7473 is amended to read:

§ 7473. ALLOCATION OF PAYMENTS

(a) Any payment received by the Commissioner from any taxpayer with respect to a tax liability of the taxpayer may be applied to any tax liability in the following order of priority, notwithstanding any direction by the taxpayer to the contrary:

(1) ~~First~~ first, against any portion of any tax liability initially incurred with respect to a preceding taxable year, with the portion incurred with respect to the earliest preceding taxable year to be satisfied before any portion incurred with respect to any succeeding taxable year; and

(2) next, against any portion of any tax liability incurred with respect to the current taxable year.

(b) As to each portion, the payment shall be applied; as follows:

(1) first, to the amount of any interest;

(2) next, to the amount of any penalty;

(3) next, to the amount of any fee; and

(4) next, to the amount of any unpaid tax; incurred with respect to the taxable year.

Sec. 561. 32 V.S.A. § 7492(3) is amended to read:

(3) For purposes of this section, the affidavit of any U.S. district director of internal revenue that a taxpayer:

(A) has paid a specified aggregate amount of gift or estate tax;

(B) has received a specified amount of refund with respect to his gift or estate tax payments; or

(C) has paid any amount of tax calculated with respect to specified items of gifts or of an estate, or of income, deductions, exemptions, or credits, shall be prima facie evidence of the truth of those matters set forth in the affidavit.

Sec. 562. 32 V.S.A. § 7495 is amended to read:

§ 7495. LEVY FOR NONPAYMENT

When all or any portion of a tax liability imposed by this chapter is not paid within 60 days after it becomes collectible under section 7490 of this title, the Commissioner may issue a warrant under ~~his or her~~ the Commissioner's hand and official seal directed to the sheriff of any county in this State. The warrant shall command the sheriff to levy upon and sell the real and personal property of the taxpayer for the payment of the unpaid tax liability imposed by this chapter, together with allowable fees and costs. The levy and sale shall be effected in the manner, and shall be subject to the limitations, prescribed for the levy, distraint, and sale of property for the nonpayment of the taxes under

sections 5191 ~~through~~ _ 5193 and sections 5253 ~~through~~ _ 5263 of this title.

The sheriff shall return the warrant to the Commissioner and pay to ~~him or her~~
the Commissioner the money collected thereunder within time specified in the
warrant.

Sec. 563. 32 V.S.A. § 7497(c) is amended to read:

(c) The lien provided for by this section may be foreclosed at any time after
the tax liability with respect to which the lien arose becomes collectible under
section 7490 of this title. In the case of real property, the lien may be
foreclosed in the manner prescribed in 12 V.S.A. §§ ~~4523 through 4530~~
chapter 172 and in such rules as the Supreme Court may promulgate for the
foreclosure of mortgages on real estate. In the case of personal property, the
lien may be satisfied in the manner prescribed in 9A V.S.A. ~~Article~~ article 9
for the disposition of collateral under a security interest or in the manner
provided by law for the foreclosure of other security interests in personal
property.

Sec. 564. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

~~The following words and phrases, as As used in this chapter, shall have the~~
~~following meanings, unless the context otherwise requires:~~

* * *

Sec. 565. 32 V.S.A. § 7771(c)(1) is amended to read:

(1) This tax shall not apply to:

* * *

(B) Products bearing a tax stamp affixed pursuant to the laws of another jurisdiction with a tax rate equal to or greater than the rate set forth in this subsection (c) of this section.

* * *

Sec. 566. 32 V.S.A. § 7776 is amended to read:

§ 7776. COLLECTION OF CIGARETTE TAX THROUGH

NONRESIDENT LICENSED WHOLESALE DEALERS

(a) When the Commissioner of Taxes ~~shall find~~ finds that the collection of the tax imposed by this chapter would be facilitated thereby, ~~he or she~~ the Commissioner may, in ~~his or her~~ the Commissioner's discretion, authorize any ~~person~~ resident or ~~located outside this State~~ nonresident person engaged in the business of manufacturing cigarettes or any ~~person~~ resident or ~~located outside this State~~ nonresident person who ships cigarettes into this State for sale to retail dealers in this State as defined in section 7702 of this title and who qualifies as a licensed wholesale dealer as defined in section 7702 of this title, but need not have a place of business in this State, upon complying with the requirements of the Commissioner to affix or cause to be affixed the stamps required by this chapter on behalf of the purchasers of such cigarettes who

would otherwise be taxable therefor, and the Commissioner may sell such stamps to such person as provided in section 7772 of this title.

(b) ~~Such~~ A nonresident person shall agree to submit ~~his or her~~ the nonresident person's books, accounts, and records to examination during reasonable business hours by the Commissioner or ~~his or her~~ the Commissioner's duly authorized agent.

(c) ~~Each such~~ A nonresident person authorized pursuant to subsection (a) of this section, other than a foreign corporation that ~~has received a certificate from the commissioner of foreign corporations authorizing it~~ the Secretary of State has authorized to do business in this State, shall, in writing, appoint the Secretary of State and ~~his or her~~ the Secretary's successors in office to be ~~his or her~~ attorney, such appointment to be made and filed in the manner ~~prescribed in 11 V.S.A. § 692(3)~~ the nonresident person's agent for service of process. Service upon ~~said attorney shall be~~ the Secretary pursuant to this subsection constitutes sufficient service upon ~~any such nonresident person, whether a foreign corporation that has been authorized to do business in this State by the commissioner of foreign corporations or not,~~ the nonresident person and may be made by delivering duplicate attested copies of the process to the Secretary ~~of State~~. When legal process against ~~any such~~ the nonresident person ~~shall be~~ is served upon the Secretary of State, ~~he or she~~ the Secretary shall notify ~~such~~ the nonresident person in the manner specified, and shall

collect the fee provided in 12 V.S.A. § 852 ~~and shall collect the fee specified therein.~~

* * *

Sec. 567. 32 V.S.A. § 7821 is amended to read:

§ 7821. CRIMINAL PENALTIES

Any person who shall fail, neglect, or refuse to comply with or shall violate the provisions of this chapter relating to the tax on tobacco products or the rules ~~and regulations~~ adopted by the Commissioner under this chapter relating to such tax shall be guilty of a misdemeanor, and upon conviction for a first offense shall be sentenced to pay a fine of not more than \$250.00 or to be imprisoned for not more than 60 days, or both, such fine and imprisonment in the discretion of the court; and for a second or subsequent offense shall be sentenced to pay a fine of not less than \$250.00 nor more than \$500.00 or be imprisoned for not more than six months, or both, such fine and imprisonment in the discretion of the court. This section shall not apply to violations of sections 7731–7734 and 7776 of this title.

Sec. 568. 32 V.S.A. § 8211(a) is amended to read:

(a) For each taxable year, there is ~~hereby~~ assessed upon the appraised value of the property and corporate franchise of each person or corporation owning or operating a railroad located in whole or in part within this State a tax at the rate of one percent ~~of the appraised value thereof.~~ The appraised value shall

be obtained and established as ~~hereinafter~~ provided under this subchapter.

One-half of the tax imposed by this section, covering the six months ending with June 30 in each year, shall be paid to the Commissioner on or before the following October 15 ~~following~~; by the person or corporation then owning or operating ~~such~~ the railroad. The remaining one-half of ~~such~~ the tax covering the six months ending with December 31 in each year shall be paid to the Commissioner on or before the following April 15 ~~following~~; by the person or corporation then owning or operating ~~such~~ the railroad.

Sec. 569. 32 V.S.A. § 8241 is amended to read:

§ 8241. ANNUAL REPORT REQUIRED; CONTENTS

A person or corporation owning or operating a railroad located in whole or in part in this State, annually, on or before July 1, shall file with the Commissioner a sworn copy of the Interstate Commerce Commission report and, upon forms to be prepared and furnished at the expense of the State, a report for the year ending December 31 next preceding. ~~Such~~ The report shall show, among other things, the amount of gross and net earnings of ~~such~~ the person or corporation. If any portion of such railroad is ~~without~~ outside this State, ~~such~~ the returns shall give the amount of gross and net earnings per mile of ~~such~~ the road; the length of the entire main line of road and the number of miles thereof in this State; the kind and weight of rail used on its main line; the kind and number of ties per mile; the kind of ballast; the number of miles of

side and spur tracks; a list of its equipment; the amount and the value of its capital stock; its funded and floating debt; its surplus; its bonds secured by mortgage or other securities on the property of such person or corporation; the market value of its stock and bonds; and the amount of dividends, interest, or indebtedness paid annually or semiannually. If a railroad is leased and operated by the lessee, ~~such~~ the returns shall also give the amount paid for the rental thereof of the railroad and any other matter required by the Commissioner to carry out the provisions of this chapter. Whenever required in writing by the Commissioner, ~~such~~ the person or corporation shall render a sworn statement of ~~such~~ other and further facts relating to its financial or physical condition as shall be required ~~by him or her~~ in making the appraisal ~~hereinafter mentioned~~ under this subchapter.

Sec. 570. 32 V.S.A. § 8282 is amended to read:

§ 8282. ROAD OPERATING WITHIN AND OUTSIDE THE STATE

When a person or corporation operates a line of railroad located partly within and partly ~~without~~ outside this State, except as otherwise provided, the Director shall appraise at its fair and just value all property within this State acquired, constructed, or used in this State for railroad business or purposes held, possessed, or owned by the person or corporation operating ~~such~~ the line of railroad. In making ~~such~~ the appraisal, the Director may take into consideration the value of the entire railroad system operated by ~~such~~ the

person or corporation; the mileage ~~thereof~~ both within and outside this State; its engines, cars, and other equipment; and other information, facts, and circumstances as will aid ~~him or her therein~~ the Director.

Sec. 571. 32 V.S.A. § 8362 is amended to read:

§ 8362. PROCEDURE

~~Such~~ The judge shall establish ~~such~~ rules and regulations relative to the time and method of hearing and determining ~~such~~ appeals as ~~he or she~~ the judge shall deem just, provided that ~~such~~ the appeal shall be finally determined and the appraisal by the judge made and established on or before June 1 following ~~such~~ the appeals. The cost of ~~such~~ the appeals shall be paid as the judge shall determine. The State Treasurer and the Attorney General shall represent the State in all such appeal proceedings unless the Attorney General is disqualified to act ~~therein~~ in the proceedings. In case of ~~such~~ disqualification, the State shall be represented by the State Treasurer and by ~~such~~ counsel as ~~he or she~~ the State Treasurer may select with the approval of the Governor. ~~Such counsel~~ Selected counsel shall be paid upon a warrant issued by the Commissioner of Finance and Management.

Sec. 572. 32 V.S.A. § 8901 is amended to read:

§ 8901. PURPOSE

This chapter imposes a purchase and use tax on motor vehicles in addition to any other tax or registration fees. The purpose of this chapter is to ~~thereby~~

improve and maintain the State and interstate highway systems, to pay the principal and interest on bonds issued for the improvement and maintenance of those systems, and to pay the cost of administering this chapter. The administration of this chapter is vested in the Commissioner of Motor Vehicles and ~~his or her~~ the Commissioner's authorized representatives. The Commissioner may ~~prescribe and publish regulations~~ adopt rules to carry into effect the provisions of this chapter, ~~which regulations that~~, when reasonably designed to carry out the intent of this chapter, shall have the same force as if enacted ~~herein~~ under this chapter.

Sec. 573. 32 V.S.A. § 8902 is amended to read:

§ 8902. DEFINITIONS

Unless otherwise expressly provided, ~~the words and phrases used in this chapter shall be construed to mean~~ as used in this chapter:

* * *

(5) "Taxable cost" means the purchase price as defined in subdivision (4) of this section or the taxable cost as determined under section 8907 of this title. For any purchaser who has paid tax on the purchase or use of a motor vehicle that was sold or traded by the purchaser or for which the purchaser received payment under a contract of insurance, the taxable cost of the replacement motor vehicle other than a leased vehicle shall exclude:

* * *

~~(F) Notwithstanding any other provision of law, for leases in effect on June 30, 1995, no portion of the purchase and use tax paid at the time of lease shall be refunded; provided, however, for leases in effect on June 30, 1995, if the lessee purchases the leased vehicle, no tax shall be imposed on that purchase. [Repealed.]~~

* * *

Sec. 574. 32 V.S.A. § 8903(g)(1) is amended to read:

(g)(1) There is hereby imposed upon the titling in this State a tax at the rate provided for in subsection (a) or (b) of this section of the taxable cost of a:

(A) pleasure car as defined in 23 V.S.A. § 4;

(B) motorcycle as defined in 23 V.S.A. § 4;

(C) motor home as defined in subdivision 8902(11) of this title; or

(D) vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

* * *

Sec. 575. 32 V.S.A. § 8906 is amended to read:

§ 8906. TAX FORM CONTENTS

Except as otherwise provided pursuant to subdivision 8905(d) of this title, ~~such~~ the tax form shall require the following information as to the purchase price of the motor vehicle:

(1) the value of any motor vehicle accepted in trade together with its make, type, serial or identification number, and year of manufacture; and

(2) the make, type, serial or identification number, and year of manufacture of the motor vehicle purchased.

Sec. 576. 32 V.S.A. § 8907 is amended to read:

§ 8907. COMMISSIONER, COMPUTATION OF TAXABLE COSTS

(a) The Commissioner may investigate the taxable cost of any motor vehicle transferred subject to the provisions of this chapter. If the motor vehicle is not acquired by purchase in Vermont or is received for an amount that does not represent actual value, or if no tax form is filed or it appears to the Commissioner that a tax form contains fraudulent or incorrect information, the Commissioner may, in ~~his or her~~ the Commissioner's discretion, fix the taxable cost of the motor vehicle at the clean trade-in value of vehicles of the same make, type, model, and year of manufacture as designated by the manufacturer, as shown in the NADA Official Used Car Guide (New England Edition) or any comparable publication, less the lease end value of any leased vehicle. The Commissioner may compute and assess the tax due ~~thereon~~, and notify the purchaser ~~thereof forthwith~~ immediately by certified mail, and the purchaser shall remit the same within 15 days thereafter.

(b) The Commissioner may investigate the lease end value of any motor vehicle transferred subject to the provisions of this chapter. If the listed lease

end value of a motor vehicle does not represent a commercially reasonable value, the Commissioner shall establish a reasonable, commercial value for the end of the lease period. The Commissioner may ~~make~~ adopt, amend, and repeal rules under 3 V.S.A. chapter 25 to establish the lease end value and may require and accept any satisfactory evidence of such value.

Sec. 577. 32 V.S.A. § 8908 is amended to read:

§ 8908. REGULATIONS

Notwithstanding any other provision of law, the Commissioner may from time to time ~~make~~ adopt regulations to provide that “taxable cost” shall not reflect a diminution for trade-in arising from a purchase of a motor vehicle in a state that does not allow a deduction for trade-in in the computation of the “taxable cost” or similar tax base in the computation of taxes imposed by a motor vehicle sales and use tax in that state.

Sec. 578. 32 V.S.A. § 8911(10) is amended to read:

(10) Motor vehicles registered in Vermont by the transferor and transferred between that person and a business entity controlled by the transferor, if the transfer is exempt under ~~Section 351 of the U.S. Internal Revenue Code~~ 26 U.S.C. § 351, as amended.

Sec. 579. 32 V.S.A. § 8921 is amended to read:

§ 8921. ASSESSMENTS

If a rental company neglects or refuses to file any report required by this chapter, the Commissioner shall make an estimate of the tax due, based upon information available to ~~him or her~~ the Commissioner, for the period for which the rental company failed to make the report, and shall assess the tax due from ~~such~~ the rental company, adding to the amount thus determined a penalty of 50 percent ~~thereof~~ of the tax due. The assessment shall bear interest at the rate of one and one-half percent per month from the date the tax payment was due until paid. The Commissioner shall give the rental company notice by mail of the assessment, and payment shall be due within 15 days of the date of the mailing of the notice.

Sec. 580. 32 V.S.A. § 9201 is amended to read:

§ 9201. STATUTORY PURPOSES

* * *

(d) The statutory purpose of the exemption for meals provided at hospitals in subdivision 9202(10)(D)(ii)(IV) of this title and ~~convalescent and~~ nursing homes, residential care homes, assisted living residences, homes for the terminally ill, therapeutic community residences, and independent living facilities in subdivision ~~9202(10)(D)(ii)(IV)~~ 9202(10)(D)(ii)(XII) of this title is to reduce the overall costs of health care and senior care in Vermont.

* * *

(n) The statutory purpose for the exemption for cannabis and cannabis products ~~as defined under 7 V.S.A. § 831~~ in subdivision 9202(10)(D)(iv) of this title is to avoid having both the meals and rooms tax and the cannabis excise tax apply to edible cannabis products.

Sec. 581. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

~~The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section~~ As used in this chapter unless the context clearly indicates a different meaning:

(1) “Commissioner” means the Commissioner of Taxes appointed under ~~section 3101 of this title~~ 3 V.S.A. § 2251 and ~~his or her~~ the Commissioner’s authorized representatives.

* * *

Sec. 582. 32 V.S.A. § 9244 is amended to read:

§ 9244. OPTIONAL DATES; EXTENSIONS

The Commissioner may, upon written request and for good cause shown, authorize an operator whose books and records are not kept on a calendar month basis or whose hotel or establishment for the sale of taxable meals is operated only during certain seasons of the year to file returns at other times than those specified in section 9243 of this title and in lieu of ~~such~~ the returns,

but except in the case of seasonal hotels and eating establishments, no taxpayer shall be permitted to make less than four returns during a year. The Commissioner may, if ~~he or she~~ the Commissioner believes ~~such~~ the action is necessary where collection of the tax may be in jeopardy, require an operator to file returns and pay taxes under this chapter at any time or from time to time. Except as to the time of filing and the period covered, all the provisions as to returns required by sections ~~9204~~ 3201, 9202, 9241–9243, 9271, and 9272 of this title shall be applicable to returns made under this section and a remittance for the tax due shall accompany any return filed under this section. The Commissioner may, on written application and for good cause shown, extend the time for making any return required by this chapter.

Sec. 583. 32 V.S.A. § 9248 is amended to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes may collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner ~~shall require~~ requires, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of

\$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

Sec. 584. 32 V.S.A. § 9279 is amended to read:

§ 9279. VIOLATIONS

* * *

(d) Violation of this chapter. Any operator who knowingly violates the provisions of this chapter or ~~regulations promulgated~~ rules adopted by the Commissioner under this chapter relative to the tax on meals, alcoholic beverages, and rooms shall be guilty of a misdemeanor and upon conviction for a first offense shall be sentenced to pay a fine of not more than \$250.00 or to be imprisoned for not more than 60 days, or both, ~~such~~ the fine and imprisonment in the discretion of the court; and for a second or subsequent offense shall be sentenced to pay a fine of not less than \$250.00 or more than \$500.00 or be imprisoned for not more than six months, or both, ~~such~~ the fine and imprisonment in the discretion of the court.

(e) Separate offense for each week of operating without valid registration license. For the purpose of this section, every operator required to obtain a license under section 9271 of this title who is engaged in any business for which registration is required under section 9271 of this title without being the holder of a currently valid registration license shall commit a separate offense

for each calendar week or part ~~thereof~~ of the week during which ~~he or she~~ the operator shall be so engaged.

Sec. 585. 32 V.S.A. § 9282(b) is amended to read:

(b) The Department shall disseminate the information packet prepared by the Department of Health pursuant to 18 V.S.A. § 4468 to a short-term rental operator when the operator first registers a unit. ~~The operator of a unit registered prior to July 1, 2018 shall receive an information packet from the Department prior to July 1, 2019.~~

Sec. 586. 32 V.S.A. § 9530 is amended to read:

§ 9530. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

* * *

Sec. 587. 32 V.S.A. § 9601 is amended to read:

§ 9601. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

* * *

(6)(A) “Value” means:

~~(A)(i)~~ In in the case of any transfer of title to property that is not a gift and that is not made for a nominal or no consideration, the amount of the

full actual consideration for such transfer, paid or to be paid, including the amount of any liens or encumbrances on the property existing before the transfer and not removed thereby;

~~(B)(ii)~~ ~~In~~ in the case of a gift, or a transfer for nominal or no consideration, the fair market value of the property transferred; and

~~(C)(iii)~~ ~~In~~ in the case of a controlling interest in any person that has title to property, the fair market value of the property, apportioned based on the percentage of the ownership interest transferred or acquired in the person.

~~(D)(B)~~ “Value” shall not include the fair market value of private alternative energy sources as defined in section 3845 of this title.

* * *

(9) “Commissioner of Health” means the Commissioner of Health appointed under ~~18 V.S.A. § 104~~ 3 V.S.A. § 3051.

* * *

(12) “Controlling interest” means:

* * *

(C) For purposes of the tax imposed pursuant to section 9602 of this title, all acquisitions of persons acting in concert are aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place; provided, however, interests in any partnership, limited liability company, association, or other entity originally purchased in connection with

the federal low-income housing tax credit program under 26 U.S.C. § 42 shall not be counted in determining a change in the “controlling interest.” The Commissioner shall adopt standards by ~~regulation~~ rule to determine when persons are acting in concert. In adopting a ~~regulation~~ rule for this purpose, the Commissioner shall consider the following:

* * *

Sec. 588. 32 V.S.A. § 9603 is amended to read:

§ 9603. EXEMPTIONS

The following transfers are exempt from the tax imposed by this chapter:

* * *

(5) Transfers between two spouses, or parent and child or child’s spouse, or grandparent and grandchild or grandchild’s spouse, without actual consideration therefor; and also transfers in trust or by decree of court to the extent of the benefit to the donor or one or more of the related persons ~~above~~ named in this subdivision; and transfers from ~~such~~ a trust named in this subdivision conveying or releasing the property free of trust as between ~~such~~ those related persons and without actual consideration therefor.

* * *

(20) Transfers made to organizations qualifying under 26 U.S.C. § 501(c)(3) or to a wholly owned subsidiary corporation of such an organization, provided one of the stated purposes of the transferee is:

(A) to acquire property in order to preserve housing for ~~low-income~~ families with low income;

* * *

(23) Transfers of leasehold or fee interests made to ~~low-income~~ individuals with low income by organizations qualifying under 26 U.S.C. § 501(c)(3) and having as its primary purpose the provision of housing to ~~low-income~~ individuals with low income, or from a wholly owned subsidiary of ~~such an~~ the organization, when ~~such a~~ the transfer is made concurrently with the transfer of an improvement located on the leasehold or fee property, or is a renewal of ~~such a~~ the lease where the purpose of the lease is to provide affordable housing or to ensure the continued affordability of ~~such~~ the housing, or both.

* * *

Sec. 589. 32 V.S.A. § 9611 is amended to read:

§ 9611. ~~REGULATIONS~~ RULES OF COMMISSIONER

The Commissioner may, ~~from time to time, issue~~ adopt, amend, and withdraw ~~regulations~~ rules interpreting and implementing this chapter.

Sec. 590. 32 V.S.A. § 9615 is amended to read:

§ 9615. LEVY FOR NONPAYMENT

When all or any portion of a tax imposed by this chapter, or any penalty or interest due in connection with such a tax, is not paid, the Commissioner may

issue a warrant under ~~his or her~~ the Commissioner's hand and official seal directed to the sheriff of any county of this State. The warrant shall command the sheriff to levy upon and sell the real and personal property of the taxpayer for the payment of the unpaid tax liability imposed by this chapter, together with allowable fees and costs. The levy and sale shall be effected in the manner, and shall be subject to the limitations, prescribed for the levy, distraint, and sale of property for the nonpayment of town taxes under sections 5191 ~~through~~ 5193 and ~~sections~~ 5253 through 5263 of this title. The sheriff shall return the warrant to the Commissioner and pay to ~~him or her~~ the Commissioner the money collected ~~thereunder~~ within the time specified in the warrant.

Sec. 591. 32 V.S.A. § 9617 is amended to read:

§ 9617. NOTICES, APPEALS

Unless otherwise provided by this title:

~~(a)~~(1) If the Commissioner finds that any taxpayer has failed to discharge in full the amount of any tax liability incurred under this title, or that a penalty or interest should be assessed under it, the Commissioner shall notify the taxpayer of the deficiency or assess the penalty or interest, as the case may be, by mail.

~~(b)~~(2) Upon receipt of a notice of deficiency or assessment of penalty or interest under ~~subsection (a)~~ subdivision (1) of this section, the taxpayer may,

within 60 days after the date of the mailing of the notice of assessment, petition the Commissioner in writing for a determination of that deficiency or assessment. The Commissioner shall thereafter grant a hearing upon the matter and notify the taxpayer in writing of ~~his or her~~ the Commissioner's determination concerning the deficiency, penalty, or interest.

~~(e)~~(3) Any hearing granted by the Commissioner under this title shall be subject to and governed by 3 V.S.A. chapter 25.

~~(d)~~(4) Any notice under this chapter may be given by mailing it to the person for whom it is intended in a postpaid envelope addressed to that person at the address given in the last return filed by ~~him or her~~ that person under this title, or in any application made by ~~him~~ that person or, if no return has been filed or application made, then to any address obtainable. The mailing of the notice shall be presumptive evidence of its receipt by the person to whom it is addressed. Any period of time that is determined under this chapter by the giving of notice shall commence to run from the date of mailing of the notice.

~~(e)~~(5) A taxpayer may, within 30 days, appeal a determination by the Commissioner concerning a notice of deficiency, or an assessment of penalty or interest to the Washington Superior Court or the Superior Court of the county in which the taxpayer resides or has a place of business.

~~(f)~~(6) The exclusive remedy of a taxpayer with respect to a notification of deficiency or assessment of penalty or interest under ~~subsection (a)~~ subdivision

(1) of this section shall be the petition for determination of the deficiency or assessment provided by ~~subsection (b)~~ subdivision (2) of this section, and the appeal from an adverse determination of deficiency or assessment provided under ~~subsection (e)~~ subdivision (5) of this section.

~~(g)~~(7) Upon the failure of a taxpayer to petition in accordance with ~~subsection (b)~~ subdivision (2) of this section from a notice of deficiency or assessment issued under ~~subsection (a)~~ subdivision (1) of this section, or to appeal in accordance with ~~subsection (e)~~ subdivision (5) of this section from a determination of a deficiency or assessment of tax liability under ~~subsection (b)~~ subdivision (2) of this section, the taxpayer shall be bound by the terms of the notification, assessment, or determination, as the case may be. The taxpayer shall not thereafter contest, either directly or indirectly, the tax liability as ~~therein~~ set forth, in any proceeding, including proceeding for the enforcement or collection of all or any part of the tax liability.

~~(h)~~(8) At any time within three years after the date a property is transferred, a taxpayer may petition the Commissioner in writing for the refund of all or any part of the amount of tax paid. The Commissioner shall thereafter grant a hearing subject to the provisions of 3 V.S.A chapter 25 upon the matter and notify the taxpayer in writing of ~~his or her~~ the Commissioner's determination concerning the refund request. The Commissioner's determination may be appealed as provided in ~~subsection (e)~~ subdivision (5) of this section. This

shall be a taxpayer's exclusive remedy with respect to the refund of taxes under this chapter.

Sec. 592. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

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

* * *

(30) "Durable medical equipment" means equipment including repair and replacement parts for such equipment, but does not include "mobility-enhancing equipment," which:

(A) can withstand repeated use; ~~and~~

* * *

Sec. 593. 32 V.S.A. § 9702 is amended to read:

§ 9702. GENERAL POWERS OF THE COMMISSIONER ~~OR COURT~~

(a) In addition to other powers granted in this chapter, the Commissioner may:

(1) extend, for cause shown by general rule or individual authorization, the time of filing any return for a period not exceeding three months on ~~such~~ the terms and conditions as the Commissioner may require;

* * *

(4) publish and maintain, as ~~he or she~~ the Commissioner deems necessary, lists of specific items of tangible personal property that are found to be exempt from tax under section 9741 of this title.

(b) Any examination under oath conducted by the Commissioner may, in ~~his or her~~ the Commissioner's discretion, be reduced to writing, and willful false testimony ~~therein~~ under oath shall be deemed perjury and be punishable as such.

* * *

Sec. 594. 32 V.S.A. § 9706 is amended to read:

§ 9706. STATUTORY PURPOSES

* * *

(k) The statutory purpose of the exemption for commercial, industrial, or agricultural research use of tangible personal property ~~use~~ in subdivision 9741(24) of this title is to reduce financial barriers to research and innovation in the commercial, industrial, and agricultural industries.

* * *

(mm) The statutory purpose of the exemption for cannabis and cannabis products ~~as defined under 7 V.S.A. § 831~~ in subdivision 9741(55) of this title is to lower the cost of medical products sold by any dispensary as authorized under 7 V.S.A. chapter 37 in order to support the health and welfare of Vermont residents.

* * *

Sec. 595. 32 V.S.A. § 9743(4) is amended to read:

(4)(A) Sales of building materials and supplies to be used in the construction, reconstruction, alteration, remodeling, or repair of:

~~(A)~~(i) any building structure, or other public works owned by or held in trust for the benefit of any governmental body or agency mentioned in subdivisions (1) and (2) of this section and used exclusively for public purposes;

~~(B)~~(ii) any building or structure owned by or held in trust for the benefit of any organization described in subdivision (3) and used exclusively for the purposes upon which its exempt status is based; and

~~(C)~~(iii) any building or structure owned by any “local development corporation” as defined in 10 V.S.A. § 212(10), and used exclusively for the purposes authorized in 10 V.S.A. chapter 12; provided, however, that the governmental body or agency, the organization, or the development corporation has first obtained a certificate from the Commissioner stating that it is entitled to the exemption, and the vendor keeps a record of the sales price of each separate sale, the name of the purchaser, the date of each separate sale, and the number of the certificate.

(B) ~~In As used in~~ this subdivision, the words “building materials and supplies” ~~shall~~ include all materials and supplies consumed, employed, or

expended in the construction, reconstruction, alteration, remodeling, or repair of any building, structure, or other public work, as well as the materials and supplies physically incorporated therein.

Sec. 596. 32 V.S.A. § 9779 is amended to read:

§ 9779. DEFERRED PAYMENT SALES

The Commissioner may provide by ~~regulation~~ rule that the tax upon receipts from sales on the installment plan, seasonal sales, or deferred payment sales may be paid on the amount of each deferred payment and upon the date when the payment is received.

Sec. 597. 32 V.S.A. § 9780 is amended to read:

§ 9780. CANCELLED SALES, RETURNS, UNCOLLECTIBLES

The Commissioner may provide by ~~regulation~~ rule for the exclusion from taxable receipts, amusement charges of amounts representing sales where the contract of sale has been cancelled, the property returned on the receipt or charge has been ascertained to be uncollectible, or, in the case the tax has been paid upon that receipt or charge, for refund or credit of the tax so paid.

Sec. 598. 32 V.S.A. § 9814a is amended to read:

§ 9814a. CRIMINAL PENALTIES

(a) ~~Failure to file; failure to collect; failure to remit.~~ Any person who knowingly fails to file a return, fails to collect a tax, or fails to remit a tax

required under this subchapter shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(b) ~~Failure to file; failure to collect; failure to remit; in excess of \$500.00.~~

Any person who with intent to evade a tax liability fails to file a return or fails to collect a tax or fails to remit a tax when required under this subchapter shall, if the amount collected or required to be collected is in excess of \$500.00, be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(c) Any person filing or causing to be filed, or making or causing to be made, or giving or causing to be given any certificate, affidavit, representation, information, testimony, or statement, required or authorized, that is willfully false, or willfully failing to file a bond, or failing to file a registration certificate and ~~such~~ data in connection ~~therewith~~ with it as the Commissioner by rule or otherwise may require, to display or surrender a license as required, or assigning or transferring the license, or willfully failing to charge separately the tax ~~herein~~ imposed under this chapter or to state the tax separately on any bill, statement, memorandum, or receipt issued or employed by ~~him or her~~ the person upon which the tax is required to be stated separately as provided in section 9778 of this title, or referring or causing reference to be made to this tax in a form or manner other than that required, or failing to keep any records required, shall, in addition to any other penalties ~~herein~~ under this chapter or

elsewhere prescribed, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 or imprisonment for not more than one year, or both.

* * *

(e) A person who knowingly engages in any business for which registration is required under this chapter without a valid license shall commit a separate offense for each calendar week or part ~~thereof~~ of the week during which ~~he or she~~ the person shall be so engaged. Each ~~such~~ offense shall be a misdemeanor and upon conviction for a first offense, a person shall be sentenced to pay a fine of not more than \$250.00 or to be imprisoned for not more than 60 days, or both, ~~such~~ the fine and imprisonment in the discretion of the court; and for a second or subsequent offense shall be sentenced to pay a fine of not less than \$250.00 or more than \$500.00 or to be imprisoned for not more than six months, or both, ~~such~~ the fine and imprisonment in the discretion of the court.

Sec. 599. 32 V.S.A. § 9816 is amended to read:

§ 9816. SUSPENSION OR REVOCATION OF CERTIFICATES; APPEAL

(a) The Commissioner may, after notice and hearing, suspend or revoke the license of any person required to collect the tax or may refuse to issue or renew any registration for failure to comply with this chapter or with any pertinent rules ~~promulgated hereunder~~ adopted under this chapter.

(b) Any person required to collect the tax aggrieved by a suspension, revocation, or refusal may appeal ~~therefrom~~ to any Superior judge within

10 days after written notice of the suspension, revocation, or refusal has been mailed or delivered to ~~him or her~~ the person. The Superior judge or another Superior judge designated by the administrative judge shall hear the appeal ~~forthwith~~ immediately.

(c) If the appealing person required to collect the tax files with the Superior judge to whom ~~he or she~~ the person appeals a bond running to the State with a surety company authorized to do business in this State as surety in ~~such a~~ a sum as the Superior judge shall fix, conditioned upon the payment of all taxes due under this chapter and to become due during the pendency of the appeal, then the suspension or revocation shall be inoperative during the appeal.

(d) On an appeal from the refusal of the Commissioner to issue or renew a certificate of authority, the Commissioner shall issue or renew the registration during the pendency of the appeal if the ~~aforesaid~~ bond under subsection (c) of this section is filed.

* * *

Sec. 600. 32 V.S.A. § 10002 is amended to read:

§ 10002. LAND AND RESIDENCES

* * *

(b) Also excluded from the definition of “land” is the land, not exceeding 10 acres, necessary for the use of a dwelling that, within one year from the date of acquisition, will be used for the principal residence of the purchaser of such

land. As used in this section, “principal residence” means the principal dwelling of a person whose domicile is in the State of Vermont. If, at the time of transfer, there is not on the land a dwelling completed and fit for occupancy as the purchaser’s principal residence, ~~such~~ the residence shall be completed and occupied within two years of the date of transfer, or the tax imposed by this chapter shall then become due and payable.

* * *

(f) Also excluded from the definition of “land” is any land up to 10 acres, with the modification permitted by subsection (c) of this section, acquired by a person who will build on that land a house that, by the next succeeding sale, will be the principal residence of the occupant when ~~he or she~~ the person purchases from the person who built the house. The person acquiring such land must certify to the Commissioner of Taxes that ~~he or she~~ the person will begin building within one year of date of purchase, complete the building within two years from the date of purchase, and sell it within three years from date of purchase to a person who qualifies under subsection (b) of this section. If the land is sold as more than one parcel by the builder who acquired it, only those parcels on which a dwelling has been completed in accordance with the requirements of this subsection shall be excluded from the definition of “land.” The deed for the property shall recite the fact that there is running with the land a lien equal to the amount of land gains tax exempted by this

subsection until ~~such~~ the time as all conditions of this subsection have been met.

(g) As used in this chapter, the phrase “necessary for the use of a dwelling” refers merely to the fact that land is beneath or directly contiguous to ~~such~~ the dwelling, and no other showing of necessity shall be required. Where an exemption from taxation is provided in the case of a purchase of land “necessary for the use of a dwelling used by the taxpayer as ~~his or her~~ the taxpayer’s principal residence,” the land need not have been purchased at the same time as the dwelling to qualify for ~~such~~ the exemption.

* * *

(k) Also excluded from the definition of “land” is agricultural land transferred by a farmer to a member of ~~his or her~~ the farmer’s family, when the land is used by the transferee as agricultural land for a period of time that, when added to the time the land was used as agricultural land by the transferor, equals or exceeds six years. As used in this section, the terms “agricultural land” and “farmer” shall have the definitions provided under section 3752 of this title, and “family” shall mean persons in a relationship to the transferor of grandparent, parent or stepparent, brother or sister, or natural or adopted child. As used in this section, land is deemed to be transferred from a farmer to a transferee when the farmer has died and title vests in the transferee by right of survivorship in a joint tenancy (, or tenancy by the entirety), or through

intestate succession, or by will, without any intervening transfers, except those to and from the estate.

* * *

(m) Also excluded from the definition of “land” is a parcel of land 25 acres or less, purchased by a farmer (, as defined in section 3752 of this title), for active and direct use by that farmer, and that, upon transfer, but for the acreage, meets the definition of “agricultural land” or “managed forestland” in section 3752 or “eligible property” in section 3764 of this title, and continues to meet that definition for at least six years after the transfer.

* * *

Sec. 601. 32 V.S.A. § 10009(a) is amended to read:

(a) The Commissioner of Taxes shall administer and enforce this chapter and this tax. ~~He or she~~ The Commissioner may ~~issue~~ adopt, amend, and withdraw ~~from time to time~~ reasonable ~~regulations~~ rules to assist such administration and enforcement.

Sec. 602. 32 V.S.A. § 10101 is amended to read:

§ 10101. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

* * *

Sec. 603. 32 V.S.A. § 10102(a) is amended to read:

(a) In addition to any other powers granted to the Commissioner and the Secretary in this chapter, they may:

(1) ~~issue~~ adopt, amend, and repeal from time to time reasonable ~~regulations~~ rules to assist in the administration and enforcement of this chapter, provided however, that those rules may not in any way alter, abridge, or condition the express terms of this chapter;

* * *

Sec. 604. 32 V.S.A § 10105(a) is amended to read:

(a) Any person who fails to pay a tax liability imposed under this chapter within 30 days after the date of billing by the Commissioner shall be subject to and governed by the provisions of ~~section 5875~~ sections 3202 and 3203 of this title.

Sec. 605. 2021 Acts and Resolves No. 73, Sec. 27(3) is amended to read:

(3) Notwithstanding 1 V.S.A. § 214, Secs. 9–10 (current use contingent lien and subordination fee) and 11, 32 V.S.A. § 9706(nn) (tax expenditure for recyclable paper carryout bags; statutory purpose) shall take effect retroactively on July 1, 2020. Secs. 9–10 shall take effect retroactively to correct an erroneous technical revision to 2019 Acts and Resolves, No. 20, Sec. 109(a).

Sec. 606. 33 V.S.A. § 1201(6)(A) is amended to read:

(A) is under ~~the age of~~ 18 years of age; or

Sec. 607. 33 V.S.A. § 1201(6)(B) is amended to read:

(B) is 18 years of age or older who is a full-time student in a secondary school, or attending an equivalent level of vocational or technical training, and is reasonably expected to complete the educational program before reaching ~~the age of~~ 19 years of age or is not expected to complete the educational program before reaching ~~age~~ 19 years of age solely due to a documented disability.

Sec. 608. 33 V.S.A. § 2110(b) is amended to read:

(b) Notwithstanding subsection (a) of this section, no recovery may be had for any period in excess of 72 hours before notice is given to the Department if the plaintiff has failed to timely file the information required under subsection 2109(b) of this title.

Sec. 609. 33 V.S.A. § 2115(4) is amended to read:

(4) statewide statistics using deidentified data related to the use of emergency housing vouchers during the preceding State fiscal year, including demographic information, client data, shelter and motel usage rates, clients' primary stated cause of homelessness, and average lengths of stay in emergency housing by demographic group and by type of housing; and

Sec. 610. 33 V.S.A. § 2301(a)(1) is amended to read:

(a)(1) When a person dies in this State, or a resident of this State dies within the State or elsewhere, and the decedent was a recipient of assistance under Title IV or XVI of the Social Security Act, ~~or~~ nursing home care under Title XIX of the Social Security Act, or assistance under State aid to the aged, blind, or disabled, or an honorably discharged veteran of any branch of the U.S. Armed Forces to the extent funds are available and to the extent authorized by Department rules, the decedent's burial shall be arranged and paid for by the Department if the decedent was without sufficient known assets to pay for burial. The Department shall pay burial expenses for individuals ~~that~~ who meet the requirements of this section in an amount not to exceed a maximum established by rule and shall establish by rule a process for reducing the maximum payment amount by the amount of other assets available from the decedent's estate or from the decedent's spouse to pay for the burial. The maximum payment by the Department does not preclude other individuals from paying for or receiving contributions to pay for additional disposition expenses.

Sec. 611. 33 V.S.A. § 2502(d) is amended to read:

(d) Subject to budgetary approval by the General Assembly or approval by the Emergency Board, amounts in the Home Weatherization Assistance Fund created by section 2501 of this title may be transferred to the Home Heating

Fuel Assistance program and used for energy assistance to ~~low income~~ persons with low income, provided that such transfer does not reduce the fiscal capacity of the State Office of Economic Opportunity to meet the budgetary obligations of the Weatherization Program as set forth in this chapter and that in the event of approval by the Emergency Board, the Emergency Board so certifies.

Sec. 612. 33 V.S.A. § 3306(b)(3) is amended to read:

(3) funds received from the federal government as matching funds or other funds for the purposes set forth in this chapter; and

Sec. 613. 33 V.S.A. § 4921(e)(1)(G) is amended to read:

(G) a Probate Division of the Superior Court involved in guardianship proceedings; and

Sec. 614. 33 V.S.A. § 5112(b) is amended to read:

(b) The court shall appoint a guardian ad litem for a child under 18 years of age who is a party to a proceeding brought under the juvenile judicial proceedings chapters. In a delinquency proceeding, a parent, guardian, or custodian of the child may serve as a guardian ad litem for the child, ~~providing his or her~~ provided that the interests of the parent, guardian, or custodian of the child do not conflict with the interests of the child. The guardian ad litem appointed under this section shall not be a party to that proceeding or an employee or representative of such party.

Sec. 615. 33 V.S.A. § 5124(b)(1)(B)(xi) is amended to read:

(xi) the recommendation of the Department; and

Sec. 616. 33 V.S.A. § 5204(d)(6) is amended to read:

(6) the prospects for rehabilitation of the child by use of procedures, services, and facilities available through juvenile proceedings; and

Sec. 617. 33 V.S.A. § 5253 is amended to read:

§ 5253. EMERGENCY CARE ORDER; CONFIDENTIAL CUSTODY
ORDER

(a)~~(1)~~ Transfer of temporary custody.

(1) The court may issue an emergency care order transferring temporary custody of the child to the Department pending a temporary care hearing if the court determines that:

* * *

(b) Contents of emergency care order. The emergency care order shall contain:

* * *

(2) the date, hour, and place of the temporary care hearing to be held pursuant to section 5255 of this title; and

* * *

(c) Conditional custody order. If the court determines that the child may safely remain in the custody of the custodial parent, guardian, or custodian, the

court may deny the request for an emergency care order and issue an emergency conditional custody order. The order shall contain:

* * *

(2) the date, hour, and place of the temporary care hearing to be held pursuant to section 5255 of this title; and

* * *

Sec. 618. 33 V.S.A. § 5256(c)(3) is amended to read:

(3) The order may include such other provisions as may be necessary for the protection and welfare of the child, including:

* * *

(G) an order that the custodial parent provide the Department with names of all potential noncustodial parents and relatives of the child; and

* * *

Sec. 619. 33 V.S.A. § 5268(a)(3) is amended to read:

(3) the opportunity to appear and to present evidence on the juvenile's behalf; and

Sec. 620. 33 V.S.A. § 5291(c) is amended to read:

(c) If a child is placed in a secure facility pursuant to subsection (a) of this section and secure facility placement continues following the merits hearing review pursuant to subsection (b) of this section, the court shall, within 35 days of the merits adjudication:

(1) hold the disposition hearing, ~~or, if disposition is not held within 35 days;~~ or

(2) if disposition is not held within 35 days, hold a hearing to review the continued secure facility placement.

Sec. 621. 33 V.S.A. § 5301(2) is amended to read:

(2) by an officer when the officer has reasonable grounds to believe that the child is in immediate danger from ~~his or her~~ the child's surroundings and that removal from the child's current home is necessary for the child's protection; and

Sec. 622. 33 V.S.A. § 5310(b)(2) is amended to read:

(2) The name, date of birth, telephone number, and residence address, if known, of the child; and of the custodial and noncustodial parents, or of the guardian or custodian of the child if other than parent. If a parent is a participant in the Safe At Home Program pursuant to 15 V.S.A. § 1152, the petition shall so specify.

Sec. 623. 33 V.S.A. § 5311(b)(5) is amended to read:

(5) a statement that the parent, guardian, or custodian may be liable for the cost of the support of a child if the child is placed in the legal custody of the Department; and

Sec. 624. 33 V.S.A. § 5321 is amended to read:

§ 5321. PERMANENCY HEARING

* * *

(b) Case plan. The court shall adopt a case plan designed to achieve the permanency goal. At the permanency review, the court shall review the permanency plan and determine whether the plan advances the permanency goal recommended by the Department. The court may accept or reject the plan; but may not designate a particular placement for a child in the Department's legal custody.

(c) Frequency. A permanency review hearing shall be held no less than every 12 months with the first hearing to be held 12 months after the date the legal custody of the child was transferred, subject to the following exceptions:

* * *

(d) Siblings. If the court shortens the time for the permanency review hearing for a younger sibling, that shortened review interval shall be applied to all siblings in the family who are in the legal custody of the Department.

(e)~~(4)~~ Notice.

(1) The Department shall file with the court a notice of permanency review together with a case plan and recommendation for a permanency goal. The Department shall provide notice to the State's Attorney having jurisdiction and to all parties to the proceeding in accordance with the rules for family

proceedings. The court shall hold a permanency review hearing within 30 days of the filing of notice by the Department. Failure to give such notice or to review an order shall not terminate the original order or limit the court's jurisdiction.

* * *

(f) Evidence. All evidence helpful in determining the questions presented, including hearsay, may be admitted and relied upon to the extent of its probative value even though not competent at an adjudication hearing.

(g) Administrative body. The permanency hearing may be held by an administrative body appointed or approved by the court. The administrative body may consist of one but not more than three persons. No person employed by the Department shall be a member of the administrative body. In the event that the administrative body determines that the existing order should be altered, it shall submit its recommendation to the court for its consideration. In the event that the administrative body determines that the existing order should not be altered, its determination shall be binding unless any party requests review by the court within 10 days of receipt of the determination. A copy of the determination shall be sent to each party and to the court. The court, on its own motion or on the request of any party, shall conduct a review de novo within 30 days of receipt of such request.

(h) Best efforts of Department. Upon the filing of a petition for a finding of reasonable efforts and a report or affidavit by the Department for Children and Families with notice to all parties, the court shall hold a hearing within 30 days of the filing of the petition to determine, by a preponderance of the evidence, whether the Department for Children and Families has made reasonable efforts to finalize the permanency plan for the child that is in effect at the time of the hearing. The hearing may be consolidated with or separate from a permanency hearing. Reasonable efforts to finalize a permanency plan may consist of:

* * *

Sec. 625. 33 V.S.A. § 6305(b) is amended to read:

(b) In a form and manner and at intervals prescribed by the Commissioner, the Commissioner shall collect and analyze data regarding access to and the cost and quality of home health services in Vermont. ~~Such~~ The data shall include information on complaints, waiting lists, numbers of individuals ineligible for services, numbers of individuals eligible for but not provided services, numbers of patients served under 65 years of age and 65 years of age and over, total number of visits and hours provided to patients by each of the existing home health agencies; the results of patient surveys conducted by the home health agencies; data pertaining to federal and State surveys; scoring by any national accrediting organization; charitable and subsidized programs and

services for uninsured individuals or individuals with low income ~~persons~~ in their respective communities; copies of audited financial statements and annual cost reports; and any other quality measures or data deemed relevant by the Commissioner to monitor and evaluate access to and the cost and quality of home health services by the designated home health agencies.

Sec. 626. 33 V.S.A. § 7111(h) is amended to read:

(h) The Commissioner of Disabilities, Aging, and Independent Living, the Attorney General, or a resident or a resident's legal representative may bring an action as provided for in subchapter ~~3~~ 4 of this chapter.

Sec. 627. 33 V.S.A. § 7301(1) is amended to read:

(1) The governing body of the facility shall establish written policies regarding the rights and responsibilities of residents and, through the administrator, is responsible for development of, and adherence to, procedures implementing such policies. These policies and procedures shall be made available to residents; to any guardians, next of kin, sponsoring agency, or representative payees selected pursuant to subsection 205(j) of the Social Security Act, and ~~Subpart Q~~ of 20 C.F.R. part 404, Subpart U; and to the public.

Sec. 628. 33 V.S.A. § 7801(a) is amended to read:

(a) The Vermont Traumatic Brain Injury Fund is established in the Office of the State Treasurer as a special fund to be a source of financing for services

for individuals with ~~TBI~~ traumatic brain injury (TBI) and for programs established by or through contracts with the Agency of Human Services for the treatment of traumatic brain injuries.

* * * Interpretation; Effective Dates * * *

Sec. 629. INTERPRETATION

It is the intent of the General Assembly that the technical amendments in this act shall not supersede substantive changes contained in other bills enacted by the General Assembly during the current biennium. Where possible, the amendments in this act shall be interpreted to be supplemental to other amendments of the same sections of statute; to the extent the provisions conflict, the substantive changes in other acts shall take precedence over the technical changes of this act.

Sec. 630. EFFECTIVE DATES

This act shall take effect on July 1, 2022 except, notwithstanding 1 V.S.A. § 214, Sec. 605, 2021 Acts and Resolves No. 73, Sec. 27(3), (statutory purpose for tax expenditure) shall take effect on July 1, 2021.