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H.849

An act relating to technical corrections for the 2024 legislative session

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

* * * Technical Corrections * * *

* * * Title 3 * * *

Sec. 1. 3 V.S.A. § 129(f)(1)(A) is amended to read:

(f)(1)(A) The Director may appoint a hearing officer, who shall be an attorney admitted to practice in this State, to conduct a hearing that would otherwise be heard by a board. A hearing officer appointed under this subsection (f) may administer oaths and exercise the powers of the board properly incidental to the conduct of the hearing.

Sec. 2. 3 V.S.A. § 473(b) is amended to read:

(b) Member contributions.

(1) Allocations and periodic review.

(A) Allocations. Contributions deducted from the compensation of members together with any member contributions transferred thereto from the predecessor systems shall be accumulated in the Fund and separately recorded for each member. The amounts so transferred on account of Group A members shall be allocated between regular and additional contributions. The amounts so allocated as regular contributions shall be determined as if the rate of contribution of four percent has been continuously in effect in the predecessor system from which such amounts were transferred and the balance

1 of any amount so transferred on account of any Group A member shall be
2 deemed additional contributions. In the case of Group C members who were
3 members as of the date of establishment and Group D members, all
4 contributions transferred from predecessor systems shall be deemed regular
5 contributions. Those members who, prior to the date of establishment of this
6 system, had been contributing at a rate less than four percent shall have any
7 benefit otherwise payable on their behalf actuarially reduced to reflect such
8 prior contribution rate of less than four percent. Upon a member's retirement
9 or other withdrawal from service on the basis of which a retirement allowance
10 is payable, the member's additional contributions, with interest thereon, shall
11 be paid as an additional allowance equal to an annuity that is the actuarial
12 equivalent of such amount, in the same manner as the benefit otherwise
13 payable under the System.

14 * * *

15 (2) Groups A, C, D, F, and G members.

16 (A) Group A members. Commencing on July 1, 2016, contributions
17 shall be 6.55 percent of compensation for Group A members.

18 * * *

19 Sec. 3. 3 V.S.A. § 836(b)(2)(D) is amended to read:

20 (D) Each comment submitted to the agency on the proposed rule.
21 The agency shall redact sensitive personal information from the posted

1 comments. As used in this subdivision (D), “sensitive personal information”
2 means each of the items listed in 9 V.S.A. § ~~2430(5)(A)(i)-(iv)~~ 2430(10)(A)
3 and does not include the name, affiliation, and contact information of the
4 commenter.

5 Sec. 4. 3 V.S.A. § 846(c) is amended to read:

6 (c) Failure to identify the creation or enlargement in scope of a Public
7 Records Act exemption in accordance with ~~subsection 838(b)~~ subdivision
8 838(a)(15) or subsection 841(b) of this ~~title~~ subchapter shall render invalid the
9 provisions of the rule that create or enlarge the exemption.

10 * * * Title 10 * * *

11 Sec. 5. 10 V.S.A. § 905b(3)(A)(vii) is amended to read:

12 (vii) structural hazard control, such as debris basins or floodwalls
13 to protect critical facilities; and

14 Sec. 6. 10 V.S.A. § 1420(d) and (e) are amended to read:

15 (d) Removal and storage.

16 (1) Removal of abandoned vessel. Upon request from a law
17 enforcement officer or at ~~his or her~~ the Secretary’s own initiative, the Secretary
18 shall promptly cause the removal and safe storage of a vessel that is abandoned
19 as described in subdivision (a)(1) of this section, unless the vessel is to be
20 removed by a federal agency. If removal is requested by a law enforcement
21 officer, the Secretary shall make reasonable efforts to determine if the vessel

1 qualifies as abandoned. In addition, the Secretary shall have the authority to
2 take actions as may be necessary to eliminate risks to public health or safety
3 caused by the condition of the vessel.

4 * * *

5 (e) Notice and listing of abandoned vessel.

6 (1) Notice of removal and place of storage. Within three business days
7 ~~of~~ after the date of removal of an abandoned vessel, the storage operator shall
8 send notice to the Commissioner of:

9 * * *

10 Sec. 7. 10 V.S.A. § 1446(a) is amended to read:

11 (a) Allowed uses.

12 (1) Registered projects. The following projects in a protected shoreland
13 area do not require a permit under section 1444 or 1445 of this title:

14 * * *

15 Sec. 8. 10 V.S.A. § 6081(d) is amended to read:

16 (d) For purposes of this section, the following construction of
17 improvements to preexisting municipal, county, or State projects shall not be
18 considered to be substantial changes and shall not require a permit as provided
19 under subsection (a) of this section:

20 * * *

1 (3) public school reconstruction or expansion that does not expand the
2 student capacity of the school by more than 10 percent; and

3 (4) municipal, county, or State building renovations or reconstruction
4 that does not expand the floor space of the building by more than 10 percent.

5 ~~(5) [Repealed.]~~

6 Sec. 9. 10 V.S.A. § 6604(b)(2)(B) is amended to read:

7 (B) tax incentives, including the following options:

8 (i) product taxes, based on a sliding scale, according to the degree
9 of undue harm caused by the product, the existence of less harmful
10 alternatives, and other relevant factors; and

11 (ii) taxes on all nonrecyclable, nonbiodegradable products or
12 packaging; and

13 Sec. 10. 10 V.S.A. § 7105(i)(4) is amended to read:

14 (4) The Agency may grant an exemption with or without conditions
15 upon findings that:

16 (A) a system exists for the proper collection, transportation, and
17 processing of the product at the end of its life, including a system for the direct
18 return of a waste product to the manufacturer or a collection and recycling
19 system that is supported by an industry or trade group, or other similar private
20 or public sector efforts; ~~and~~

21 (B) one of the following applies:

1 (i) use of the product provides a net benefit to the environment,
2 public health, or public safety when compared to available nonmercury
3 alternatives; or

4 (ii) technically feasible alternatives are not available at reasonable
5 cost; and

6 (C) with respect to renewals of an exemption, in addition to
7 subdivisions (A) and (B) of this subdivision (4), reasonable efforts have been
8 made to remove mercury from the product.

9 Sec. 11. 10 V.S.A. § 8503(b)(2) is amended to read:

10 (2) appeals from an act or decision of a district coordinator under
11 subsection 6007(c) of this title; and

12 * * * Title 11 * * *

13 Sec. 12. 11 V.S.A. § 981 is amended to read:

14 § 981. USE OF “COOPERATIVE:”

15 A corporation formed under ~~chapters 1 and 17 of this title~~ Title 11A shall
16 not have the word “cooperative” or any abbreviation thereof as part of its
17 name, unless the corporation is a worker cooperative corporation organized
18 under chapter 8 of this title, a cooperative housing corporation organized under
19 chapter 14 of this title, or the articles of ~~association~~ incorporation contain all of
20 the following provisions:

21 * * *

1 Sec. 13. 11 V.S.A. § 995(9) is amended to read:

2 (9) The articles of incorporation of any association organized under this
3 subchapter may provide that the members or stockholders thereof shall have
4 the right to vote in person or through another method of communication,
5 including through a telecommunications or electronic medium, but a member
6 or stockholder may not vote by proxy. This provision or paragraph of the
7 articles of ~~association~~ incorporation shall not be altered and shall not be subject
8 to amendment.

9 Sec. 14. 11 V.S.A. § 1000(b) is amended to read:

10 (b) In the case of any association having district election of delegates and
11 delegate system of voting as permitted by subdivision 995(10) of this title, in
12 which, under its articles of ~~association~~ incorporation or bylaws, such delegates
13 have complete voting power on behalf of the membership for every purpose
14 except that of their own election and the election of district directors, following
15 reasonable notice to the members or stockholders in accordance with the
16 bylaws, a majority of the delegates attending and voting at any meeting of the
17 delegates of the association may adopt, alter, amend, or repeal such bylaws.

18 Sec. 15. 11 V.S.A. § 1061(4) is amended to read:

19 (4) In the case of any consolidating cooperative having a district election
20 of delegates and a delegate system of voting as permitted by subdivision
21 995(10) of this title, in which, under its articles of ~~association~~ incorporation or

1 bylaws, such delegates have complete voting power on behalf of the
2 membership for every purpose, except that of their own election and the
3 election of district directors, the vote adopting the merger or consolidation
4 required by subdivision (3) of this section shall be that of not less than two-
5 thirds of the delegates attending and voting at such meeting.

6 Sec. 16. 11 V.S.A. § 1082(6) is amended to read:

7 (6) “Patronage” means the amount of work performed as a member of a
8 worker cooperative, measured in accordance with the articles of ~~association~~
9 incorporation or bylaws.

10 Sec. 17. 11 V.S.A. § 1083 is amended to read:

11 § 1083. CORPORATIONS ORGANIZED UNDER ~~CHAPTER 17~~ TITLE
12 11A; ELECTION TO BE GOVERNED AS WORKER
13 COOPERATIVE

14 Any corporation organized under ~~chapter 17 of this title~~ Title 11A may elect
15 to be governed as a worker cooperative under the provisions of this chapter, by
16 so stating in its articles of ~~association~~ incorporation or articles of amendment
17 filed in accordance with ~~chapter 17~~ 11A V.S.A. chapter 1.

18 Sec. 18. 11 V.S.A. § 1084 is amended to read:

19 § 1084. REVOCATION OF ELECTION

1 A worker cooperative may revoke its election under this chapter by a vote
2 of majority of the members and through articles of amendment filed in
3 accordance with ~~subchapter 7 of chapter 17 of this title~~ 11A V.S.A. chapter 1.

4 Sec. 19. 11 V.S.A. § 1086 is amended to read:

5 § 1086. MEMBERS' MEMBERSHIP SHARES; FEES; RIGHTS AND
6 RESPONSIBILITIES

7 (a) The articles of ~~association~~ incorporation or the bylaws shall establish
8 qualifications and the method of acceptance of members. No person may be
9 accepted as a member unless employed by the worker cooperative on a regular
10 full-time or a part-time basis. The membership of a worker cooperative shall
11 constitute at least ~~fifty~~ 50 and one-tenth percent of the regular, full and part-
12 time work force.

13 * * *

14 (d) ~~Sections 1864, 1866(b), (d), 1869(a), 1870, and 1872 of this title shall~~
15 ~~not apply to membership shares. Sections 2003 and 2004 of this title shall not~~
16 ~~apply to membership shares whose redemption price is determined by~~
17 ~~reference to internal capital accounts. [Repealed.]~~

18 (e) Members of a worker cooperative shall have all the rights and
19 responsibilities of stockholders as a corporation organized under ~~chapter 17 of~~
20 ~~this title~~ Title 11A, except as otherwise provided in this chapter.

1 Sec. 20. 11 V.S.A. § 1087 is amended to read:

2 § 1087. VOTING SHARES; BYLAWS; AMENDMENT OF ARTICLES OF
3 ORGANIZATION

4 (a) No capital stock other than membership shares shall be given voting
5 power in a worker cooperative except as otherwise provided in this chapter or
6 in the articles of ~~association~~ incorporation.

7 (b) Notwithstanding ~~the provisions of section 1873 of this title and other~~
8 ~~provisions of law relating to bylaws~~ 11A V.S.A. § 10.20, the power to adopt,
9 amend, or repeal bylaws of a worker cooperative shall be in the members only;
10 ~~except to the extent that directors are authorized by section 1873 of this title to~~
11 ~~adopt, amend, or repeal the bylaws.~~

12 (c) ~~Subchapter 7 of chapter 17~~ 11A V.S.A. chapter 10, subchapter 1
13 relating to amendments to the articles of ~~association~~ incorporation shall be
14 construed to limit voting on any amendment of the articles of ~~association~~
15 incorporation of a worker cooperative to the members, except that amendments
16 affecting the rights of a class of stockholders ~~as defined in section 1933 of this~~
17 ~~title~~ may not be adopted without the vote of such stockholders in accordance
18 with ~~that section~~ 11A V.S.A. § 10.04.

19 Sec. 21. 11 V.S.A. § 1088(a) is amended to read:

20 (a) The net earnings or losses of a worker cooperative shall be apportioned
21 and distributed at such times and in such manner as the articles of ~~association~~

1 incorporation or bylaws shall specify. Net earnings declared as patronage
2 allocations with respect to a period of time, and paid or credited to members,
3 and net losses allocated to members with respect to a period of time shall be
4 apportioned among the members in accordance with the ratio which each
5 member's patronage during the period involved bears to total patronage by all
6 members during that period.

7 Sec. 22. 11 V.S.A. § 1089(a) is amended to read:

8 (a) The bylaws of a worker cooperative shall provide for the election,
9 terms, classifications, if any, and removal of directors and officers in
10 accordance with the provisions of this chapter or the provisions of ~~chapter 17~~
11 ~~of this title~~ 11A V.S.A. chapter 8.

12 Sec. 23. 11 V.S.A. § 1090 is amended to read:

13 § 1090. INTERNAL CAPITAL ACCOUNTS; RECALL OR REDEMPTION
14 OF SHARES; INTEREST; COLLECTIVE RESERVE ACCOUNT

15 (a) A worker cooperative may provide in its bylaws that it shall operate as
16 an internal capital account cooperative. Any worker cooperative may establish
17 through its articles of ~~association~~ incorporation or bylaws a system of internal
18 capital accounts, to reflect the book value and to determine the redemption
19 price of membership shares, capital stock, and written notices of allocation.

20 (b) The articles of ~~association~~ incorporation or bylaws of a worker
21 cooperative may permit the periodic redemption of written notices of

1 allocation and capital stock, and must provide for recall and redemption of the
2 membership share upon termination of membership in the cooperative. No
3 redemption shall be made if such redemption would result in the liability of
4 any director or officer of the worker cooperative under ~~section 1891 of this~~
5 ~~title~~ 11A V.S.A. § 8.33.

6 (c) The articles of ~~association~~ incorporation or bylaws may provide for the
7 worker cooperative to pay or credit interest on the balance in each member's
8 internal capital account.

9 (d) The articles of ~~association~~ incorporation or bylaws may authorize
10 assignment of a portion of retained net earnings and net losses to a collective
11 account. Earnings assigned to the collective account may be used for any and
12 all corporate purposes as determined by the board of directors.

13 Sec. 24. 11 V.S.A. § 1092 is amended to read:

14 § 1092. CONVERSION OF MEMBERSHIP SHARES AND INTERNAL
15 CAPITAL ACCOUNTS UPON REVOCATION OF ELECTION;
16 CONSOLIDATION OR MERGER

17 (a) If any worker cooperative revokes its election in accordance with
18 section 1084 of this title, the articles of ~~association~~ incorporation or articles of
19 amendment shall provide for conversion of membership shares and internal
20 capital accounts or their conversion to securities or other property in a manner
21 consistent with ~~chapter 17 of this title~~ Title 11A.

1 (b) A worker cooperative may not consolidate or merge with another
2 corporation unless the corporation ~~which~~ that results from such merger or
3 consolidation is a worker cooperative. All such mergers and consolidations
4 shall be in accordance with ~~subchapter 9 of chapter 17 of this title~~ 11A V.S.A.
5 chapter 11.

6 Sec. 25. 11 V.S.A. § 1583 is amended to read:

7 § 1583. DEFINITIONS

8 The definitions contained in ~~chapter 17 of this title~~ Title 11A shall apply to
9 this chapter. As used in this chapter, the following terms shall have the
10 meanings indicated, unless the context otherwise requires:

11 * * *

12 Sec. 26. 11 V.S.A. § 1584 is amended to read:

13 § 1584. APPLICATION

14 Any corporation organized under ~~chapter 17 of this title~~ Title 11A may elect
15 to be governed as a cooperative housing corporation under the provisions of
16 this chapter.

17 Sec. 27. 11 V.S.A. § 1588 is amended to read:

18 § 1588. ARTICLES OF ~~ASSOCIATION~~ INCORPORATION; MINIMUM
19 REQUIREMENTS

1 Articles of ~~association~~ incorporation of cooperative housing corporations
2 shall contain the following provisions in addition to those required by ~~chapter~~
3 ~~17 of this title~~ Title 11A:

4 * * *

5 Sec. 28. 11 V.S.A. § 1591(b) and (c) are amended to read:

6 (b) A cooperative housing corporation shall have one class of stock and,
7 therefore, one class of members, all of whom must be residents except as
8 provided in subdivision 1599(1) of this title. The designation, qualifications,
9 requirements, method of acceptance, and incidents of membership shall be set
10 forth in the articles of ~~association~~ incorporation or the bylaws.

11 (c) No member may transfer ~~his or her~~ the member's membership except as
12 permitted in the articles of ~~association~~ incorporation or the bylaws.

13 Sec. 29. 11 V.S.A. § 1593 is amended to read:

14 § 1593. MEMBERSHIP SHARES; REQUIREMENTS

15 A cooperative housing corporation shall issue shares to its members as
16 evidence of their ownership of a cooperative interest. Such shares shall be in a
17 form prescribed in the articles of ~~association~~ incorporation or bylaws of the
18 cooperative housing corporation. Restrictions upon transfer of shares shall be
19 noted on the face of the certificates representing shares. No membership
20 shares shall be issued under this section and no proprietary leases shall be

1 issued under section 1599 of this title prior to issuance of a certificate of
2 incorporation as a cooperative housing corporation.

3 Sec. 30. 11 V.S.A. § 1594(f) is amended to read:

4 (f) Notwithstanding subsection (a) of this section, a cooperative housing
5 corporation not organized as a limited equity cooperative pursuant to
6 section 1598 of this title may adopt in its articles of ~~association~~ incorporation
7 or bylaws, a voting scheme other than one vote per member, except that
8 decisions to merge a cooperative housing corporation with another entity,
9 dissolve it, or amend its articles of ~~association~~ incorporation or bylaws shall be
10 made on the basis of one vote per member.

11 Sec. 31. 11 V.S.A. § 1598 is amended to read:

12 § 1598. LIMITED EQUITY COOPERATIVES

13 A cooperative housing corporation may organize as a limited equity
14 cooperative in order to fulfill the public purpose of providing and preserving
15 housing for persons and households of low and moderate income at the time
16 that they purchase their memberships. In addition to safeguarding the
17 foregoing public purpose, a limited equity cooperative shall meet the following
18 requirements:

19 (1) The articles of ~~association~~ incorporation shall require that
20 cooperative interests be sold at ~~no~~ not more than a transfer value determined by
21 a limited equity formula contained in the articles. That value shall be

1 consistent with the object of maintaining long-term affordability of cooperative
2 interests for persons or households of low and moderate income.

3 (2) A limited equity formula, once established by a cooperative housing
4 corporation in its articles of ~~association~~ incorporation, may be amended only if
5 that amendment does not make the cooperative membership unaffordable for
6 the class of ~~low~~ low- or ~~moderate income~~ moderate-income households for
7 which the cooperative housing corporation was originally incorporated, as
8 determined and certified by the Commissioner of Housing and Community
9 Affairs. A cooperative housing corporation once organized under this section
10 may not reorganize as other than a limited equity cooperative without first
11 dissolving.

12 * * *

13 (4) The articles of ~~association~~ incorporation shall require that the
14 cooperative housing corporation shall have the first right to repurchase a
15 member's cooperative interest.

16 (5) The articles of ~~association~~ incorporation shall require that the total
17 distribution out of capital to a member shall not exceed that transfer value.

18 (6) The articles of ~~association~~ incorporation shall require that upon
19 dissolution of the cooperative housing corporation, any assets remaining after
20 retirement of corporate debts and distribution to members shall be distributed
21 to a charitable organization described in Section 501(c)(3) of the Internal

1 Revenue Code of 1986, as amended, a public agency, or another limited equity
2 cooperative whose formula for determining transfer value shall be ~~no~~ not less
3 restrictive than that of the cooperative housing corporation being dissolved.

4 (7) The articles of ~~association~~ incorporation shall require that no
5 sublease of a unit shall provide for monthly payments by the sublessee in
6 excess of 110 percent of monthly payments for the unit provided for in the
7 proprietary lease.

8 Sec. 32. 11 V.S.A. § 1601(a) is amended to read:

9 (a) In conjunction with the offering of cooperative interests to prospective
10 members, a cooperative housing corporation, or other persons or entities
11 seeking to establish a cooperative housing corporation, or the owner of a
12 cooperative interest seeking to sell that interest, shall provide to all prospective
13 purchasers a copy of the proposed or adopted articles of ~~association~~
14 incorporation and bylaws of the cooperative housing corporation, a
15 subscription agreement or sales agreement, a proposed proprietary lease, and
16 the most current corporate financial statements, if any exist.

17 * * * Title 13 * * *

18 Sec. 33. 13 V.S.A. § 4019(b)(1) is amended to read:

19 (b)(1) Except as provided in subsection ~~(e)~~(f) of this section, an unlicensed
20 person shall not transfer a firearm to another unlicensed person unless:

21 * * *

1 * * * Title 16 * * *

2 Sec. 34. 16 V.S.A. § 2537(b)(4) is amended to read:

3 (4) “Armed Forces of the United States” means the Army, Navy, Air
4 Force, Marine Corps, Space Force, and Coast Guard.

5 * * * Title 17 * * *

6 Sec. 35. 17 V.S.A. § 2103(19) is amended to read:

7 (19) “Military service” means active service by any person, as a member
8 of any branch or department of the U.S. Army, Navy, Air Force, Space Force,
9 Coast Guard, or Marine Corps or as a reservist absent from ~~his or her~~ the
10 reservist’s place of residence and undergoing training under Army, Navy, Air
11 Force, Coast Guard, or Marine Corps direction, at a place other than the
12 person’s residence.

13 Sec. 36. 17 V.S.A. § 2546(d) is amended to read:

14 (d) Comingling ballots. All early voter absentee ballots shall be
15 commingled with the ballots of voters who have voted in person.

16 * * * Title 18 * * *

17 Sec. 37. 18 V.S.A. § 2(4) is amended to read:

18 (4) “Health officer” means the Commissioner of Health, the
19 Commissioner’s designee, or a local or district health officer.

20 Sec. 38. 18 V.S.A. § 32(b)(2) is amended to read:

21 (2) interest earned from the investment of fund balances; and

1 Sec. 39. 18 V.S.A. § 121(b)(1) is amended to read:

2 (1) a health officer or law enforcement officer has reason to believe that
3 a State or local health statute, rule, ordinance, or permit has been violated; ~~or~~

4 Sec. 40. 18 V.S.A. § 123(a)(2) is amended to read:

5 (2) the permit holder has violated any material requirement, restriction,
6 or condition of any permit, ~~any~~ rule, statute, or order; or

7 Sec. 41. 18 V.S.A. § 501b(b)(1)(A) is amended to read:

8 (A) submitted materially false or materially inaccurate information;
9 ~~or~~

10 Sec. 42. 18 V.S.A. § 1417(7) is amended to read:

11 (7) test the effectiveness of control appliances and equipment used by
12 employers and report any deficiency in performance to the employer and the
13 Commissioner of Labor; and

14 Sec. 43. 18 V.S.A. § 1761(d) is amended to read:

15 (d) The immunity under subsection (c) of this section shall not be available
16 if:

17 (1) there was fraud in the RRPM compliance statement under section
18 1759 of this chapter; ~~or~~

19 (2) the owner or owner's representative did not follow the
20 recommendations of a lead-based paint risk assessment report provided by a
21 licensed lead-based paint inspector-risk assessor; ~~or~~

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Sec. 44. 18 V.S.A. § 1774(e)(1) is amended to read:

(1) The Chair of the Working Group may convene the Working Group at any time, but ~~no~~ not less frequently than ~~at least~~ twice a year.

Sec. 45. 18 V.S.A. § 1803(5) is amended to read:

(5) to accept on behalf of the State and to deposit with the State Treasurer any grant, gift, or contribution made to assist in meeting the cost of carrying out the purposes of this chapter and to expend the same for such purposes; and

Sec. 46. 18 V.S.A. § 1915(4) is amended to read:

(4) for reportable adverse events that must also by law be reported to other departments or agencies, notify the Department of Health or provide a copy of any written report and provide any causal analysis information required by the Department; and

Sec. 47. 18 V.S.A. § 2053 is amended to read:

§ 2053. DIRECTOR; DUTIES; POWERS

(a) The Director shall:

* * *

(3) explain complaint and appeal procedures to licensees, applicants, and the public; and

* * *

1 (b) The Director may:

2 * * *

3 (2) adopt rules necessary to perform ~~his or her~~ the Director's duties
4 under this chapter; and

5 * * *

6 Sec. 48. 18 V.S.A. § 4052(11) is amended to read:

7 (11) the using, on the labeling of any drug or in any advertisement
8 relating to such drug, of any representation or suggestion that any application
9 with respect to such drug is effective under section 4065 of this title, or that
10 such drug complies with the provisions of such section; and

11 Sec. 49. 18 V.S.A. § 4215a(b) is amended to read:

12 (b) Schedule V drugs shall include:

13 ~~Any~~ any compound, mixture, or preparation containing any of the
14 following limited quantities of narcotic drugs, which shall include one or more
15 nonnarcotic active medicinal ingredients in sufficient proportion to confer
16 upon the compound, mixture, or preparation valuable medicinal qualities other
17 than those possessed by the narcotic drug alone;

18 (1) Not more than 200 milligrams of codeine per 100 milliliters or per
19 100 grams;

20 * * *

1 Sec. 50. 18 V.S.A. § 4631a(a)(7)(A)(i) is amended to read:

2 (i) a person who is authorized by law to prescribe or to
3 recommend prescribed products, who regularly practices in this State, and who
4 either is licensed by this State to provide or is otherwise lawfully providing
5 health care in this State; ~~or~~

6 Sec. 51. 18 V.S.A. § 4774(c)(1)(A) is amended to read:

7 (A) expanding training for first responders, schools, community
8 support groups, and families; and

9 Sec. 52. 18 V.S.A. § 4802(7)(A) is amended to read:

10 (A) appears to need medical care or supervision by approved
11 substance abuse treatment personnel, as defined in this section, to ensure the
12 person's safety; or

13 Sec. 53. 18 V.S.A. § 4802(11)(A) is amended to read:

14 (A) ~~assuring~~ ensuring the safety of the individual or the public, or
15 both; and

16 Sec. 54. 18 V.S.A. § 4803(b)(2)(A) is amended to read:

17 (A) at least two ~~people~~ individuals with lived substance use disorder
18 experience, including ~~a person~~ an individual in recovery and a family member
19 of ~~a person~~ an individual in recovery;

20 Sec. 55. 18 V.S.A. § 5212(e) is amended to read:

21 (e) This section does not apply to:

1 (1) ~~Unmarked~~ unmarked burial sites that are subject to the provisions of
2 subchapter 1 of this chapter; ~~and~~

3 (2) ~~The~~ the removal of “historic remains,” which has the same meaning
4 as in subdivision 5217(a)(1) of this ~~title~~ subchapter.

5 Sec. 56. 18 V.S.A. § 5221 is amended to read:

6 § 5221. ~~DEFINITIONS~~ DEFINITION

7 ~~For the purposes of this subchapter:~~

8 (1) ~~Fetal~~ As used in this subchapter, “fetal death” means a death prior to
9 the complete expulsion or extraction from the mother of a product of
10 conception; the death is indicated by the fact that after such separation, the
11 fetus does not breathe or show any other evidence of life such as beating of the
12 heart, pulsation of the umbilical cord, or definite movement of voluntary
13 muscles.

14 Sec. 57. 18 V.S.A. § 5226 is amended to read:

15 § 5226. DEFINITIONS

16 ~~For purposes of~~ As used in this subchapter:

17 * * *

18 * * * Title 19 * * *

19 Sec. 58. 19 V.S.A. § 2905(a) is amended to read:

20 (a) The Agency shall annually evaluate the programs established under this
21 chapter to gauge effectiveness and shall submit a written report on the

1 effectiveness of the programs to the House and Senate Committees on
2 Transportation, the House Committee on Environment and Energy, and the
3 Senate Committee on Finance on or before ~~the 31st day of January~~ 31 in each
4 year following a year that an incentive was provided through one of the
5 programs.

6 * * * Title 21 * * *

7 Sec. 59. 21 V.S.A. § 141 is amended to read:

8 § 141. PURPOSE; DEFINITIONS

9 (a) The purpose of this subchapter is to ~~assure~~ ensure that elevators and
10 other automated conveyances are correctly and safely installed and operated
11 within the State by authorizing and enforcing rules for the design, installation,
12 operation, and maintenance of automated people conveyances, and by
13 licensing mechanics and inspectors who work on these conveyances.

14 (b) ~~For the purposes of~~ As used in this subchapter:

15 * * *

16 (5) “Conveyance” means an ~~electrically driven~~ electrically driven
17 mechanical device that moves people or materials vertically, and includes
18 elevators, escalators, platform lifts, and stairway chairlifts.

19 * * *

20 (9) “Public building” has the same meaning as ~~that term is defined in~~
21 20 V.S.A. § 2730.

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* * *

Sec. 60. 21 V.S.A. § 142 is amended to read:

§ 142. CONVEYANCES REGULATED

(a) This subchapter regulates the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following conveyances and associated parts that are installed in or on a public building:

(1) ~~Hoisting~~ hoisting and lowering mechanisms equipped with a car or platform, that moves between two or more landings, including:

(A) ~~Elevators.~~ elevators;

(B) ~~Platform~~ platform lifts and stairway chairlifts;

(C) ~~Power-driven~~ power-driven stairways; and

(D) ~~Escalators.~~ escalators; and

(2) ~~Hoisting~~ hoisting and lowering mechanisms equipped with a car that serves two or more landings and is designed to carry material, not people, but not including dumbwaiters.

(b) This subchapter does not cover the conveyances that are regulated by the Vermont Tramway Board ~~or~~, by the rules of the Vermont Occupational ~~and~~ Safety and Health Administration, or by the ~~Federal~~ federal Mine Safety and Health Act, 30 U.S.C.A. § 801 et seq.

1 Sec. 61. 21 V.S.A. § 201 is amended to read:

2 § 201. OCCUPATIONAL POLICY

3 (a) It is the policy of the State of Vermont that in their employment all
4 persons shall be provided by their employers with safe and healthful working
5 conditions at their ~~work place~~ workplace, and that insofar as practicable an
6 employee shall not experience diminished health, functional capacity, or life
7 expectancy as a result of ~~his or her~~ the employee's work experience.

8 (b) It is also the policy of the State that practices and procedures prescribed
9 by an employer for performance of work or duties by ~~his or her~~ the employer's
10 employees shall not be, insofar as practicable, dangerous to the life, body, or
11 ~~well-being~~ well-being of the employees.

12 (c) It is the ~~legislative~~ intent of the General Assembly that:

13 (1) The provisions of the Occupational Safety and Health Act of 1970,
14 as enacted by the U.S. Congress ~~of the United States of America~~, which may
15 be administered by a ~~State~~ state agency, shall be administered and enforced in
16 this State, by the State.

17 (2) To effectuate the policy of the State, standards promulgated under
18 the Occupational Safety and Health Act of 1970, ~~enacted by Congress, and~~ as
19 amended ~~at any time~~, when applicable to employment in the State of Vermont,
20 shall be prescribed in rules ~~made~~ adopted under this subchapter.

1 (3) The State of Vermont shall cooperate with the appropriate federal
2 agencies in carrying out the purposes of the Occupational Safety and Health
3 Act of 1970 and the VOSHA Code of the State.

4 Sec. 62. 21 V.S.A. § 203 is amended to read:

5 § 203. DEFINITIONS

6 As used in this chapter:

7 (1) “Act” means the Occupational Safety and Health Act of 1970;
8 ~~enacted by the Congress of the United States of America, and rules made~~
9 ~~thereunder~~ adopted pursuant to that Act, as amended at any time.

10 * * *

11 (7) “Employer” means a person, as ~~hereinafter~~ defined pursuant to
12 subdivision (8) of this section, who employs one or more persons.

13 * * *

14 (9) “Place of employment” means any place where an employee is
15 engaged in performance of ~~his or her~~ the employee’s work or duties, or ~~which~~
16 that is used in connection with an employee’s employment. It includes
17 structures, buildings, machinery, equipment, tools, appliances, and materials
18 used in connection with the employment. It also includes land and premises
19 where an employer is carrying on any activity or business involving the use of
20 one or more employees.

1 Sec. 64. 21 V.S.A. § 205 is amended to read:

2 § 205. VARIANCES

3 (a) In cases involving a ~~work place~~ workplace, the Secretary of Human
4 Services, in the case of health standards, and the Commissioner, in the case of
5 safety standards, may grant a variance from a standard or any provision ~~thereof~~
6 ~~promulgated~~ of a standard adopted in a rule, under the same terms, conditions,
7 and criteria as the ~~federal~~ Secretary of Labor may under sections 6(b)(6) and
8 (d) of the Act.

9 (b) The Secretary of Human Services, in the case of health standards, and
10 the Commissioner, in the case of safety standards, may grant a variance,
11 tolerance, or exemption to and from any or all provisions of the VOSHA Code
12 as found necessary and proper to avoid serious impairment of the national
13 defense. ~~Such~~ The action shall not be taken without the written consent of a
14 federal official authorized to make such variation, tolerance, or exemption to
15 and from any or all provisions of the Act.

16 Sec. 65. 21 V.S.A. § 206 is amended to read:

17 § 206. INSPECTIONS AND INVESTIGATIONS

18 (a) The Commissioner or the Director, or their agents, may enter upon a
19 ~~premise~~ premises, upon presenting appropriate credentials to the occupant, at
20 reasonable times, for the purpose of inspecting the premises within reasonable
21 limits and in a reasonable manner, to determine whether the provisions of the

1 VOSHA Code and this chapter and the rules adopted ~~thereunder~~ pursuant to
2 the VOSHA Code and this chapter are being observed. If entry is refused, the
3 Commissioner or the Director may apply to a Superior Court judge for an order
4 to enforce the rights given to the Commissioner and the Director and their
5 agents under this section.

6 (b) In making inspections and investigations, the Commissioner or the
7 Director, ~~as the case may be,~~ may require the attendance and testimony of
8 witnesses and the production of evidence under oath. Witnesses shall be paid
9 the same fees and mileage as are paid witnesses in ~~the Superior courts~~ Court in
10 criminal cases. In case of a contumacy, failure, or refusal of any person to
11 obey such an order, any Superior Court within the jurisdiction of which the
12 person is found ~~or,~~ resides, or transacts business, upon the application by the
13 Commissioner, shall have jurisdiction to issue to the person an order requiring
14 ~~him or her~~ the person to appear to produce evidence if, as, and when so
15 ordered, and to give testimony relating to the matter under investigation or in
16 question. Any failure to obey such order of the court may be punished by the
17 court as a contempt ~~thereof~~ of court.

18 * * *

19 (e) Subject to ~~regulations issued~~ rules adopted by the Commissioner or
20 Secretary, a representative of the employer and a representative authorized by
21 ~~his or her~~ the employer's employees shall be given an opportunity to

1 accompany the Commissioner or Secretary or ~~his or her~~ the Commissioner or
2 Secretary's authorized agent during the physical inspection of any workplace
3 under subsection (a) of this section for the purpose of aiding such inspection.

4 Where there is no authorized employee representative, the Commissioner or
5 Secretary or ~~his or her~~ the Commissioner or Secretary's authorized agent shall
6 consult with a reasonable number of employees concerning matters of safety
7 and health in the workplace.

8 (f) Any employees or representative of employees who believes that a
9 violation of a safety or health standard exists that threatens physical harm, or
10 that an imminent danger exists, may request an inspection by giving notice to
11 the Commissioner or Secretary or ~~his or her~~ the Commissioner or Secretary's
12 authorized agent of the violation or danger. The notice shall be reduced to
13 writing, shall set forth with reasonable particularity the grounds for the notice,
14 and shall be signed by the employees or representative of employees. A copy
15 of the notice shall be provided the employer or ~~his or her~~ the employer's agent
16 ~~no~~ not later than at the time of inspection, except that, upon the request of the
17 person giving ~~such~~ the notice, ~~his or her~~ the person's name and the names of
18 individual employees referred to ~~therein~~ in the notice shall not appear in the
19 copy or on any record published, released, or made available by the
20 Commissioner or Secretary. If upon receipt of the notification the
21 Commissioner or Secretary determines there are reasonable grounds to believe

1 that a violation or danger exists, ~~he or she~~ the Commissioner or Secretary shall
2 make a special inspection in accordance with the provisions of this section as
3 soon as practicable to determine if a violation or danger exists. If the
4 Commissioner or Secretary determines there are no reasonable grounds to
5 believe that a violation or danger exists, ~~he or she~~ the Commissioner or
6 Secretary shall notify the employees or representative of the employees in
7 writing of ~~such~~ the determination.

8 (g) Prior to or during any inspection of a workplace, any employees or
9 representative of employees employed in ~~such~~ the workplace may notify the
10 Commissioner or Secretary or any agent of the Commissioner or Secretary
11 responsible for conducting the inspection, in writing, of any violation of this
12 Code ~~which~~ that they have reason to believe exists in ~~such~~ the workplace. The
13 Commissioner shall, by ~~regulation~~ rule, establish procedures for informal
14 review of any refusal by a representative of the Commissioner to issue a
15 citation with respect to any such alleged violation and shall furnish the
16 employees or representative of employees requesting ~~such~~ the review with a
17 written statement of the reasons for the Commissioner's final disposition of the
18 case.

1 Sec. 66. 21 V.S.A. § 209 is amended to read:

2 § 209. APPEALS

3 Except as to matters provided for in subchapter 5 of this chapter, a person
4 aggrieved by an order or action of the Commissioner under this chapter, or a
5 rule ~~thereunder~~ adopted pursuant to this chapter, may appeal to the Superior
6 Court for the order or action within 20 days after the order is issued or the
7 action is taken. In the Superior Court, the matter will be heard de novo.
8 Appeal may be taken to the Supreme Court from the Superior Court. The
9 Superior Court for the county within which the appellant resides or has a place
10 of business shall have jurisdiction.

11 Sec. 67. 21 V.S.A. § 221 is amended to read:

12 § 221. STATE PLAN AND COOPERATION

13 The State of Vermont desires to assume responsibility for the development
14 and enforcement of occupational safety and health standards within the State.
15 To that end, the Commissioner shall submit plans and reports to the
16 appropriate federal official or agency, under the provisions of the Occupational
17 Safety and Health Act of 1970 (~~PL. 91-596~~), ~~enacted by the Congress of the~~
18 ~~United States of America~~ Pub. L. No. 91-596. The Department and the
19 Division shall cooperate with the appropriate federal agencies in carrying out
20 the purposes of the Act and the VOSHA Code.

1 Sec. 68. 21 V.S.A. § 222 is amended to read:

2 § 222. APPLICATION

3 The VOSHA Code shall apply with respect to employers, employees, and
4 employment in or at a ~~work place~~ workplace in the State of Vermont, except
5 that:

6 (1) ~~Standards~~ standards applicable to products ~~which~~ that are distributed
7 or used in interstate commerce ~~which~~ that are different from federal standards
8 for such products shall not be ~~promulgated~~ adopted under the VOSHA Code
9 unless ~~such~~ the standards are required by compelling local conditions and do
10 not unduly burden interstate commerce; and

11 (2) ~~Nothing~~ nothing in the VOSHA Code shall be construed to
12 supersede or in any manner affect the workers' compensation laws of this State
13 pursuant to ~~chapters~~ chapter 9 ~~and 11~~ of this title, or enlarge ~~or~~, diminish or
14 affect in any other manner the common law or statutory rights, duties, or
15 liabilities of employers and employees under any law with respect to injuries,
16 diseases, or death of employees arising out of, or in the course of employment.

17 Sec. 69. 21 V.S.A. § 223 is amended to read:

18 § 223. DUTIES

19 (a) Each employer shall furnish to each of ~~his or her~~ the employer's
20 employees employment and a place of employment ~~which~~ that are free from
21 recognized hazards that are causing or are likely to cause death or significant

1 physical harm to ~~his or her~~ the employees; and the employer shall comply with
2 safety and health standards ~~promulgated~~ adopted under the VOSHA Code.

3 (b) Each employee shall comply with the safety and health standards and
4 all rules, ~~regulations~~ standards, and orders of the VOSHA Code ~~which~~ that are
5 applicable to ~~his or her~~ the employee's own actions or conduct.

6 Sec. 70. 21 V.S.A. § 224 is amended to read:

7 § 224. RULES AND STANDARDS

8 * * *

9 (b) The Commissioner, in consultation with the Secretary of Human
10 Services, shall adopt rules and standards necessary to implement the purposes
11 of the VOSHA Code and duties ~~thereunder~~ imposed by the Code, insofar as
12 they relate to health.

13 (c) Any standard adopted under this section shall prescribe the use of labels
14 or other appropriate forms of warning as are necessary to inform employees of
15 all safety or health hazards to which they are exposed, relevant symptoms and
16 appropriate emergency treatment, and proper conditions and precautions for
17 safe use or exposure. Where appropriate, a rule shall prescribe suitable
18 protective clothing, devices, or equipment ~~which~~ that shall be provided by the
19 employer, and control or technological procedures to be used in connection
20 with the safety or health hazard; and shall provide for monitoring or measuring

1 employee exposure at such locations and intervals and in such manner as may
2 be necessary for the protection of employees.

3 (d) Where appropriate, a standard adopted in consultation with the
4 Secretary of Human Services may prescribe the type and frequency of medical
5 examinations or other tests ~~which~~ that shall be made available by an employer
6 or at the expense of the employer, to employees exposed to health hazards in
7 employment, in order to effectively determine whether the health of the
8 employee is adversely affected by exposure to the hazard. In the event medical
9 examinations are in the nature of research, as determined by the Secretary of
10 Human Services, ~~such~~ the examinations may be furnished at the expense of the
11 State. The results of the examinations or tests shall be furnished only to the
12 Secretary of Human Services, the Commissioner of Health, the Director of
13 Occupational Health, the Commissioner of Labor, and at the request of the
14 employee, to the employee's physician and the employee.

15 (e) The Commissioner, in consultation with the Secretary, in adopting
16 standards dealing with toxic materials or harmful physical agents under this
17 section, shall set the standard ~~which~~ that most adequately ensures, to the extent
18 feasible, on the basis of the best available evidence, that no employee will
19 suffer material impairment of health or functional capacity even if ~~such~~ the
20 employee has regular exposure to the hazard dealt with by ~~such~~ the standard
21 for the period of ~~his or her~~ the employee's working life. Development of

1 standards under this subsection shall be based upon research, demonstrations,
2 experiments, and such other information as may be appropriate. In addition to
3 the attainment of the highest degree of safety and health protection for the
4 employee, other considerations shall be the latest available scientific data in
5 the field, the feasibility of the standards, and experience gained under this and
6 other safety and health laws. Whenever practicable, the standard adopted shall
7 be expressed in terms of objective criteria and of the performance desired.

8 Sec. 71. 21 V.S.A. § 226 is amended to read:

9 § 226. ENFORCEMENT

10 (a)(1) An employer shall, within 20 days after personal service or receipt of
11 a citation issued under section 225 of this ~~title~~ subchapter, notify the
12 Commissioner that ~~he or she~~ the employer wishes to appeal the citation or
13 proposed penalty.

14 * * *

15 (b)(1)(A) If the Commissioner on inspection or investigation finds that an
16 employer has failed to correct a violation for which a citation has been issued
17 within the period permitted for its correction, the Commissioner shall notify
18 the employer by certified mail of the failure and of the penalty proposed to be
19 assessed under section 210 of this ~~title~~ chapter by reason of the failure.

20 * * *

1 (2) The employer shall have 20 days after the receipt of the notice to
2 notify the Commissioner that ~~he or she~~ the employer wishes to appeal the
3 Commissioner's citation or the proposed penalty. If, within 20 days ~~from the~~
4 after receipt of the notification issued by the Commissioner, the employer fails
5 to notify the Commissioner that ~~he or she~~ the employer intends to appeal, the
6 citation and assessment, as proposed, shall be deemed a final order of the
7 Review Board and not subject to review by any court or agency.

8 * * *

9 Sec. 72. 21 V.S.A. § 227 is amended to read:

10 § 227. JUDICIAL REVIEW

11 (a)(1) Any person adversely affected or aggrieved by an order of the
12 Review Board may appeal to any Superior Court for the county in which the
13 violation is alleged to have occurred or where the employer has its principal
14 office. The appeal shall be taken within 30 days following the issuance of ~~such~~
15 the order.

16 (2) The court shall have power to grant ~~such~~ temporary relief or a
17 restraining order as it deems just and proper, and to make and enter upon the
18 pleadings, testimony, and proceedings set forth in ~~such~~ the record a decree
19 affirming, modifying, or setting aside, in whole or in part, the order of the
20 Review Board and enforcing the same to the extent that ~~such~~ the order is
21 affirmed or modified.

1 (3) The commencement of proceedings under this subsection shall not,
2 unless ordered by the court, operate as a stay of the order of the Review Board.

3 ~~No~~

4 (4) An objection that has not been ~~urged~~ raised before the Review Board
5 shall not be considered by the court, unless the failure or neglect to ~~urge such~~
6 raise the objection shall be is excused by the court because of extraordinary
7 circumstances.

8 (5) The findings of the Review Board with respect to questions of fact,
9 if supported by substantial evidence on the record considered as a whole, shall
10 be conclusive.

11 (6)(A) ~~If any party shall apply~~ The court may order additional evidence
12 to be taken and made a part of the record if a party applies to the court for
13 leave to adduce additional evidence and ~~shall show~~ shows to the satisfaction of
14 the court that ~~such~~ the additional evidence is material and that there were
15 reasonable grounds for failure to adduce ~~such~~ the evidence in the hearing
16 before the Review Board, ~~the court may order such additional evidence to be~~
17 ~~taken before the Review Board and to be made a part of the record.~~

18 (B) The Review Board may modify its findings as to the facts, or
19 make new findings, by reason of additional evidence so taken and filed, ~~and it,~~
20 If it does so, the Review Board shall file ~~such~~ the modified or new findings;
21 ~~which findings with respect to questions of fact, if supported by substantial~~

1 ~~evidence on the record considered as a whole, shall be conclusive~~, and its
2 recommendations, if any, for the modification or setting aside of its original
3 order. New findings with respect to questions of fact that are filed by the
4 Review Board shall be conclusive, if supported by substantial evidence on the
5 record considered as a whole.

6 (7) Upon the filing of the record with it, the jurisdiction of the court
7 shall be exclusive and its judgment and decree shall be final, except that the
8 same shall be subject to review by the Supreme Court. Judicial review under
9 this subsection (a) shall be considered expeditiously.

10 (b)(1) The Commissioner may also obtain a review or enforcement of any
11 final order of the Review Board by filing a petition for ~~such~~ relief in the
12 Superior Court within the jurisdiction of which the alleged violation occurred
13 or in which the employer has its principal office ~~and the~~. The provisions of
14 subsection (a) of this section shall govern such proceedings under this
15 subsection to the extent applicable.

16 (2) If judicial review is not sought within 30 days after service of the
17 Review Board's order, the Review Board's findings of fact and order shall be
18 conclusive in connection with any petition for enforcement ~~which~~ that is filed
19 by the Commissioner after the expiration of ~~such~~ the 30-day period.

20 (3) In any such case, as well as in the case of a noncontested citation or
21 notification by the Commissioner, ~~which~~ that has become a final order of the

1 Review Board, the clerk of the court, unless otherwise ordered by the court,
2 shall ~~forthwith~~ promptly enter a decree enforcing the order and shall transmit a
3 copy of ~~such~~ the court decree to the Commissioner and the employer named in
4 the petition.

5 (c) In any contempt proceeding brought to enforce a court decree entered
6 pursuant to ~~this subsection or subsection (a)~~ of this section, the court may
7 assess the penalties provided in addition to invoking any other available
8 remedies

9 Sec. 73. 21 V.S.A. § 228 is amended to read:

10 § 228. REPORTS

11 (a) Employers shall keep and file all reports and records required under the
12 Act; and any reports and records ~~which~~ that the Commissioner or the Secretary
13 of Human Services may require by rule.

14 (b) The Commissioner shall make such reports to the Secretary of the U.S.
15 Department of Labor in such form and containing such information as the
16 Secretary shall ~~from time to time~~ require.

17 (c)(1)(A) Each employer shall make, keep, ~~and~~ preserve, and make
18 available to the Secretary of the U.S. Department of Labor or the Secretary of
19 the U.S. Department of Health and Human Services; such records regarding ~~his~~
20 ~~or her~~ the employer's activities relating to the Act as the Secretary of the U.S.
21 Department of Labor, in cooperation with the Secretary of the U.S. Department

1 of Health and Human Services, may prescribe by regulation as necessary or
2 appropriate for the enforcement of the Act or for developing information
3 regarding the causes and prevention of occupational accidents and illnesses. In
4 order to carry out the provisions of this subdivision, such regulations may
5 include provisions requiring employers to conduct periodic inspections.

6 (B) The Commissioner shall also ~~issue regulations~~ adopt rules
7 requiring that employers, through posting of notices or other appropriate
8 means, keep their employees informed of their protections and obligations
9 under this Code, including the provisions of applicable standards.

10 (2) The Commissioner, in cooperation with the Secretary, shall ~~issue~~
11 ~~regulations~~ adopt rules requiring employees to maintain accurate records of
12 employee exposures to potentially toxic materials or harmful physical agents
13 ~~which that~~ that are required to be monitored or measured under section 224 of this
14 ~~title subchapter.~~ ~~Such regulations~~ The rules shall provide employees or their
15 representative with an opportunity to observe ~~such~~ the monitoring or
16 measuring, and to have access to the records thereof. ~~Such regulations~~ The
17 rules shall also make appropriate provision for each employee or former
18 employee to have access to ~~such~~ records ~~as will indicate his or her~~ relating to
19 the employee's own exposure to toxic materials or harmful physical agents.

20 Each employer shall promptly notify any employee who has been or is being
21 exposed to toxic materials or harmful physical agents in concentrations or at

1 levels ~~which~~ that exceed those prescribed by an applicable occupational safety
2 and health standard ~~promulgated~~ adopted under section 224 of this ~~title~~
3 subchapter and shall inform any employee who is being thus exposed of the
4 corrective action being taken.

5 Sec. 74. 21 V.S.A. § 230 is amended to read:

6 § 230. OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

7 (a) ~~An~~ The Occupational Safety and Health Review Board is created. It
8 shall consist of three members who shall be appointed by the Governor, with
9 the advice and consent of the Senate. The members of the Board shall be
10 appointed for terms of six years, but initially in a manner so that one term
11 expires in two years, one term in four years, and one term in six years.

12 Thereafter, biennially, in the month of February, with the advice and consent
13 of the Senate, the Governor shall appoint a person as a member of ~~such~~ the
14 Board for the term of six years, whose term of office shall commence on
15 March 1 of the year in which ~~such~~ the appointment is made. The Governor,
16 biennially, shall designate a member of ~~such~~ the Board to be its Chair.

17 (b)(1) With the approval of the Secretary of Administration, the Board may
18 employ ~~such~~ employees as it deems necessary, and may without such approval
19 employ and remove a clerk and a reporter for taking and transcribing testimony
20 in hearings before it and ~~such~~ hearing judges as that it deems necessary to hear

1 appeals on behalf of the Board. Compensation for employees of the Board
2 shall be fixed by the Commissioner of Human Resources.

3 (2) The hearing judge appointed by the Board shall hear, and make a
4 determination upon, any proceeding instituted before the Board and any
5 motion in connection ~~therewith,~~ with such a proceeding that is assigned to such
6 the hearing judge by the Chair of the Board, ~~and.~~ The hearing judge shall
7 make a report to the Board of any ~~such~~ determination ~~which that~~ constitutes ~~his~~
8 ~~or her~~ the hearing judge's final disposition of the proceedings. The report of
9 the hearing judge shall become the final order of the Board within 30 days
10 after ~~such~~ the report by the hearing examiner is made to the Board, unless
11 ~~within such period any,~~ during that period, a Board member has directed
12 directs that ~~such~~ the report ~~shall~~ be reviewed by the Board.

13 * * *

14 (d) The Board is authorized to ~~make such~~ adopt rules as ~~are~~ necessary for
15 the orderly transaction of its proceedings. Unless the Board has adopted a
16 different rule, its proceedings shall be in accordance with the rules
17 ~~promulgated~~ adopted by the Supreme Court for the Superior Courts.

18 * * *

1 Sec. 75. 21 V.S.A. § 231 is amended to read:

2 § 231. EMPLOYEE RIGHTS

3 (a) No person shall discharge or in any manner discriminate against any
4 employee because ~~such~~ the employee has filed any complaint or instituted or
5 caused to be instituted any proceeding under or related to this chapter or has
6 testified or is about to testify in any such proceeding or because of the exercise
7 by ~~such~~ the employee on behalf of ~~himself, herself,~~ the employee or others of
8 any right afforded by this chapter.

9 (b) Any employee who believes that ~~he or she~~ the employee has been
10 discharged or otherwise discriminated against by any person in violation of this
11 section may, within 30 days after ~~such~~ the violation occurs, file a complaint
12 with the Commissioner alleging ~~such~~ the discrimination. Upon receipt of ~~such~~
13 the complaint, the Commissioner shall ~~cause such investigation to be made as~~
14 ~~he or she~~ conduct an investigation of the complaint as the Commissioner
15 deems appropriate. If ~~upon such,~~ after the investigation, the Commissioner
16 determines that the provisions of this section have been violated, ~~he or she~~ the
17 Commissioner shall bring an action in any appropriate State court against ~~such~~
18 the person alleged to have violated this section. In any such action, the State
19 courts shall have jurisdiction, for cause shown, to restrain violations of
20 subsection (a) of this section and order all appropriate relief, including rehiring

1 or reinstatement of the employee to ~~his or her~~ the employee's former position
2 with back pay.

3 (c) Within 90 days ~~of the receipt of~~ after receiving a complaint filed under
4 this section, the Commissioner shall notify the complainant of ~~his or her~~ the
5 Commissioner's determination under subsection (b) of this section.

6 Sec. 76. 21 V.S.A. § 302 is amended to read:

7 § 302. DEFINITIONS

8 ~~For the purposes of~~ As used in this subchapter:

9 * * *

10 Sec. 77. 21 V.S.A. § 306 is amended to read:

11 § 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT
12 SEPARATION AGREEMENTS

13 In support of the State's fundamental interest in protecting the safety of
14 minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of
15 the State ~~of Vermont~~ that no confidential employment separation agreement
16 shall inhibit the disclosure to prospective employers and responsible licensing
17 entities of factual information about a prospective employee's background that
18 would lead a reasonable person to conclude that the prospective employee has
19 engaged in conduct jeopardizing the safety of a minor or vulnerable adult.

20 Any provision in an agreement entered into on or after ~~the effective date of this~~
21 ~~section~~ June 3, 2010 that attempts to do so is void and unenforceable.

1 Sec. 78. 21 V.S.A. § 341 is amended to read:

2 § 341. DEFINITIONS

3 As used in this subchapter:

4 (1) “Employee” means ~~a person~~ an individual who has entered into the
5 employment of an employer, where the employer is unable to show that:

6 (A) the individual has been and will continue to be free from control
7 or direction over the performance of ~~such~~ the services, both under the contract
8 of service and in fact; ~~and~~

9 (B) the service is either outside all the usual course of business for
10 which ~~such~~ the service is performed, or outside all the places of business of the
11 enterprise for which ~~such~~ the service is performed; and

12 (C) the individual is customarily engaged in an independently
13 established trade, occupation, profession, or business.

14 (2) “Employer” means any person ~~having employees in his or her~~
15 service that employs one or more individuals.

16 (3) “Commissioner” means the Commissioner of Labor ~~or designee~~.

17 * * *

18 Sec. 79. 21 V.S.A. § 342 is amended to read:

19 § 342. WEEKLY PAYMENT OF WAGES

20 (a)(1) Any employer ~~having one or more employees~~ that is doing ~~and~~
21 transacting business within the State shall pay each week, in lawful money or

1 checks, the wages earned by each employee to a day not more than six days
2 prior to the date of ~~such~~ payment.

3 (2) ~~After giving written notice to the employee or employees~~
4 Notwithstanding subdivision (1) of this subsection, any employer having an
5 ~~employee or one or more employees that is doing and transacting~~ business
6 within the State may, ~~notwithstanding subdivision (1) of this subsection~~, either:

7 (A) after giving notice to each employee, pay biweekly or
8 semimonthly, in lawful money or checks, each employee the wages earned by
9 the employee to a day not more than six days prior to the date of ~~the~~ payment.
10 If a; or

11 (B) pursuant to the terms of a collective bargaining agreement so
12 ~~provides, the payment may be made~~ pay any employee who is subject to that
13 agreement the wages earned by the employee to a day not more than 13 days
14 prior to the date of payment.

15 (3)(A) ~~A school district employee~~ An employee of a school district or
16 supervisory union may elect in writing to have a set amount or set percentage
17 of ~~his or her~~ the employee's after-tax wages withheld by the school district in a
18 district-held bank account each pay period. The percentage or amount
19 withheld shall be determined by the employee.

20 (B) At the option of the employee, the school district or supervisory
21 union shall disburse the funds to the employee in either a single payment at the

1 time the employee receives ~~his or her~~ the employee's final paycheck of the
2 school year; or in equal weekly or biweekly sums beginning at the end of the
3 school year.

4 (C)(i) The school district or supervisory union shall disburse funds
5 from the account in any sum as requested by the employee and, at the end of
6 the school year or at the employee's option over the course of the period
7 between the current and next school year, or upon separation from
8 employment, shall remit to the employee any remaining funds, including
9 interest earnings, held in the account.

10 (ii) For employees ~~within~~ in a bargaining unit organized pursuant
11 to either chapter 22 of this title or 16 V.S.A. chapter 57, the school district or
12 supervisory union shall implement this election in a manner consistent with the
13 provisions of this subdivision and as determined through negotiations under
14 those chapters.

15 (iii) For employees not ~~within~~ in a bargaining unit, the school
16 district or supervisory union shall, ~~in a manner consistent with this subdivision,~~
17 determine the manner in which to implement the provisions of this subdivision.

18 * * *

19 (c) With the written authorization of an employee, an employer may pay
20 wages due the employee by any of the following methods:

1 (1) Deposit through electronic funds transfer or ~~other~~ direct deposit
2 ~~systems~~ to a checking, savings, or other deposit account maintained by or for
3 the employee in any financial institution within or ~~without~~ outside the State.

4 (2) Credit to a payroll card account, other than a checking, savings, or
5 other deposit account described in subdivision (1) of this subsection, that is
6 directly or indirectly established by an employer in a federally insured
7 depository institution to which electronic fund transfers of the employee's
8 wages, salary, or other ~~employee~~ compensation is are made on a recurring
9 basis, ~~other than a checking, savings, or other deposit account described in~~
10 ~~subdivision (1) of this subsection,~~ provided all the following:

11 (A) The employer provides the employee written disclosure in plain
12 language, in at least 10-point type, of both the following:

13 (i) ~~All~~ all the employee's wage payment options; and

14 (ii) ~~The~~ the terms and conditions of the payroll card account
15 option, including a complete list of all known fees that may be deducted from
16 the employee's payroll card account by the employer or the card issuer and
17 whether third parties may assess fees in addition to the fees assessed by the
18 employer or issuer.

19 (B) ~~Copies of the written disclosures required by subdivisions (A)~~
20 ~~and (F) of this subdivision (c)(2) and by subsection (d) of this section shall be~~

1 ~~provided to the employee in the employee's primary language or in a language~~
2 ~~the employee understands.~~

3 ~~(C)~~ The employee voluntarily consents in writing to payment of
4 wages by payroll card account after receiving the disclosures described in
5 subdivision (A) of this subdivision (c)(2), and ~~this~~ the employee's consent is
6 not a condition of hire or continued employment.

7 ~~(D)~~(C) The employer ensures that the payroll card account provides
8 that during each pay period, the employee has at least three free withdrawals
9 from the payroll card, one of which permits withdrawal of the full amount of
10 the balance at a federally insured depository institution or other location
11 convenient to the place of employment.

12 ~~(E)~~(D) None of the employer's costs associated with the payroll card
13 account are passed on to the employee, and the employer ~~shall~~ does not receive
14 any financial remuneration for using the pay card at the employee's expense.

15 ~~(F)~~(E)(i) At least 21 days before any change takes effect, the
16 employer provides the employee with written notice in plain language, in at
17 least ~~10-point~~ 10-point type, of the following:

18 (I) any change to any of the terms and conditions of the payroll
19 card account, including any changes in the itemized list of fees; and

20 (II) the employee's right to discontinue receipt of wages by a
21 payroll card account at any time and without penalty.

1 * * *

2 ~~(G)~~(F) The employer provides the employee the option to discontinue
3 receipt of wages by a payroll card account at any time and without penalty to
4 the employee.

5 ~~(H)~~(G) The payroll card issued to the employee shall be a branded-
6 type payroll card that complies with both the following:

7 * * *

8 ~~(H)~~(H) The employer ensures that the payroll card account provides
9 one free replacement payroll card per year at no cost to the employee before
10 the card's expiration date. A replacement card need not be provided if the card
11 has been inactive for a period of at least 12 months or the employee is no
12 longer employed by the employer.

13 ~~(I)~~(I) A nonbranded payroll card may be issued for temporary
14 purposes and shall be valid for ~~no~~ not more than 60 days.

15 ~~(K)~~(J) The payroll card account shall not be linked to any form of
16 credit, including a loan against future pay or a cash advance on future pay.

17 ~~(L)~~(K) The employer shall not charge the employee an initiation,
18 loading, or other participatory fee to receive wages payable in an electronic
19 fund transfer to a payroll card account, with the exception of the cost required
20 to replace a lost, stolen, or damaged payroll card.

1 ~~(M)~~(L) The employer shall ensure that the payroll card account
2 provides to the employee, upon the employee's written or oral request, one free
3 written transaction history each month ~~which~~ that includes all deposits,
4 withdrawals, deductions, or charges by any entity from or to the employee's
5 payroll card account for the preceding 60 days. The employer shall also ensure
6 that the account allows the employee to elect to receive the monthly
7 transaction history by electronic mail.

8 (d)(1) If a payroll card account is established with a financial institution as
9 an account that is individually owned by the employee, the employer's
10 obligations and the protections afforded under subsection (c) of this section
11 shall cease 30 days after the employer-employee relationship ends and the
12 employee has been paid ~~his or her~~ the employee's final wages.

13 * * *

14 (f) The employer shall provide to the employee copies of the written
15 disclosures required by subdivisions (c)(2)(A) and (E) and by subsection (d) of
16 this section in the employee's primary language or in a language the employee
17 understands

18 Sec. 80. 21 V.S.A. § 342a is amended to read:

19 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

20 (a) An employee or the Department on its own motion may file a complaint
21 that wages have not been paid to an employee, not later than two years ~~from~~

1 after the date the wages were due. The Commissioner shall provide notice and
2 a copy of the complaint to the employer by service, or by certified mail sent to
3 the employer's last known address, together with an order to file a response to
4 the specific allegation in the complaint filed by the employee or the
5 Department with the Department within 10 calendar days ~~of~~ after receipt.

6 (b) The Commissioner shall investigate the complaint, and may examine
7 the employer's records, enter and inspect the employer's business premises,
8 question ~~such~~ employees, subpoena witnesses, and compel the production of
9 books, papers, correspondence, memoranda, and other records necessary and
10 material to investigate the complaint. If a person fails to comply with any
11 lawfully issued subpoena, or a witness refuses to testify to any matter on which
12 ~~he or she~~ the witness may be lawfully interrogated, the Commissioner may
13 seek an order from the Civil Division of the Superior Court compelling
14 testimony or compliance with the subpoena.

15 * * *

16 (e) Within 30 days after the date of the ~~collection order~~ determination, the
17 employer or employee may file an appeal from the determination to a
18 departmental administrative law judge. The appeal shall, after notice to the
19 employer and employee, be heard by the administrative law judge within a
20 reasonable time. The administrative law judge shall review the complaint de
21 novo; and, after a hearing, the determination and, if applicable, order for

1 collection shall be sustained, modified, or reversed by the administrative law
2 judge. Prompt notice in writing of the decision of the administrative law judge
3 and the reasons for it shall be given to all interested parties.

4 * * *

5 Sec. 81. 21 V.S.A. § 344 is amended to read:

6 § 344. ASSIGNMENT OF FUTURE WAGES

7 (a) An assignment of future wages payable ~~under the provisions of~~
8 pursuant to section 342 of this ~~title~~ subchapter shall not be valid, if it is made
9 or procured to be made to:

10 (1) the employer from whom ~~such~~ the wages are to become due; or

11 (2) ~~to anyone in any person on~~ behalf of ~~such~~ the employer, or ~~if made~~
12 ~~or procured to be made to anyone~~ for the purpose of relieving ~~such~~ the
13 employer from the obligation to pay under the provisions of section 342 of this
14 subchapter.

15 (b) ~~Such~~ An employer shall not require ~~an agreement from~~ an employee to
16 agree, as a condition of employment, to accept wages at any other period as a
17 condition of employment.

18 Sec. 82. 21 V.S.A. § 345 is amended to read:

19 § 345. NONPAYMENT OF WAGES AND BENEFITS

20 (a) ~~Each~~ An employer who violates section 342, 343, 482, or 483 of this
21 title shall be fined not more than \$5,000.00. ~~Where~~ If the employer is a

1 corporation, the president or other officers who have control of the payment
2 operations of the corporation shall be considered employers and liable to the
3 employee for actual wages due when the officer has willfully and without good
4 cause participated in knowing violations of this ~~chapter~~ subchapter.

5 (b) In addition to any other penalty or punishment ~~otherwise~~ prescribed by
6 law, any employer who, pursuant to an oral or written employment agreement,
7 is required to provide benefits to an employee shall be liable to the employee
8 for actual damages caused by the failure to pay for the benefits, and where the
9 failure to pay is knowing and willful and continues for 30 days after the
10 payments are due shall be assessed a civil penalty by the Commissioner of not
11 more than \$5,000.00.

12 (c) The Commissioner may enforce collection of the ~~fin~~ penalties
13 assessed under this section in the Civil Division of the Superior Court
14 Sec. 83. 21 V.S.A. § 382 is amended to read:

15 § 382. ~~COVER~~AGE

16 ~~Employers employing two employees or more are covered by this~~
17 ~~subchapter.~~ [Repealed.]

1 Sec. 84. 21 V.S.A. § 383 is amended to read:

2 § 383. DEFINITIONS

3 ~~Terms used in this subchapter have the following meanings, unless a~~
4 ~~different meaning is clearly apparent from the language or context~~ As used in
5 this subchapter:

6 (1) “Commissioner;” means the Commissioner of Labor or designee;

7 (2) “Employee;” means any individual employed or permitted to work
8 by an employer except:

9 * * *

10 (3) “Employer” means any person that employs two or more employees.

11 (4) “Occupation;” means an industry, trade, or business or branch
12 thereof or class of work in which workers are gainfully employed.

13 ~~(4) [Repealed.]~~

14 Sec. 85. 21 V.S.A. § 384 is amended to read:

15 § 384. EMPLOYMENT; WAGES

16 (a)(1) ~~An employer shall not employ any employee at a rate of less than~~
17 ~~\$10.96. Beginning on January 1, 2021, an employer shall not employ any~~
18 ~~employee at a rate of less than \$11.75. Beginning on January 1, 2022, an~~
19 employer shall not employ any employee at a rate of less than \$12.55, and on
20 each subsequent January 1, the minimum wage rate shall be increased by five
21 percent or the percentage increase of the Consumer Price Index, CPI-U, U.S.

1 city average, not seasonally adjusted, or successor index, as calculated by the
2 U.S. Department of Labor or successor agency for the 12 months preceding the
3 previous September 1, whichever is smaller, but in no event shall the minimum
4 wage be decreased. The minimum wage shall be rounded off to the nearest
5 \$0.01.

6 (2) An employer in the hotel, motel, tourist place, and restaurant
7 industry shall not employ a service or tipped employee at a basic wage rate less
8 than one-half the minimum wage. As used in this ~~subsection~~ subdivision, “a
9 service or tipped employee” means an employee of a hotel, motel, tourist
10 place, or restaurant who customarily and regularly receives more than \$120.00
11 per month in tips for direct and personal customer service.

12 (3) If the minimum wage rate established by the U.S. government is
13 greater than the rate established for Vermont pursuant to subdivision (1) of this
14 subsection for any year, the minimum wage rate for that year shall be the rate
15 established by the U.S. government.

16 (b) Notwithstanding subsection (a) of this section, an employer shall not
17 pay an employee less than one and one-half times the regular wage rate for any
18 work done by the employee in excess of 40 hours during a workweek.

19 However, this subsection shall not apply to:

20 * * *

1 (5) ~~Those employees~~ Employees of a business engaged in the
2 transportation of persons or property to whom the overtime provisions of the
3 federal Fair Labor Standards Act do not apply, ~~but~~. However, this subsection
4 shall apply to all other employees of such businesses.

5 (6) ~~Those employees~~ Employees of a political subdivision of this State.

6 * * *

7 (c) However, an employer may deduct from the rates required in
8 subsections (a) and (b) of this section:

9 (1) the amounts for board, lodging, apparel, rent, or utilities paid or
10 furnished; or

11 (2) other items or services or such other conditions or circumstances as
12 may be usual in a particular employer-employee relationship, ~~including~~
13 ~~gratuities as determined by the wage order made under this subchapter.~~

14 * * *

15 Sec. 86. 21 V.S.A. § 385 is amended to read:

16 § 385. ADMINISTRATION

17 The Commissioner and the Commissioner's authorized representatives have
18 full power and authority for all the following:

19 * * *

20 (4) To ~~recommend and~~ determine the amount of deductions for board,
21 lodging, or other items or services supplied by the employer or any other

1 typical conditions or circumstances ~~as may be usual~~ in a particular employer-
2 employee relationship, ~~including gratuities~~; provided, however, that in no case
3 shall the total remuneration received by an employee, including wages,
4 gratuities, board, lodging, or other items or services supplied by the employer,
5 ~~including gratuities~~, be less than the minimum wage ~~rate set forth in~~
6 established pursuant to section 384 of this ~~title~~ subchapter. No deduction may
7 be made for the care, cleaning, or maintenance of required apparel. No
8 deduction for required apparel shall be made without the employee's express
9 written authorization and the deduction shall not:

10 (A) reduce the total remuneration received by an employee below the
11 ~~hourly~~ minimum wage established pursuant to section 384 of this subchapter;

12 * * *

13 Sec. 87. 21 V.S.A. § 386 is amended to read:

14 § 386. INVESTIGATIONS

15 The Commissioner may, and on a petition of 50 or more residents of the
16 State shall, ~~make an investigation of~~ investigate any industry, business,
17 occupation, or employment ~~as set forth in~~, pursuant to the provisions of section
18 385 of this ~~title~~ subchapter, to ascertain whether any violations of this
19 subchapter have occurred.

1 Sec. 88. 21 V.S.A. § 391 is amended to read:

2 § 391. ~~MODIFICATION OF WAGE ORDERS~~

3 ~~The Commissioner with the approval of the Governor may from time to~~
4 ~~time propose modifications of or additions to any regulations included in any~~
5 ~~minimum wage order which the Commissioner deems appropriate.~~

6 [Repealed.]

7 Sec. 89. 21 V.S.A. § 392 is amended to read:

8 § 392. ~~COURT PROCEEDINGS~~

9 ~~If any employer covered by a wage order has failed to comply with the~~
10 ~~wage order within 14 days after receiving notification of the violation, the~~
11 ~~Commissioner shall take court action to enforce the order. [Repealed.]~~

12 Sec. 90. 21 V.S.A. § 393 is amended to read:

13 § 393. EMPLOYERS' RECORDS; NOTICE

14 (a) ~~Every employer, subject to the provisions of this subchapter or of any~~
15 ~~regulation or order issued thereunder, shall keep a true and accurate record of~~
16 ~~the hours worked by each employee and of the wages paid to him or her~~ the
17 employee and shall furnish to the Commissioner upon demand a sworn
18 statement of the same. ~~Such~~ The records shall be open to inspection by the
19 Commissioner, ~~his or her deputy,~~ or any authorized agent of the Department at
20 any reasonable time.

1 ~~(b) Every employer subject to the provisions of this subchapter or of any~~
2 ~~regulation or order issued under the provisions thereof shall keep a copy of~~
3 ~~them~~ the rules posted in a conspicuous place in the area where employees are
4 employed. The Commissioner shall furnish copies of ~~such orders and~~
5 ~~regulations~~ the rules to employers without charge.

6 Sec. 91. 21 V.S.A. § 394 is amended to read:

7 § 394. PENALTIES

8 (a) ~~Any~~ An employer, ~~subject to this subchapter or any regulations or~~
9 ~~orders issued thereunder, or any of the employer's agents or the officer or~~
10 ~~agent of any corporation~~ an employer, who pays or, permits to be paid, or
11 agrees to pay to any employee ~~engaged in any industry or occupation~~ less than
12 the applicable rate to which the employee is entitled ~~under~~ pursuant to this
13 subchapter, shall be ~~fin~~ assessed a civil penalty of not more than \$100.00 for
14 each day the employee is paid less than the rate required ~~under~~ pursuant to this
15 subchapter.

16 (b) ~~Any~~ An employer or ~~any of the employer's agents or the~~ an officer or
17 agent of ~~any corporation who fails to keep the records required under this~~
18 ~~subchapter or refuses to permit the Commissioner to enter the place of business~~
19 ~~or who fails to furnish the records to the Commissioner upon demand~~ an
20 employer, shall be ~~fin~~ assessed a civil penalty not more than \$100.00 for any
21 of the following:

- 1 (1) failing to keep the records required pursuant to this subchapter;
2 (2) refusing to permit the Commissioner to enter the place of business;
3 or
4 (3) failing to furnish records to the Commissioner upon demand.

5 Sec. 92. 21 V.S.A. § 395 is amended to read:

6 § 395. CIVIL ACTIONS

7 ~~If any~~ An employee who is paid by an employer less than the applicable
8 wage rate to which the employee is entitled ~~under~~ pursuant to this subchapter,
9 ~~the employee~~ shall recover, in a civil action, twice the amount of the minimum
10 wage established pursuant to section 384 of this subchapter less any amount
11 actually paid by the employer, together with costs and reasonable attorney's
12 fees, ~~and any.~~ An agreement between an employer and an employee to work
13 for less than the wage rates ~~is no~~ established pursuant to section 384 of this
14 subchapter shall not be a defense to the action.

15 Sec. 93. 21 V.S.A. § 396 is amended to read:

16 § 396. APPEALS FROM COMMISSIONER'S DECISIONS

17 (a) Appeals to Superior Court ~~wherein a civil action between the parties~~
18 ~~would be triable.~~ Any person aggrieved by ~~any~~ a decision of the
19 Commissioner may appeal to the Superior Court.

20 (b) Procedure. The Commissioner shall forward to the court the record of
21 the decision on appeal. The court shall ~~direct the record in the matter appealed~~

1 ~~from to be laid before it, hear the evidence, and make such order approving in~~
2 ~~whole or in part or setting aside in whole or in part the decision appealed from~~
3 consider the record and any evidence presented; may approve or set aside the
4 Commissioner's decision in whole or in part, as justice may require; and may
5 refer any matter or issue arising in the proceedings to the Commissioner for
6 further consideration. ~~However, in~~ In no case shall such an appeal operate as a
7 ~~supersedes or stay unless the Commissioner or the court to which such the~~
8 appeal is taken ~~shall so order~~ orders.

9 (c) Certifying record. ~~An order of court to send up~~ The Commissioner may
10 provide to the court the record may be complied with by filing either the
11 original papers or duly certified copies thereof, ~~or of such portions thereof as~~
12 ~~the order may specify, of them~~ together with a certified statement of ~~such any~~
13 other facts as that show the grounds of the action appealed from.

14 (d) Hearing. The court may take evidence or may appoint a referee to take
15 such evidence as it may direct ~~and to report the same with findings of fact.~~ A
16 referee that is appointed shall submit a report to the court of all evidence taken
17 together with findings of fact.

18 (e) Costs. In any proceedings under this subchapter, the court may ~~make~~
19 ~~such~~ award of any costs as may seem it determines to be equitable and just.

20 (f) Appeal; Supreme Court. ~~Appeal from the~~ The decision of the Superior
21 Court may be ~~had~~ appealed to the Supreme Court.

1 Sec. 94. 21 V.S.A. § 415 is amended to read:

2 § 415. VIOLATIONS

3 (a) An employer who violates subsection 413(b) or 414(b) of this
4 subchapter is liable to each employee who lost ~~his or her~~ employment for:

5 * * *

6 (d) If, after an administrative hearing, the Commissioner determines that an
7 employer has violated any of the requirements of this subchapter, the
8 Commissioner shall issue an order including any penalties assessed by the
9 Commissioner under this section and section 417 of this subchapter. The
10 employer may appeal a decision of the Commissioner to the Superior Court
11 within 30 days ~~of~~ after the date of the Commissioner's order.

12 Sec. 95. 21 V.S.A. § 430 is amended to read:

13 § 430. POLICY; DEFINITIONS; RULES

14 * * *

15 (b) ~~For the purposes of~~ As used in this subchapter:

16 (1) "Child" or "children" means an individual under ~~the age of~~ 18 years
17 of age.

18 (2) "Commissioner" means the Commissioner of Labor ~~or designee~~.

19 * * *

20 (4) "Illegal child employment" means the employment of any child
21 under ~~the age of~~ 18 years of age in any work or occupation specifically

1 prohibited by State or federal law. “Illegal child employment” does not
2 include work performed by students as part of an educational program,
3 provided this subchapter or federal law specifically permits this work.

4 (c) The Commissioner shall adopt rules to carry out the purpose and intent
5 of this subchapter, provided the rules are consistent with federal child labor
6 laws and rules. However, the Commissioner shall not be required to adopt or
7 modify rules ~~in order~~ to conform with a change in federal child labor laws or
8 regulations ~~which~~ that weakens or eliminates an existing child labor protection
9 policy.

10 Sec. 96. 21 V.S.A. § 432 is amended to read:

11 § 432. RESTRICTIONS

12 (a) The Commissioner shall not issue a certificate for a child under 16
13 years of age pursuant to section 431 of this ~~title~~ subchapter until the
14 Commissioner has received, examined, approved, and filed the following
15 papers:

16 (1) The school record of the child properly filled out and signed by the
17 person in charge of the school ~~which~~ that the child last attended, giving the
18 child’s age, address, standing in studies, rating in conduct, and attendance in
19 days during the school year of the last full year of attendance.

20 * * *

1 (3) A certificate from a physician resident in and licensed to practice in
2 this State showing that after a thorough examination the child is found to be
3 physically fit to be employed in the proposed occupation. When a certificate is
4 requested for the employment of a child under 16 years of age as an actor or
5 performer in motion pictures, theatrical productions, radio, or television, this
6 provision may be waived at the discretion of the Commissioner.

7 (4) Before a certificate approving the employment of a child as an actor
8 or performer in motion pictures, theatrical productions, radio, or television is
9 issued by the Commissioner, the Secretary of Education must approve the
10 substance and conditions of the educational program being provided to the
11 child during ~~this the~~ employment, which ~~in no case shall be~~ shall not be for
12 more than 90 days during the school year.

13 * * *

14 Sec. 97. 21 V.S.A. § 434 is amended to read:

15 § 434. EMPLOYMENT OF CHILDREN UNDER 16 YEARS OF AGE

16 (a) A child under 16 years of age shall not be employed:

17 (1) more than eight hours in any day; ~~or;~~

18 (2) more than six days in any week; ~~or;~~

19 (3) earlier than seven o'clock in the morning; ~~or~~

20 (4) after seven o'clock at night, except from June 1 through Labor Day

21 when a child may be permitted to work until nine o'clock at night.

1 **(b)** A child under 16 years of age shall not be employed more than three
2 hours on any day that school is in session, and not more than a total of 18
3 hours during any week that school is in session.

4 **(c)(1)** ~~However, in the case of~~ Notwithstanding subsections (a) and (b) of
5 this section, a child employed as an actor or performer in motion pictures,
6 theatrical productions, radio, or television, or employed as a baseball bat ~~girl or~~
7 ~~bat boy~~ person, ~~the child~~ may be employed until midnight or after midnight if a
8 parent or guardian and the Commissioner of Labor have consented in writing.

9 **(2)** The ~~Department~~ Commissioner shall adopt rules regarding the
10 permissible duties of a baseball bat ~~girl or bat boy~~ person.

11 **(d)** The provisions of this section shall not apply to employment as a
12 newspaper carrier or work connected with agriculture or domestic service.

13 Sec. 98. 21 V.S.A. § 435 is amended to read:

14 § 435. EXAMINATION AND REPORT

15 When so ordered by the Secretary of Education, the superintendent of
16 schools for the school district or supervisory union where the child under 16
17 years of age resides shall examine the child for the purpose of determining the
18 child's eligibility for employment in accordance with the provisions of section
19 432 of this ~~title~~ subchapter and shall, upon the completion of the examination,
20 make a written report to the Secretary of Education who shall transmit a copy
21 of the report to the Commissioner.

1 Sec. 99. 21 V.S.A. § 436 is amended to read:

2 § 436. EMPLOYMENT OF CHILDREN UNDER 14 YEARS OF AGE

3 A child under 14 years of age shall not be employed or permitted to work in
4 any gainful occupation unless the occupation has been approved by the
5 Commissioner, by rule, to be appropriate for a child under ~~the age of 14 years~~
6 of age, and the employment occurs during vacation and before and after
7 school. The provisions of this section shall not apply to:

8 (1) ~~Employment~~ employment by a parent or a person standing in place
9 of a parent employing ~~his or her~~ their own child or a child in ~~his or her~~ their
10 custody in an occupation other than manufacturing, mining, or an occupation
11 found by the U.S. Secretary of Labor to be particularly hazardous or
12 detrimental to ~~their~~ the child's health or well-being.;

13 (2) ~~A~~ a newspaper carrier.;

14 (3) ~~An~~ an actor or performer in motion pictures, theatrical productions,
15 radio, and television.

16 Sec. 100. 21 V.S.A. § 437 is amended to read:

17 § 437. EMPLOYMENT OF CHILDREN; SPECIAL RESTRICTIONS;

18 HOURS FOR CHILDREN UNDER 16 YEARS OF AGE

19 * * *

1 Sec. 101. 21 V.S.A. § 444a is amended to read:

2 § 444a. EMPLOYMENT OF ALIENS

3 (a) ~~For the purposes of~~ As used in this section:

4 * * *

5 (3) “Illegal alien” means any person not a citizen of the United States
6 who has entered the United States in violation of the Federal Immigration and
7 Naturalization Act or regulations issued ~~thereunder~~ pursuant to the Act, who
8 has legally entered but without the right to be employed in the country, or who
9 has legally entered subject to a time limit but has remained illegally after the
10 expiration of ~~such~~ the time limit.

11 * * *

12 (c) No employer shall knowingly employ any alien unless the employer
13 determines that the alien possesses the required certificate under the Federal
14 Immigration and Naturalization Act or regulations issued ~~thereunder~~ pursuant
15 to the Act, or has authorization from the ~~immigration services~~ U.S. Customs
16 and Immigration Service or other appropriate federal agency.

17 * * *

18 Sec. 102. 21 V.S.A. § 472 is amended to read:

19 § 472. LEAVE

20 * * *

1 (b) During the leave, at the employee's option, the employee may use
2 accrued sick leave or vacation leave or any other accrued paid leave, not to
3 exceed six weeks. Utilization of accrued paid leave shall not extend the leave
4 provided ~~herein~~ pursuant to this section.

5 * * *

6 (d) The employer shall post and maintain in a conspicuous place in and
7 about each of ~~his or her~~ the employer's places of business printed notices of
8 the provisions of this subchapter on forms provided by the Commissioner of
9 Labor.

10 (e)(1) An employee shall give reasonable written notice of intent to take
11 leave under this subchapter. Notice shall include the date the leave is expected
12 to commence and the estimated duration of the leave.

13 (2) In the case of the adoption or birth of a child, an employer shall not
14 require that notice be given more than six weeks prior to the anticipated
15 commencement of the leave.

16 (3) In the case of serious illness of the employee or a member of the
17 employee's family, an employer may require certification from a physician to
18 verify the condition and the amount and necessity for the leave requested.

19 (4) An employee may return from leave earlier than estimated upon
20 approval of the employer.

1 (5) An employee shall provide reasonable notice to the employer of ~~his~~
 2 ~~or her~~ the need to extend leave to the extent provided by this ~~chapter~~
 3 subchapter.

* * *

5 (g)(1) An employer may adopt a leave policy more generous than the leave
 6 policy provided by this subchapter.

7 (2)(A) Nothing in this subchapter shall be construed to diminish an
 8 employer’s obligation to comply with any collective bargaining agreement or
 9 any employment benefit program or plan ~~which~~ that provides greater leave
 10 rights than the rights provided by this subchapter.

11 (B) A collective bargaining agreement or employment benefit
 12 program or plan may not diminish rights provided by this subchapter.

13 (3) Notwithstanding the provisions of this subchapter, an employee may,
 14 at the time a need for parental or family leave arises, waive some or all the
 15 rights under this subchapter provided the waiver is informed and voluntary and
 16 any changes in conditions of employment related to any waiver shall be
 17 mutually agreed upon between employer and employee.

* * *

19 Sec. 103. 21 V.S.A. § 481 is amended to read:

20 § 481. DEFINITIONS

21 As used in this subchapter:

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* * *

(2) “Combined time off” means a policy ~~wherein~~ under which the employer provides time off from work for vacation, sickness, or personal reasons, and the employee has the option to use all of the leave for whatever purpose ~~he or she~~ the employee chooses.

* * *

Sec. 104. 21 V.S.A. § 482 is amended to read:

§ 482. EARNED SICK TIME

* * *

(b) An employer may require a waiting period for newly hired employees of up to one year. During this waiting period, an employee shall accrue earned sick time pursuant to this subchapter, but shall not be permitted to use the earned sick time until after ~~he or she has completed~~ completing the waiting period.

(c) An employer may:

(1) limit the amount of earned sick time accrued pursuant to this section to:

~~(A) from January 1, 2017 until December 31, 2018, a maximum of 24 hours in a 12-month period; and~~

~~(B) after December 31, 2018, a maximum of 40 hours in a 12-month period; or~~

1

* * *

2

(e) Except as otherwise provided by subsection 484(a) of this subchapter,

3

an employer shall calculate the amount of earned sick time that an employee

4

has accrued pursuant to this section:

5

(1) as it accrues during each pay period; or

6

(2) on a quarterly basis, provided that an employee may use earned sick

7

time as ~~he or she~~ it accrues ~~it~~ during each quarter.

8

Sec. 105. 21 V.S.A. § 483 is amended to read:

9

§ 483. USE OF EARNED SICK TIME

10

(a) An employee may use earned sick time accrued pursuant to section 482

11

of this subchapter for any of the following reasons:

12

* * *

13

(3) The employee cares for a sick or injured parent, grandparent, spouse,

14

child, brother, sister, parent-in-law, grandchild, or foster child, including

15

helping that individual obtain diagnostic, preventive, routine, or therapeutic

16

health treatment, or accompanying the employee's parent, grandparent, spouse,

17

or parent-in-law to an appointment related to ~~his or her~~ that individual's long-

18

term care.

19

* * *

20

(c) An employer may limit the amount of earned sick time accrued

21

pursuant to section 482 of this subchapter that an employee may use to:

1 ~~(1) from January 1, 2017 until December 31, 2018, no more than 24~~
2 ~~hours in a 12-month period; and~~
3 ~~(2) after December 31, 2018, no more than 40 hours in a 12-month~~
4 ~~period.~~

5 (d)(1) Except as otherwise provided in subsection 484(a) of this
6 subchapter, earned sick time that remains unused at the end of an annual period
7 shall be carried over to the next annual period and the employee shall continue
8 to accrue earned sick time as provided pursuant to section 482 of this
9 subchapter. However, nothing in this subdivision shall be construed to permit
10 an employee to use more earned sick time during an annual period than any
11 limit on the use of earned sick time that is established by ~~his or her~~ the
12 employee's employer pursuant to subsection (c) of this section.

13 * * *

14 (f)(1) An employee who is discharged by ~~his or her~~ the employee's
15 employer after ~~he or she has completed~~ completing a waiting period required
16 pursuant to subsection 482(b) of this subchapter and is subsequently rehired by
17 the same employer within 12 months after the discharge from employment
18 shall begin to accrue and may use earned sick time without a waiting period.
19 However, the employee shall not be entitled to retain any earned sick time that
20 accrued before the time of ~~his or her~~ the discharge unless agreed to by the
21 employer.

1 (2) An employee that voluntarily separates from employment after ~~he or~~
2 ~~she has completed~~ completing a waiting period required pursuant to subsection
3 482(b) of this subchapter and is subsequently rehired by the same employer
4 within 12 months after the separation from employment shall not be entitled to
5 accrue and use earned sick time without a waiting period unless agreed to by
6 the employer.

7 * * *

8 (k) ~~An employee who uses~~ Use of earned sick time accrued pursuant to
9 section 482 of this subchapter shall not diminish ~~his or her~~ an employee's
10 rights under sections 472 and 472a of this ~~title~~ chapter.

11 * * *

12 Sec. 106. 21 V.S.A. § 495a is amended to read:

13 § 495a. PERSONS ENTERING INTO CONTRACTS WITH THIS STATE

14 The State of Vermont and all of its contracting agencies shall include in all
15 contracts ~~hereafter~~ negotiated a provision obligating the contractor to comply
16 with this subchapter in connection with any work to be performed in this State
17 and requiring the contractor to include a similar provision in all subcontracts
18 for work to be performed in this State.

1 Sec. 107. 21 V.S.A. § 495b is amended to read:

2 § 495b. PENALTIES AND ENFORCEMENT

3 (a)(1) The Attorney General or a State’s Attorney may enforce the
4 provisions of this subchapter by restraining prohibited acts, seeking civil
5 penalties, obtaining assurances of discontinuance, and conducting civil
6 investigations in accordance with the procedures established in 9 V.S.A.
7 §§ 2458–2461 as though an unlawful employment practice were an unfair act
8 in commerce. Any employer, employment agency, or labor organization
9 complained against shall have the same rights and remedies as specified
10 ~~therein~~ in 9 V.S.A. §§ 2458–2461. The Superior Courts are authorized to
11 impose the same civil penalties and investigation costs and to order other relief
12 to the State of Vermont or an aggrieved employee for violations of this
13 subchapter as they are authorized to impose or order under the provisions of
14 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the
15 Superior Courts may order restitution of wages or other benefits on behalf of
16 an employee and may order reinstatement and other appropriate relief on
17 behalf of an employee.

18 * * *

1 Sec. 108. 21 V.S.A. § 495g is amended to read:

2 § 495g. PROVISION APPLICABLE TO COLLEGE PROFESSORS

3 Nothing in this subchapter shall be construed to prohibit any institution of
4 higher education as defined by section 1201(a) of the federal Higher Education
5 Act of 1965 from retiring any employee who is serving under a contract of
6 unlimited tenure, who attains ~~65 years of age prior to July 1, 1982, or~~ 70 years
7 of age ~~thereafter~~. Any employee whose tenure contract is terminated may, in
8 the discretion of the institution, be allowed to continue in the employ of the
9 institution on a nontenured basis.

10 Sec. 109. 21 V.S.A. § 496 is amended to read:

11 § 496. LEGISLATIVE LEAVE

12 (a) Any ~~person~~ employee who, in order to serve as a member of the
13 General Assembly, must leave a full-time position in the employ of any
14 employer, shall be entitled to a temporary or partial leave of absence for the
15 purpose of allowing ~~such~~ the employee to perform any official duty in
16 connection with ~~his or her~~ the employee's elected office. ~~Such~~ The leave of
17 absence shall not cause loss of job status, seniority, or the right to participate in
18 insurance and other employee benefits during the leave of absence.

19 (b) An employee who intends to seek election to the General Assembly and
20 to invoke, if elected, ~~his or her~~ the right to a leave of absence pursuant to
21 subsection (a) of this section, shall notify ~~his or her~~ the employee's employer

1 of those intentions in writing within 10 days after filing the primary election
2 nominating petition required by 17 V.S.A. § 2353 or of taking any other action
3 required by 17 V.S.A. chapter 49, to place ~~his or her~~ the employee's name on a
4 primary or general election ballot. An employee who fails to give notice to ~~his~~
5 ~~or her~~ the employee's employer as required by this section shall be deemed to
6 have waived ~~his or her~~ the right to a leave of absence under subsection (a) of
7 this section.

8 (c) An employer who contends that granting the leave of absence required
9 by subsection (a) of this section will cause unreasonable hardship for ~~his or her~~
10 the employer's business may appeal for relief by letter to the Chair of the State
11 Labor Relations Board created by 3 V.S.A. § 921. The right to such appeal
12 shall be waived unless it is filed within 14 days ~~of~~ after receipt of the notice
13 required by subsection (b) of this section. The appeal shall state the name of
14 the employee and the reasons for the alleged unreasonable hardship. The
15 remedy created by this subsection shall be the exclusive remedy for an
16 employer who claims unreasonable hardship as a result of the application to
17 ~~him or her~~ the employer of subsection (a) of this section.

18 (d) The Chair of the State Labor Relations Board, or any member of the
19 Board designated by the Chair, shall serve as an arbitrator in any case appealed
20 pursuant to subsection (c) of this section. The proceedings shall include an
21 opportunity for the employee to respond, orally or in writing, to the allegations

1 of unreasonable hardship raised by the employer, and shall be conducted in
2 accord with the rules of practice of the State Labor Relations Board. Within 30
3 days ~~of~~ after receipt of a notice of appeal, the arbitrator shall issue an order,
4 which shall be binding on both parties, either granting or denying the
5 employer's claim of unreasonable hardship. If the employer's claim is granted,
6 the employee shall not be entitled to the protection of subsection (a) of this
7 section. In reaching ~~his or her~~ a decision, the arbitrator shall consider, but is
8 not limited to, the following factors:

9 * * *

10 (f) Any attorney, party, witness, or juror who, while a member of and
11 during sessions of the General Assembly, is assigned or scheduled to appear in
12 any court of the State of Vermont shall be entitled to a leave of absence or
13 postponement from such judicial duties when ~~his or her~~ the individual's duties
14 in the ~~Legislature~~ General Assembly are more compelling, for the purpose of
15 allowing the member to perform any official duties in connection with ~~his or~~
16 ~~her~~ the member's elected office. The leave of absence or postponement shall
17 not prejudice the member or the cause involved.

18 Sec. 110. 21 V.S.A. § 497e is amended to read:

19 § 497e. FUNDS; REVENUE; USE

20 (a) The Chair of the Governor's Committee on Employment of People with
21 Disabilities or ~~his or her~~ the Chair's designated representative may authorize or

1 sponsor fund-raising events and the revenue ~~therefrom~~ from the events shall be
2 placed in the account of the Governor's Committee on Employment of People
3 with Disabilities.

4 (b) The Chair or ~~his or her~~ the Chair's designated representative may
5 authorize the sale of products ~~which~~ that relate to Vermonters with disabilities
6 and the revenue ~~therefrom~~ from such sales shall be placed in the account of the
7 Governor's Committee on Employment of People with Disabilities.

8 * * *

9 (e) ~~This~~ The account ~~will~~ shall be used in accordance with any of the
10 purposes of the Governor's Committee on Employment of People with
11 Disabilities program or activities, as established in this subchapter.

12 Sec. 111. 21 V.S.A. § 499 is amended to read:

13 § 499. JURORS AND WITNESSES

14 (a)(1) ~~No employer may~~ An employer shall not discharge an employee ~~by~~
15 ~~reason of his or her~~ because of the employee's service as a juror, or penalize
16 ~~such the employee or deprive the employee or deprive him or her~~ of any right,
17 privilege, or benefit ~~on a basis which~~ in a manner that discriminates between
18 ~~such the~~ employee and other employees not serving as jurors.

19 (2) All employees shall be considered in the service of their employer
20 during all times while serving as jurors in accordance with this section for

1 purposes of determining seniority, fringe benefits, credit toward vacations, and
2 other rights, privileges, and benefits of employment.

3 (b)(1) ~~No employer may~~ An employer shall not discharge an employee by
4 reason of the employee's absence from work while in attendance as a witness
5 pursuant to a summons duly issued and served in any proceeding, civil or
6 criminal, in any court of competent jurisdiction within or ~~without~~ outside the
7 State, or in any other proceeding before a board, commission, attorney, or
8 other person or tribunal in the State authorized by law to hear testimony under
9 oath; ~~nor,~~

10 (2) An employer shall ~~an employer not~~ penalize ~~such~~ an employee or
11 deprive ~~him or her~~ the employee of any right, privilege, or benefit ~~on a basis~~
12 ~~which~~ in a manner that discriminates between ~~such~~ the employee and other
13 employees not appearing as witnesses.

14 (3) All employees shall be considered in the service of their employer
15 while appearing as witnesses in accordance with this section for purposes of
16 determining seniority, fringe benefits, credit toward vacations, and other rights,
17 privileges, and benefits of employment.

18 * * *

19 Sec. 112. 21 V.S.A. § 501 is amended to read:

20 § 501. DEFINITIONS

21 As used in this subchapter:

1

* * *

2

(5) “Vending machine” means any coin or currency operated machine

3

that sells food, ~~tobacco~~, beverages, sundries, or other retail merchandise or

4

service, but shall not include vending machines used in connection with the

5

operation of rest room facilities.

6

Sec. 113. 21 V.S.A. § 503 is amended to read:

7

§ 503. VENDING MACHINES

8

If it is determined by the Department of Disabilities, Aging, and

9

Independent Living and the Department of Buildings and General Services that

10

a vending facility is not economically feasible in a particular location, vending

11

machines may be placed in that location. Contracts shall be awarded by the

12

Department of Disabilities, Aging, and Independent Living in accordance with

13

the procedures set forth in 29 V.S.A. § 161, notwithstanding the \$50,000.00

14

limitation ~~therein~~ set forth in that section.

15

Sec. 114. 21 V.S.A. § 504 is amended to read:

16

§ 504. INCOME FROM VENDING FACILITIES AND MACHINES

17

* * *

18

(c) Income ~~which~~ that accrues to the Division under this subchapter shall

19

be used to:

20

(1) maintain or enhance the vending facilities program;

1 (2) provide benefit programs, including health insurance or pension
2 plans for licensed persons who are blind or visually impaired who operate
3 vending facilities; and

4 (3) provide vocational rehabilitation services for persons who are blind
5 or visually impaired.

6 Sec. 115. 21 V.S.A. § 505 is amended to read:

7 § 505. VENDING FACILITIES; OPERATION BY OTHER THAN A
8 PERSON WHO IS BLIND OR VISUALLY IMPAIRED

9 Where vending facilities on State property are operated by those other than
10 persons who are blind or visually impaired on July 1, 1984, the contracts of
11 these vending facilities may be renewed or extended. A person who does not
12 intend to renew or extend such a contract shall so notify the Director of the
13 Division in a timely manner. Within 30 days ~~of such~~ after the notice, the
14 Director shall determine whether the vending facility is suited for operation by
15 a person who is blind or visually impaired. If the Director determines that the
16 facility is suited for operation by such person, preference in operation of the
17 facility shall be given to a person who is blind or visually impaired.

18 Sec. 116. 21 V.S.A. § 507 is amended to read:

19 § 507. WHISTLEBLOWER PROTECTION; HEALTH CARE
20 EMPLOYEES; PROHIBITIONS; HEARING; NOTICE

21 (a) ~~For the purposes of~~ As used in this subchapter:

1 * * *

2 (6) "Public body" means:

3 (A) the ~~United States~~ U.S. Congress, any ~~State~~ state legislature, or any
4 popularly elected local government body, or any member or employee thereof;

5 * * *

6 Sec. 117. 21 V.S.A. § 508 is amended to read:

7 § 508. ENFORCEMENT

8 * * *

9 (c) ~~Not~~ Not later than July 1, 2005, all hospitals as defined in 18 V.S.A.
10 § 1902(1) shall revise their internal processes referred to in subdivision (a)(1)
11 to include and be consistent with ANCC Magnet Recognition Program
12 standards that support the improvement of quality patient care and professional
13 nursing practice.

14 * * *

15 Sec. 118. 21 V.S.A. § 509 is amended to read:

16 § 509. NOTICE

17 (a) ~~Not~~ Not later than December 1, 2004, the Commissioner of Labor shall
18 develop and distribute to each employer a standard notice as provided in this
19 section. Each notice shall be in clear and understandable language and shall
20 include:

21 * * *

1 (b) ~~Not~~ Not later than January 1, 2005, each employer shall post the notice
2 in the employer's place of business to inform the employees of their
3 protections and obligations under this subchapter. The employer shall post the
4 notice in a prominent and accessible location in the workplace. The employer
5 shall indicate on the notice the name or title of the individual the employer has
6 designated to receive notifications pursuant to subsection 507(c) of this ~~title~~
7 subchapter.

8 * * *

9 Sec. 119. 21 V.S.A. § 514 is amended to read:

10 § 514. ADMINISTRATION OF TESTS

11 An employer may request an applicant for employment or an employee to
12 submit to a drug test pursuant to this subchapter, provided the drug testing is
13 performed in compliance with all the following requirements:

14 * * *

15 (2) Written policy. The employer shall provide all persons tested with a
16 written policy that identifies the circumstances under which persons may be
17 required to submit to drug tests, the particular test procedures, the drugs that
18 will be screened, a statement that over-the-counter medications and other
19 substances may result in a positive test, and the consequences of a positive test
20 result. The employer's policy shall incorporate all provisions of this section.

21 * * *

1 (5) Chain of custody. The collector shall establish a chain of custody
2 procedure for both sample collection and testing that will ~~assure~~ ensure the
3 anonymity of the individual being tested and verify the identity of each sample
4 and test result.

5 (6) Urinalysis procedure. If a urinalysis procedure is used to screen for
6 drugs, the employer shall:

7 * * *

8 (B) provide the person tested with an opportunity, at ~~his or her~~ the
9 person's request and expense, to have a blood sample drawn at the time the
10 urine sample is provided, and preserved in such a way that it can be tested later
11 for the presence of drugs.

12 * * *

13 (11) Medical review officer. The employer shall contract with or
14 employ a certified medical review officer who shall be a licensed physician
15 with knowledge of the medical use of prescription drugs and the pharmacology
16 and toxicology of illicit drugs. The medical review officer shall review and
17 evaluate all drug test results, ~~assure~~ ensure compliance with this section and
18 sections 515 and 516 of this ~~title~~ subchapter, report the results of all tests to the
19 individual tested, and report only confirmed drug test results to the employer.

20 * * *

1 Sec. 120. 21 V.S.A. § 601 is amended to read:

2 § 601. DEFINITIONS

3 As used in this chapter:

4 * * *

5 (11) “Personal injury by accident arising out of and in the course of
6 employment” includes an injury caused by the willful act of a third person
7 directed against an employee because of that employment.

8 * * *

9 (I)(i) In the case of police officers, rescue or ambulance workers, or
10 firefighters, post-traumatic stress disorder that is diagnosed by a mental health
11 professional shall be presumed to have been incurred during service in the line
12 of duty and shall be compensable, unless it is shown by a preponderance of the
13 evidence that the post-traumatic stress disorder was caused by nonservice-
14 connected risk factors or nonservice-connected exposure.

15 * * *

16 (iii) As used in this subdivision (11)(I):

17 * * *

18 (II) “Mental health professional” means a person with
19 professional training, experience, and demonstrated competence in the
20 treatment and diagnosis of mental conditions, who is certified or licensed to
21 provide mental health care services and for whom diagnoses of mental

1 conditions are within ~~his or her~~ the person's scope of practice, including a
2 physician, nurse with recognized psychiatric specialties, psychologist, clinical
3 social worker, mental health counselor, or alcohol or drug abuse counselor.

4 * * *

5 (12)(A) “Public employment” means the following:

6 ~~(A)(i) all~~ All officers and State employees, as defined in 3 V.S.A.
7 § 1101, of all State agencies, departments, divisions, boards, commissions, and
8 institutions, and the Vermont Historical Society;

9 ~~(B)(ii) full-time~~ Full-time State’s Attorneys and full-time Deputy
10 State’s Attorneys;

11 ~~(C)(iii) officers~~ Officers and employees of the General Assembly,
12 provided, however, that members of the General Assembly shall be considered
13 as public employees only for the periods that the General Assembly is in
14 session or while engaged in duties for which compensation is provided by law;

15 ~~(D)(iv) members~~ Members of the Military Forces of the State of
16 Vermont while in the active service of this State ordered by competent
17 authority;

18 ~~(E)(v) employees~~ Employees of towns, town school districts,
19 incorporated school districts, incorporated villages, and fire districts;

20 ~~(F)(vi) road~~ Road commissioners or selectboard members while
21 actually engaged in highway maintenance or construction;

1 ~~(G)(vii) policemen~~ Police officers, ~~firemen~~ firefighters, and other
2 municipal employees entitled to pensions;

3 ~~(H)(viii) all~~ All teachers, as defined in 16 V.S.A. § 1931. No
4 municipality may vote to exclude teachers from the applicability of this
5 chapter;

6 ~~(I)(ix) personnel~~ Personnel who are engaged by the State of
7 Vermont in forest fire suppression under the provisions of the Northeastern
8 Forest Fire Protection Compact, while in the active service of this State
9 ordered by competent authority;

10 ~~(J)(x) volunteer~~ Volunteer reserve police officers of towns and
11 incorporated villages while acting in the line of duty, when the selectboard
12 members or trustees vote to have those officers covered by this chapter;

13 ~~(K)(xi) other~~ Other municipal workers, including volunteer
14 firefighters and rescue and ambulance squads while acting in any capacity
15 under the direction and control of the fire department or rescue and ambulance
16 squads;

17 ~~(L)(xii) members~~ Members of any regularly organized private
18 volunteer fire department while acting in any capacity under the direction and
19 control of the fire department;

1 the result of a work injury shall include a reference to the worker's dependents,
2 and any reference to a worker who is a minor or incompetent shall include a
3 reference to the ~~minor's~~ worker's committee, guardian, or next friend. The
4 term "worker" or "employee" does not include:

5 * * *

6 (F) The sole proprietor or partner owner or partner owners of an
7 unincorporated business provided:

8 * * *

9 (iii) The individual holds ~~him or herself~~ themselves out as in
10 business for ~~him or herself~~ themselves.

11 (iv) The individual holds ~~him or herself~~ themselves out for work
12 for the general public and does not perform work exclusively for or with
13 another person.

14 * * *

15 (18) "Maximum weekly compensation" ~~shall mean~~ means a sum of
16 money equal to 150 percent of the average compensation, rounded to the next
17 higher dollar.

18 (19) "Minimum weekly compensation" ~~shall mean~~ means a sum of
19 money equal to 50 percent of the average compensation, rounded to the next
20 higher dollar. However, solely for the purposes of determining permanent total
21 or partial disability compensation where the employee's average weekly wage

1 computed under section 650 of this ~~title~~ chapter is lower than the minimum
2 weekly compensation, the employee's weekly compensation shall be the full
3 amount of the employee's average weekly wages. For the purpose of
4 determining temporary total or temporary partial disability compensation
5 where the employee's average weekly wage computed under section 650 of
6 this ~~title~~ chapter is lower than the minimum weekly compensation, the
7 employee's weekly compensation shall be 90 percent of the employee's
8 average weekly wage prior to any ~~cost-of-living~~ cost-of-living adjustment
9 calculated under subsection 650(d) of this ~~title~~ chapter.

10 (20) "Commissioner" means the Commissioner of Labor ~~or the~~
11 ~~Commissioner's designee~~.

12 * * *

13 (27) "Medically necessary care" means health care services for which an
14 employer is otherwise liable under the provisions of this chapter, including
15 diagnostic testing, preventive services, and aftercare, that are appropriate, in
16 terms of type, amount, frequency, level, setting, and duration, to the injured
17 employee's diagnosis or condition. Medically necessary care must be
18 informed by generally accepted medical or scientific evidence and consistent
19 with generally accepted practice parameters ~~as~~ recognized by health care
20 professionals in the same specialties as typically provide the procedure or
21 treatment, or diagnose or manage the medical condition; must be informed by

1 the unique needs of each individual patient and each presenting situation; and
2 must:

3 (A) help restore or maintain the injured employee's health; ~~or~~

4 (B) prevent deterioration of or palliate the injured employee's
5 condition; or

6 (C) prevent the reasonably likely onset of a health problem or detect
7 an incipient problem.

8 * * *

9 Sec. 121. 21 V.S.A. § 605 is amended to read:

10 § 605. TESTIMONY OF PERSON ~~WITHOUT~~ OUTSIDE THE STATE,
11 HOW TAKEN

12 Upon the application of a party in a cause pending before ~~him or her~~ the
13 Commissioner and on such notice to the adverse party or ~~his or her~~ the adverse
14 party's attorney as he or she thinks the Commissioner deems reasonable, the
15 Commissioner may issue a commission to a person designated by the
16 Commissioner; to take the testimony of a person residing or ~~being without~~
17 located outside the state State. ~~Such~~ The testimony shall be taken upon
18 interrogatories settled by order of the Commissioner or upon oral examination,
19 as ~~he or she~~ the Commissioner directs.

1 Sec. 122. 21 V.S.A. § 606 is amended to read:

2 § 606. DETERMINATION OF QUESTIONS

3 Questions arising under the provisions of this chapter, if not settled by
4 agreement of the interested parties ~~interested therein~~ with the approval of the
5 Commissioner, shall be determined, except as otherwise provided, by the
6 Commissioner.

7 Sec. 123. 21 V.S.A. § 607 is amended to read:

8 § 607. DECISIONS; ENFORCEMENT; APPEALS

9 The decisions of the Commissioner shall be enforceable by the Superior
10 Court under the provisions of section 675 of this ~~title~~ chapter. From such a
11 decision, an appeal shall lie in the same manner as other appeals from the
12 Commissioner. However, in no case shall ~~such~~ an appeal under this section
13 operate as a ~~supersedeas or~~ stay unless ~~he, she,~~ the Commissioner or the court
14 to which ~~such~~ the appeal is taken ~~shall~~ so ~~order~~ orders.

15 Sec. 124. 21 V.S.A. § 618 is amended to read:

16 § 618. COMPENSATION FOR PERSONAL INJURY

17 (a)(1)(A) If a worker receives a personal injury by accident arising out of
18 and in the course of employment by an employer subject to this chapter, the
19 employer or the insurance carrier shall pay compensation in the amounts and to
20 the person ~~hereinafter~~ specified pursuant to the provisions of this chapter.

1 (B) The compensation of a person who is under guardianship shall be
2 paid to the person's guardian.

3 * * *

4 (d) The acceptance of any payment by an employee for a work injury shall
5 not bar a subsequent election to pursue a civil suit under subsection (b) of this
6 section unless the employee, with knowledge of ~~his or her~~ the employee's
7 rights, signs a written agreement waiving the right to pursue a civil action. The
8 agreement shall be filed with and approved by the Commissioner. If the
9 employer fails to pay any amount due and owing under the workers'
10 compensation act, the waiver agreement shall be void and the employee may
11 pursue a civil action.

12 * * *

13 (f)(1) If an injured worker voluntarily consents in writing, the worker may
14 be paid compensation benefits by means of direct deposit or an electronic
15 prepaid benefit card account in accord with the requirements of section 342 of
16 this title.

17 (2) The issuer of the card shall comply with all of the requirements, and
18 provide the holder of the card with all of the consumer protections, that apply
19 to a payroll card account under the rules implementing the Electronic Fund
20 Transfer Act, 15 U.S.C. § 1693 et seq., as ~~may be~~ amended.

21 * * *

1 Sec. 125. 21 V.S.A. § 624 is amended to read:

2 § 624. DUAL LIABILITY; CLAIMS, SETTLEMENT PROCEDURE

3 (a)(1) Where the injury for which compensation is payable under the
4 provisions of this chapter was caused under circumstances creating a legal
5 liability to pay the resulting damages in some person other than the employer,
6 the acceptance of compensation benefits or the commencement of proceedings
7 to enforce compensation payments shall not act as an election of remedies, but
8 the injured employee or the employee's personal representative may also
9 proceed to enforce the liability of ~~such~~ the third party for damages in
10 accordance with the provisions of this section.

11 (2) If the injured employee or the employee's personal representative
12 does not commence the action within one year after the occurrence of the
13 personal injury, then the employer or its insurance carrier may, within the
14 ~~period of time for the commencement of actions prescribed~~ established by
15 statute, enforce the liability of the third party in the name of the injured
16 employee or the employee's personal representative.

17 (3) Not less than 30 days before the commencement of suit by any party
18 under this section, the party shall notify, by registered mail at their last known
19 address, the Commissioner, the injured employee, or in the event of death, the
20 employee's known dependents, or personal representative or known next of
21 kin, the employee's employer, and the workers' compensation insurance

1 carrier. Any party in interest shall have a right to join in the suit but the
2 direction and control of the suit shall be with the injured employee.

3 (b) Prior to entry of judgment, either the employer or the employer's
4 insurance carrier or the employee or the employee's personal representative
5 may settle their claims as their interest shall appear and may execute releases
6 ~~therefor, but the~~ for their claims. The consent of the employer, or, if insured,
7 the insurance carrier, shall be required, if the amount of the settlement by the
8 employee or the employee's personal representative is less than the
9 compensation benefits that would have been payable in the future but for the
10 provisions of this section.

11 * * *

12 (d) In the event the injured employee or personal representative settle the
13 claim for injury or death, or commence proceedings ~~thereon~~ on the claim
14 against the third party before the payment of workers' compensation, the
15 recovery or commencement of proceedings shall not act as an election of
16 remedies and any monies ~~so~~ recovered shall be applied as provided in this
17 section.

18 (e)(1)(A) In an action to enforce the liability of a third party, the injured
19 employee may recover any amount that the employee or the employee's
20 personal representative would be entitled to recover in a civil action. Any
21 recovery against the third party for damages resulting from personal injuries or

1 death only, after deducting expenses of recovery, shall first reimburse the
2 employer or its workers' compensation insurance carrier for any amounts paid
3 or payable under this chapter to date of recovery, and the balance shall
4 ~~forthwith~~ be paid to the employee or the employee's dependents or personal
5 representative as soon as practicable and shall be treated as an advance
6 payment by the employer on account of any future payment of compensation
7 benefits.

8 (B) Reimbursement required under this subsection (e), except to
9 prevent double recovery, shall not reduce the employee's recovery of any
10 benefit or payment provided by a plan or policy that was privately purchased
11 by the injured employee, including uninsured-underinsured motorist coverage,
12 or any other first party insurance payments or benefits.

13 (2)(A) Should the recovery against the third party for damages resulting
14 from personal injuries or death only, after deducting expenses of recovery, be
15 less than the full value of the claim for personal injuries or death, the
16 reimbursement to the employer or workers' compensation insurance carrier
17 shall be limited to that portion of the recovery allocated for damages covered
18 by the Workers' Compensation Act.

19 (B)(i) If a court has not allocated or the parties cannot agree to the
20 allocation of the recovered damages, either party may request that the
21 Commissioner make an administrative determination.

1 (ii) Upon receiving a request, the Commissioner shall order
2 mediation with a mediator selected from a list approved by the Commissioner.

3 (iii) If mediation is unsuccessful, the Commissioner may
4 adjudicate the dispute or refer the dispute to an arbitrator approved by the
5 Commissioner. The determination of the Commissioner or of an arbitrator
6 approved by the Commissioner shall be final.

7 (iv) The cost of any mediation or arbitration shall be split equally
8 by the parties.

9 * * *

10 (g) Compensation benefits referred to in this section shall in each instance
11 include ~~but not be limited to~~ all expenses incurred under sections 639 and 640
12 of this ~~title~~ chapter.

13 * * *

14 Sec. 126. 21 V.S.A. § 632 is amended to read:

15 § 632. COMPENSATION TO DEPENDENTS; BURIAL AND FUNERAL

16 EXPENSES

17 (a)(1) If death results from the injury, the employer shall pay to the persons
18 entitled to compensation or, if there are none, then to the personal
19 representative of the deceased employee, the actual burial and funeral expenses
20 not to exceed \$10,000.00 and the actual expenses for out-of-state
21 transportation of the decedent to the place of burial not to exceed \$5,000.00.

1 (2) Every two years, the Commissioner of Labor shall evaluate the
2 average burial and funeral expenses in the State and make a recommendation
3 to the House Committee on Commerce and Economic Development as to
4 whether an adjustment in compensation is warranted. The provisions of
5 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to
6 be made under this section.

7 (b)(1) The employer shall also pay to or for the benefit of the following
8 persons, for the periods prescribed in section 635 of this ~~title~~ chapter, a weekly
9 compensation equal to the following percentages of the deceased employee's
10 average weekly wages. ~~The weekly compensation payment herein allowed~~
11 ~~shall not exceed the maximum weekly compensation or be lower than the~~
12 ~~minimum weekly compensation:~~

13 (1)(A) To the spouse, if there are no dependent children, 66 2/3
14 percent.

15 (2)(B) To the spouse, if there is one dependent child, 71 2/3 percent;
16 or if there are two or more dependent children, 76 2/3 percent. The
17 compensation to the spouse shall be for the use and benefit of the spouse and
18 of the dependent children.

19 (3)(C) If there is no spouse, but a dependent child or children, then to
20 the child or children, the amount or amounts payable to a spouse with the same

1 number of dependent children, to be divided equally among the children if
2 more than one.

3 ~~(4)~~(D) If there is neither spouse, nor child, but there is a dependent
4 father or mother, then to the parent, if wholly dependent, 30 percent, or if
5 partially dependent, 20 percent or if both parents are dependent, then one-half
6 of the foregoing compensation to each of them. If there is no such parent, but
7 a dependent grandparent, then to every such grandparent the same
8 compensation as to a parent.

9 ~~(5)~~(E) If there is neither dependent spouse, child, parent, nor
10 grandparent, but there is a dependent grandchild, brother, or sister, or two or
11 more of them, to the dependents 15 percent for one dependent and five percent
12 additional for each additional dependent, with a maximum of 25 percent to be
13 divided equally between the dependents if more than one.

14 (2) The weekly compensation payment required pursuant to this
15 subsection (b) shall not exceed the maximum weekly compensation or be
16 lower than the minimum weekly compensation.

17 Sec. 127. 21 V.S.A. § 635 is amended to read:

18 § 635. PERIODS OF COMPENSATION

19 The compensation provided for by the provisions of this chapter shall be
20 payable during the following periods:

21 (1)(A) Spouse. To a spouse until the earlier of:

1 (i) sixty-two years of age, if at that time the spouse is entitled to
2 benefits under the Social Security Act, as amended, ~~or thereafter at such time~~
3 ~~as the spouse is~~ a later time when the spouse becomes entitled to benefits under
4 the Social Security Act as amended; ~~or~~

5 (ii) remarriage; or

6 (iii) death, ~~whichever occurs first.~~

7 (B) ~~However, in~~ In no event shall the spouse receive less than a sum
8 equal to 330 times the maximum weekly compensation except when the
9 compensation terminates by reason of death.

10 * * *

11 Sec. 128. 21 V.S.A. § 640(e) is amended to read:

12 (e)(1) In the case of a work-related, first-aid-only injury, the employer shall
13 file the first report of injury with the Department of Labor. The employer shall
14 file the first report of injury with the workers' compensation insurance carrier
15 or pay the medical bill within 30 days after the injury.

16 (2) If the employer contests a claim, a first report of injury shall be
17 forwarded to the Department of Labor and the insurer within five days ~~of~~ after
18 notice.

19 (3) If additional treatment or medical visits are required or if the
20 employee loses more than one day of work, the claim shall be promptly
21 reported to the workers' compensation insurer, which shall adjust the claim.

1 (4) “Work-related, first-aid-only-treatment” means any one-time
2 treatment that generates a bill for less than \$750.00 and for which the
3 employee loses no time from work except for the time for medical treatment
4 and recovery not to exceed one day of absence from work.

5 Sec. 129. 21 V.S.A. § 640a is amended to read:

6 § 640a. MEDICAL BILLS; PAYMENT; DISPUTE

7 (a) ~~Not~~ Not later than 30 days following receipt of a bill from a health care
8 provider for medical, surgical, hospital, nursing services, supplies, prescription
9 drugs, or durable medical equipment provided to an injured employee, an
10 employer or insurance carrier shall do one of the following:

11 * * *

12 (e) Interest shall accrue on an unpaid medical bill at the rate of 12 percent
13 per annum calculated as follows:

14 (1) From the first calendar day following 30 days after the date the
15 medical bill is received by the employer or insurance carrier ~~for any of the~~
16 following:

17 (A) ~~A~~ a medical bill that was not denied; ~~;~~ or

18 (B) ~~A~~ a medical bill that was denied and written notice was not
19 provided or not provided within 30 days after receipt of the medical bill.

20 * * *

1 (f)(1) A health care provider shall submit a medical bill accompanied by
2 medical documentation to the employer or insurance carrier within six months
3 after the date the health care provider had actual knowledge that the services
4 provided were related to a claim under this chapter.

5 (2) ~~For the purposes of this section~~ As used in this subsection (f),
6 “medical documentation” means documentation that describes an injury and
7 the treatment provided and includes all relevant treatment notes, medical
8 records, and diagnostic codes with sufficient detail to review the medical
9 necessity of the service and the appropriateness of the fee charged.

10 (3) Failure to submit the bill within six months does not bar payment
11 unless the employer or insurance carrier is prejudiced by the delay. The
12 Commissioner may extend the six-month limit if the Commissioner determines
13 that the delay resulted from circumstances outside the control of the health care
14 provider.

15 * * *

16 Sec. 130. 21 V.S.A. § 642a is amended to read:

17 § 642a. TEMPORARY TOTAL; INSURER REVIEW

18 The employer shall review every claim for temporary total disability
19 benefits that continues for more than 104 weeks. ~~Ne~~ Not later than 30 days
20 after 104 weeks of continuous temporary total disability benefits have been
21 paid, the employer shall file with the Department and the claimant a medical

1 report from a physician that evaluates the medical status of the claimant, the
2 expected duration of the disability, and when or if the claimant is expected to
3 return to work. If the evaluating physician concludes that the claimant has
4 reached a medical end result, the employer shall file a notice to discontinue.

5 Sec. 131. 21 V.S.A. § 643b is amended to read:

6 § 643b. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

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

8 (1) “Employer” ~~shall be defined as provided~~ has the same meaning as in
9 section 601 of this ~~title~~ chapter provided that this section shall only apply to
10 employers who regularly employ at least 10 employees of whom at least 10
11 work more than 15 hours per week.

12 (2) “Recovery” means that the worker can reasonably be expected to
13 perform safely the duties of ~~his or her~~ the worker’s prior position or an
14 alternative suitable position.

15 (b) The employer of a worker disabled by an injury compensable under this
16 chapter shall reinstate the worker when ~~his or her~~ the worker’s inability to
17 work ceases provided recovery occurs within two years of the onset of the
18 disability. A worker who recovers within two years of the onset of the
19 disability shall be reinstated in the first available position suitable for the
20 worker given the position the worker held at the time of the injury.

1 (c) Upon reinstatement, a worker shall regain seniority and any unused
2 annual leave, personal leave, sick leave, and compensatory time ~~he or she~~ the
3 worker was entitled to prior to the interruption in employment, less any leave
4 and compensatory time used during the period of interruption.

5 (d) The provisions of this section shall not apply if:

6 * * *

7 (3) the worker fails to keep the employer informed of:

8 (A) ~~his or her~~ the worker's continuing interest in reinstatement;

9 (B) ~~his or her~~ the worker's recovery; or

10 (C) any change of ~~his or her~~ the worker's mailing address.

11 (e)(1)(A) A worker aggrieved by an employer's failure to comply with the
12 provisions of this section may bring an action in the Superior Court in the
13 county in which the worker or the employer resides for damages, including
14 punitive damages, for noncompliance and may apply for such equitable relief
15 as may be just and proper under the circumstances. ~~A copy of the complaint~~
16 ~~shall be filed with the Commissioner.~~

17 (B) The Court shall award reasonable attorney's fees to the plaintiff
18 if ~~he or she~~ the plaintiff prevails.

19 (2) A copy of the complaint shall be filed with the Commissioner.

1 Sec. 132. 21 V.S.A. § 647 is amended to read:

2 § 647. PERIOD OF PAYMENT

3 Payments pursuant to section 646 of this chapter shall not continue after
4 ~~such~~ the injured employee's temporary partial disability ends.

5 Sec. 133. 21 V.S.A. § 650 is amended to read:

6 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

7 (a)(1) Average weekly wages shall be computed in such manner as is best
8 calculated to give the average weekly earnings of the worker during the 26
9 weeks preceding an injury; ~~but where, by reason of,~~

10 (2) If, because of the shortness of the time during which the worker has
11 been in the employment, or the casual nature of the employment, or the terms
12 of the employment, it is impracticable to compute the rate of remuneration,
13 average weekly wages of the injured worker may be based on the average
14 weekly earnings during the 26 weeks previous to the injury earned by a person
15 in the same grade employed at the same or similar work by the employer of the
16 injured worker, or if there is no comparable employee, by a person in the same
17 grade employed in the same class of employment and in the same district.

18 (3) If during the period of 26 weeks an injured employee has been
19 absent from employment on account of sickness or suspension of work by the
20 employer, then only the time during which the employee was able to work
21 shall be used to determine the employee's average weekly wage.

1 (4) If the injured employee is employed in the concurrent service of
2 more than one insured employer or self-insurer the total earnings from the
3 several insured employers and self-insurers shall be combined in determining
4 the employee's average weekly wages, but insurance liability shall be
5 exclusively upon the employer in whose employ the injury occurred.

6 (5) The average weekly wage of a volunteer firefighter, volunteer rescue
7 or ambulance worker, volunteer reserve police officer, or volunteer as set forth
8 in 3 V.S.A. § 1101(b)(4), who is injured in the discharge of duties as a
9 firefighter, rescue or ambulance worker, police officer, or State agency
10 volunteer, shall be the employee's average weekly wage in the employee's
11 regular employment or vocation but the provisions of section 642 of this title
12 relative to maximum weekly compensation and weekly net income rates, shall
13 apply.

14 (6) For the purpose of calculating permanent total or permanent partial
15 disability compensation, the provisions relating to the maximum and minimum
16 weekly compensation rate shall apply.

17 (7) ~~In any event, if~~ If a worker at the time of the injury is regularly
18 employed at a higher wage rate or in a higher grade of work than formerly
19 during the 26 weeks preceding the injury and with larger regular wages, only
20 the larger wages shall be taken into consideration in computing the worker's
21 average weekly wages.

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* * *

(c) When temporary disability, either total or partial, does not occur in a continuous period but occurs in separate intervals each resulting from the original injury, compensation shall be adjusted for each recurrence of disability to reflect any increases in wages or benefits prevailing at that time. For the purpose of computation, the adjustments shall be based upon the compensation received by a person in the same grade employed in the same class of employment and in the same district. ~~The provisions of this section shall apply to compensable accidents occurring on and after July 1, 1973.~~

* * *

Sec. 134. 21 V.S.A. § 652 is amended to read:

§ 652. PERIODICAL PAYMENTS; LUMP SUM PAYMENTS

* * *

(b) Upon application of the employee, if the Commissioner finds it to be in the best ~~interest~~ interests of the employee or the employee's dependents, the Commissioner may order the payment of permanent disability benefits pursuant to section 644 or 648 of this ~~title~~ chapter to be paid in a lump sum.

* * *

Sec. 135. 21 V.S.A. § 660a is amended to read:

§ 660a. ELECTRONIC FILING OF REPORTS OF INJURY

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

1 (1) “Electronic data interchange” or “EDI technology” means the
2 computer-to-computer exchange of business transactions in ~~the~~ a standardized
3 structured electronic format.

4 * * *

5 (c) Each insurance carrier shall transmit data elements by electronic data
6 interchange to the Department ~~by the dates specified in this section~~. An
7 insurance carrier shall provide complete, valid, accurate data for the data as
8 required by this section. Each electronic transmission of data shall include
9 appropriate header and trailer records.

10 * * *

11 (e) ~~No later than July 1, 2004, all~~ All first reports of injury shall be filed by
12 the insurance carrier electronically. The Commissioner may grant an insurance
13 carrier a variance if the insurance carrier documents to the satisfaction of the
14 Commissioner that compliance would cause the insurance carrier “undue
15 hardship,” which, for the purposes of this section, means significant difficulty
16 or expense.

17 Sec. 136. 21 V.S.A. § 662 is amended to read:

18 § 662. AGREEMENTS; REQUIRED PAYMENTS IN ABSENCE OF

19 (a)(1) If the employer and an injured employee or the dependents of a
20 deceased employee enter into an agreement ~~in regard to~~ regarding
21 compensation payable under the provisions of this chapter, a memorandum

1 ~~thereof~~ of the agreement shall be filed with the Commissioner. If approved by
2 the Commissioner, ~~such~~ the agreement shall be enforceable and subject to
3 modification as provided by sections 668 and 675 of this ~~title~~ chapter. The
4 Commissioner shall approve such an agreement only when the terms ~~thereof~~ of
5 the agreement conform to the provisions of this chapter.

6 (2)(A) ~~However,~~ a A compromise agreement may be approved by the
7 Commissioner when ~~he or she is clearly of the opinion~~ the Commissioner
8 determines that the best interests of ~~such~~ the employee or ~~such~~ the dependents
9 will be served ~~thereby~~ by it.

10 (B) A compromise settlement during pendency of an appeal to
11 Superior Court or to Supreme Court shall be effective only with the approval
12 of the Commissioner in accordance with this section.

13 (b)(1) In the absence of an agreement pursuant to subsection (a) of this
14 section, the employer or insurance carrier shall notify the Commissioner and
15 the employee in writing that the claim is denied and the reasons ~~therefor~~ for the
16 denial.

17 (2) Upon the employee's application for a hearing under section 663 of
18 this ~~title~~ chapter, within 60 days after, the Commissioner shall review the
19 evidence upon which denial is based ~~and if~~ If the evidence does not
20 reasonably support the denial, the Commissioner shall order that payments be
21 made until a hearing is held and a decision is rendered.

1 (3) Payments pursuant to this subsection shall not be deemed an
2 admission of liability by the employer nor shall such payments preclude
3 subsequent agreement under subsection (a) of this section or prejudice the
4 rights of either party to hearing or appeal under this chapter.

5 (4) If the Commissioner's decision, after a hearing, is that the employee
6 was not entitled to any or all benefits paid between the initial denial and the
7 final decision, upon request of the employer, the Commissioner may order that
8 the employee repay all benefits to which the employee was not entitled. The
9 employer may enforce such a repayment order in any court of law having
10 jurisdiction of the amount involved.

11 (5) Nothing in this section shall require the Commissioner to order
12 payments pending a hearing if the Commissioner concludes that the benefit at
13 issue is not compensable regardless of the lack of evidence supporting the
14 denial.

15 (6) For the purposes of this section, any written communication by an
16 unrepresented claimant that questions the denial of any benefit shall be deemed
17 to be an application for hearing under section 663 of this ~~title~~ chapter.

18 (c)(1) Whenever payment of a compensable claim is refused, on the basis
19 that another employer or insurer is liable, the Commissioner, after notice to
20 interested parties and a review of the claim, but in no event later than 30 days,

1 shall order that payments be made by one employer or insurer until a hearing is
2 held and a decision is rendered.

3 (2) For the purposes of this review, the employer or insurer at the time
4 of the most recent personal injury for which the employee claims benefits shall
5 be presumed to be the liable employer or insurer and shall have the burden of
6 proving another employer's or insurer's liability.

7 (3) Payments pursuant to this subsection shall not be deemed an
8 admission or conclusive finding of an employer's or insurer's liability nor shall
9 payments preclude subsequent agreement under subsection (a) of this section
10 or prejudice the rights of either party to a hearing or appeal under this chapter.

11 * * *

12 (e)(1) In any dispute between employers and insurers arising under
13 subsection (c) or (d) of this section, after payment to the claimant, the
14 Commissioner may order that the dispute be resolved through arbitration rather
15 than the formal hearing process under sections 663 and 664 of this ~~title~~
16 chapter. Qualifications for arbitrators and standards for the arbitration process
17 shall be established by the Commissioner by rule.

18 (2) If arbitration is ordered, the process shall proceed as follows:

19 ~~(1)~~(A) The parties shall select an arbitrator from a list provided by
20 the Commissioner.

21 ~~(2)~~(B) The arbitrator shall:

1 ~~(A)~~(i) Determine apportionment of the liability for the claim,
2 including costs and attorney's fees, among the respective employers or
3 insurers, or both. The apportionment may be limited to one or more parties. If
4 the parties do not agree, the costs of arbitration may be apportioned among the
5 parties by the arbitrator.

6 ~~(B)~~(ii) Issue a written decision, which shall be final.

7 Sec. 137. 21 V.S.A. § 667 is amended to read:

8 § 667. EXAMINATION BY INDEPENDENT MEDICAL EXAMINERS

9 (a)(1) ~~Whenever it appears that~~ When a dispute exists regarding the
10 reasonableness and necessity of treatment for an injury, or regarding the
11 claimant's ability to perform suitable work, including light duty work, or
12 regarding any other medical issue, the Commissioner may appoint an
13 independent medical examiner to examine the employee and report to the
14 Commissioner.

15 (2) Whenever a dispute exists regarding the nature and extent of any
16 permanent partial impairment ~~which~~ that involves permanent partial disability
17 ratings ~~which~~ that differ by more than 10 percent, the Commissioner shall
18 appoint an independent medical examiner to examine the employee and report
19 to the Commissioner the examiner's opinion regarding the nature and extent of
20 any permanent partial impairment. The opinion of the independent medical
21 examiner as to degree of impairment shall be binding on the parties absent a

1 showing of substantial error or omissions fraud or a gross departure from
2 generally accepted medical practices.

3 (3) If a dispute involves permanent partial disability ratings ~~which~~ that
4 differ by 10 percent or less, the rating shall be determined by the
5 Commissioner.

6 (b)(1) A pool of independent medical examiners shall be established to
7 perform independent medical examinations.

8 (2) ~~Representatives of management and labor from the Governor's~~
9 ~~Advisory Council on Workers' Compensation, if available, otherwise other~~
10 ~~representatives~~ of management and labor shall each submit a list of health care
11 providers as proposed members of the pool. The Commissioner shall select the
12 common names from both lists.

13 (3) If, in the opinion of the Commissioner, the number of independent
14 medical examiners in the pool is not sufficient for any reason, or does not
15 adequately represent a range of health care providers, the Commissioner shall
16 select additional health care providers or request additional names.

17 (4) All health care providers in the pool shall receive training about the
18 nature and purpose of workers' compensation and shall follow the guidelines
19 developed by rule by the Commissioner.

20 (5) Where a dispute involves a determination of the degree of permanent
21 partial disability, the independent medical examiner shall use the most recent

1 edition of the American Medical Association Guides to the Evaluation of
2 Permanent Impairment or the supplement provided by the Commissioner.

3 * * *

4 (e) The independent medical examination report shall be admitted into
5 evidence in any Superior Court appellate proceedings concerning the claim.

6 The use of an independent medical examiner under this section shall not limit
7 the right of a claimant to obtain ~~his or her~~ the medical examination and report
8 on any disputed medical issue.

9 * * *

10 Sec. 138. 21 V.S.A. § 669 is amended to read:

11 § 669. FINALITY OF AWARD

12 An award of the Commissioner shall, in the absence of fraud, be conclusive
13 between the parties except as provided in section 668 of this ~~title~~ chapter,
14 unless ~~an appeal is taken therefrom as hereinafter provided~~ the award is
15 appealed pursuant to sections 670 and 672 of this chapter.

16 Sec. 139. 21 V.S.A. § 670 is amended to read:

17 § 670. APPEALS TO SUPERIOR COURT

18 Within 30 days after copies of an award have been sent as provided by this
19 chapter, either party may appeal to the Superior Court of a county ~~wherein~~ in
20 which a civil action between the parties would be triable. Either party shall be
21 entitled to a trial by jury.

1 Sec. 140. 21 V.S.A. § 671 is amended to read:

2 § 671. JURISDICTION; FINDINGS FOR NEW AWARD

3 The jurisdiction of ~~such court~~ the Superior Court shall be limited to a
4 review of questions of fact or questions of fact and law certified to it by the
5 Commissioner ~~and upon~~. Upon completion of the case in Superior Court,
6 either after trial or upon remand from the Supreme Court, the clerk shall certify
7 the findings of the court to the Commissioner who shall ~~thereupon make issue~~
8 a new order in accordance ~~therewith~~ with those findings and shall ~~forthwith~~
9 promptly send to each of the parties a copy of such order. ~~Such~~ The new order
10 shall have all the force and effect of an award made pursuant to the provisions
11 of sections 663 and 664 of this ~~title~~ chapter and shall supersede the award
12 previously made by the Commissioner.

13 Sec. 141. 21 V.S.A. § 672 is amended to read:

14 § 672. APPEALS TO THE SUPREME COURT

15 If an appeal is not taken under the provisions of section 670 of this ~~title~~
16 chapter within the time ~~limited therefor~~ provided, either party may transfer
17 ~~such the~~ the cause to the Supreme Court. The jurisdiction of the Court shall be
18 limited to a review of questions of law certified to it by the Commissioner. On
19 such an appeal or on an appeal taken as provided in sections 670 and 671 of
20 this ~~title~~ chapter and coming to the Supreme Court on appeal from Superior
21 Court, the Supreme Court may render final judgment and award execution, or

1 may remand the cause to the Superior Court or to the Commissioner for further
2 findings or for a new order by ~~him or her~~ the Commissioner in accordance with
3 the mandate of the Court. The Court shall, by general rules, prescribe the
4 procedure to be followed in the case of such appeals.

5 Sec. 142. 21 V.S.A. § 673 is amended to read:

6 § 673. APPEAL IN CASE OF FRAUD, ACCIDENT, OR MISTAKE

7 On petition and proof and in its discretion, the Supreme Court or Superior
8 Court may grant leave to enter an appeal from an order of the Commissioner of
9 Labor in cases where the petitioner has been prevented by fraud, accident, or
10 mistake from taking or entering an appeal within the time allowed by law. On
11 granting ~~the same~~ leave, the court shall order ~~such~~ the petitioner to give
12 sufficient security to prosecute ~~such~~ the appeal to effect and pay ~~such~~ any costs
13 ~~as are~~ awarded against ~~him or her~~ the petitioner.

14 Sec. 143. 21 V.S.A. § 674 is amended to read:

15 § 674. SERVICE OF PETITION

16 ~~Such~~ A petition pursuant to section 673 of this chapter shall not be
17 sustained unless served on the adverse party within 21 days ~~from~~ after the date
18 ~~thereof~~ of the petition and within two years after the last date upon which ~~such~~
19 the appeal might have been entered in court.

1 Sec. 144. 21 V.S.A. § 681 is amended to read:

2 § 681. CLAIMS NOT ASSIGNABLE

3 Claims for compensation under the provisions of this chapter shall not be
4 assignable. Compensation and claims ~~therefor~~ for compensation shall be
5 exempt from all claims of creditors, except as provided in section 682 of this
6 ~~title~~ chapter.

7 Sec. 145. 21 V.S.A. § 688 is amended to read:

8 § 688. ADMINISTRATIVE PENALTIES; INSURANCE COMPANY'S
9 LICENSE SUSPENDED

10 (a) The Commissioner, after notice and opportunity for a hearing, may
11 assess administrative penalties of not more than \$5,000.00 against any
12 employer, insurance company, or their agents that the Commissioner finds has
13 refused or neglected to comply with the reasonable rules ~~and regulations~~ of the
14 Commissioner or any orders issued by the Commissioner, or to adjust and pay
15 compensation and medical bills in accordance with the provisions of this
16 chapter.

17 * * *

18 (c)(1) In addition to assessing administrative penalties, the Commissioner
19 may refer to the Commissioner of Financial Regulation any insurance
20 company authorized to transact workers' compensation insurance in this State
21 ~~which~~ that refuses or neglects to comply with the reasonable rules ~~and~~

1 ~~regulations~~ of the Commissioner or ~~which~~ that neglects or refuses to properly
2 and promptly adjust and pay compensation and medical bills in accordance
3 with the provisions of this chapter.

4 (2) If, after hearing, the Commissioner of Financial Regulation finds
5 that the insurance company has failed to comply with the rules ~~and regulations~~
6 or orders issued by the Commissioner of Labor or has failed to properly and
7 promptly pay compensation and medical bills as provided by this chapter, the
8 Commissioner of Financial Regulation may take appropriate action against the
9 insurance company as provided in Title 8.

10 Sec. 146. 21 V.S.A. § 689 is amended to read:

11 § 689. EMPLOYER COMPELLED TO INSURE

12 If an employer who secures the payment of compensation under the
13 provisions of subdivision 687(3) of this ~~title~~ chapter neglects or refuses to
14 comply with the reasonable rules ~~and regulations~~ of the Commissioner or
15 neglects and refuses to promptly adjust and pay all compensation and medical
16 bills as required by law, the Commissioner may cite ~~in~~ the employer. If on
17 hearing it is found that such neglect or refusal is willful, the Commissioner
18 may revoke the permission granted to ~~such~~ the employer to secure the payment
19 of compensation under ~~such~~ that subdivision and compel the employer to take
20 out insurance in an insurance company authorized to transact workers'

1 compensation insurance in the State in addition to penalties assessed under
2 section 688 of this ~~title~~ chapter.

3 Sec. 147. 21 V.S.A. § 691 is amended to read:

4 § 691. POSTING OF NOTICE OF COMPLIANCE

5 An employer who has complied with the provisions of this chapter relating
6 to securing the payment of compensation to ~~his or her~~ the employer's
7 employees and their dependents shall post and maintain, in a conspicuous
8 place in and about each of ~~his or her~~ the employer's places of business,
9 ~~typewritten or~~ printed notices in a form prescribed by the Commissioner
10 stating that fact.

11 Sec. 148. 21 V.S.A. § 693 is amended to read:

12 § 693. THE INSURANCE CONTRACT

13 (a) Every policy of insurance and every guarantee contract covering the
14 liability of an employer for compensation shall cover the entire liability of ~~such~~
15 the employer to ~~his or her~~ the employees covered by ~~such~~ the policy or
16 contract and also shall contain a provision setting forth the right of the
17 employees to enforce, in their own names, the liability of the insurance carrier
18 in whole or in part for the payment of such compensation at any time, either by
19 filing a separate claim ~~at any time~~ or by making ~~at any time~~ the insurance
20 carrier a party to the original claim.

1 ~~(b) However, the~~ The payment in whole or in part of such compensation by
2 either the employer or the insurance carrier shall, to the extent thereof, be a bar
3 to the recovery against the other of the amount so paid.

4 Sec. 149. 21 V.S.A. § 694 is amended to read:

5 § 694. KNOWLEDGE OF EMPLOYER TO AFFECT INSURANCE

6 CARRIER

7 ~~Such policies~~ Policies and contracts of insurance under this chapter shall
8 contain ~~a provision that, as between the employee and the insurance carrier,~~
9 provisions providing that:

10 (1) notice ~~to~~ or knowledge of the occurrence of an injury on the part of the
11 employer shall be deemed notice or knowledge, as the case may be, on the part
12 of the insurance carrier; ~~that~~

13 (2) jurisdiction of the employer shall, for the purpose of this chapter, be
14 jurisdiction of the insurance carrier; and ~~that~~

15 (3) the insurance carrier shall in all things be bound by and subject to the
16 orders, findings, decisions, or awards rendered against the employer for the
17 payment of compensation under the provisions of this chapter.

1 Sec. 150. 21 V.S.A. § 695 is amended to read:

2 § 695. INSOLVENCY OF EMPLOYER NOT TO RELEASE INSURANCE
3 CARRIER

4 ~~Such policies~~ Policies and contracts of insurance under this chapter shall
5 contain a provision to the effect that the insolvency or bankruptcy of the
6 employer and ~~his or her~~ the employer's discharge ~~therein~~ in bankruptcy shall
7 not relieve the insurance carrier from the payment of compensation for injuries
8 or death sustained by an employee during the life of ~~such a~~ the policy or
9 contract.

10 Sec. 151. 21 V.S.A. § 701 is amended to read:

11 § 701. REPORTS OF ACCIDENTS BY EMPLOYERS

12 (a) Every employer liable to pay compensation under the provisions of this
13 chapter shall keep a record of all injuries, fatal or otherwise, sustained by ~~his or~~
14 ~~her~~ the employer's employees in the course of their employment and shall
15 report such an injury causing an absence of one day or more, or necessitating
16 medical attendance, to the Commissioner in writing upon forms to be procured
17 from ~~him or her~~ the Commissioner for ~~such~~ that purpose within 72 hours,
18 Sundays and legal holidays excluded, after the occurrence of ~~such an~~ the
19 injury.

1 (b) At the termination of the disability of ~~such~~ the injured employee, ~~such~~
2 the employer shall make a final report upon forms ~~to be procured as herein~~
3 ~~provided~~ from the Commissioner.

4 (c) If ~~such~~ the disability extends beyond a period of 60 days, at the
5 expiration of each 60-day period, ~~such~~ the employer shall make a supplemental
6 report to the Commissioner that ~~such~~ the injured employee is still disabled and,
7 at the termination of ~~such~~ the disability, shall file a final report as provided in
8 this section.

9 Sec. 152. 21 V.S.A. § 702 is amended to read:

10 § 702. CONTENTS; PENALTY

11 (a) ~~Such reports~~ Reports submitted pursuant to section 701 of this chapter
12 shall state:

13 (1) the name and nature of the business of the employer;:

14 (2) the location of the place where the accident occurred;:

15 (3) the name, age, sex, wages, and occupation of the injured employee;:

16 ~~and shall state~~

17 (4) the date and hour of the accident causing the injury;: ~~its~~

18 (5) the injury's nature and cause; and ~~such~~

19 (6) any other information ~~as may be~~ required by the Commissioner.

20 (b) An employer who refuses or neglects to make ~~such~~ reports required
21 pursuant to section 701 of this chapter may be assessed an administrative

1 penalty of not more than \$100.00 per violation after notice and opportunity for
2 hearing under section 688 of this title.

3 Sec. 153. 21 V.S.A. § 704 is amended to read:

4 § 704. REPORTS; PENALTY

5 (a) An employer ~~as defined in section 616 of this title~~, upon written request
6 of the Commissioner, sent by certified mail, shall file on forms provided by the
7 Commissioner such statistical information regarding employments, accidents
8 arising out of or in the course of employment, and safety in employment, as the
9 Commissioner may require.

10 (b) ~~Such~~ A report pursuant to subsection (a) of this section shall be
11 required not more than once in any calendar year ~~and shall~~. Reports submitted
12 pursuant to subsection (a) of this section shall be on uniform forms applicable
13 to all employers from whom ~~such~~ the information is required.

14 (c) An employer who refuses or neglects to file the statistical report within
15 30 days after a request by the Commissioner, may be assessed an
16 administrative penalty of not more than \$1,000.00.

17 Sec. 154. 21 V.S.A. § 705 is amended to read:

18 § 705. REGISTRATION; PENALTY

19 ~~The employers mentioned in section 704 of this title~~ Employers shall
20 register with the Department of Labor, on forms provided by it, when
21 commencing or ceasing business operations in the State and no fee shall be

1 required by the State for that registration. An employer who refuses or
2 neglects to register as required by this section may be assessed an
3 administrative penalty of not more than \$50.00.

4 Sec. 155. 21 V.S.A. § 706 is amended to read:

5 § 706. CONSTRUCTION

6 ~~Employer, as used in~~ The provisions of sections 704 and 705 of this title
7 chapter shall not be ~~construed to include~~ applicable to persons operating farms
8 for agricultural purposes.

9 Sec. 156. 21 V.S.A. § 1036 is amended to read:

10 § 1036. EMPLOYEE LEASING COMPANY; DUTIES; DEEMED

11 EMPLOYER

12 (a) A licensee shall:

13 (1) ~~Register~~ register with the following within 10 days after licensure
14 under this chapter:

15 (A) ~~The~~ the Department of Labor; _;

16 (B) ~~The~~ the Department of Taxes; _;

17 (C) ~~The~~ the Secretary of State; and

18 (D) ~~The~~ the U.S. Internal Revenue Service; _;

19 (2) ~~Make~~ make timely payment of workers' compensation premiums
20 and unemployment compensation on all leased employees based on the
21 experience rating of the client company to which the employees are leased; _;

1 (3) ~~File~~ file all reports as required by this chapter and applicable law;

2 (4) ~~Maintain~~ maintain financial responsibility and management
3 competence;

4 (5) ~~Provide~~ provide notification of the employment arrangement to all
5 employees leased pursuant to an employee leasing agreement within 10 days
6 after executing the agreement; and

7 (6) ~~Keep~~ keep any securities or bond in effect or retain accreditation,
8 whichever was provided pursuant to subdivision 1033(b)(7) of this ~~title~~ chapter
9 during the period the license is valid.

10 * * *

11 Sec. 157. 21 V.S.A. § 1037 is amended to read:

12 § 1037. WORKERS' COMPENSATION

13 * * *

14 (c) A workers' compensation insurer shall notify the Commissioner and the
15 client company ~~no~~ not later than 30 days prior to any lapse or cancellation of
16 workers' compensation coverage.

17 Sec. 158. 21 V.S.A. § 1039 is amended to read:

18 § 1039. EMPLOYEE BENEFITS

19 * * *

1 (b) An employee leasing company that provides health insurance benefits
2 to its leased employees shall provide those benefits only pursuant to one of the
3 following:

4 * * *

5 (2) A plan that has been qualified as a single employer plan under the
6 provisions of the ~~Employment~~ Employee Retirement Income Security Act
7 (ERISA), 29 U.S.C. § 1001 et seq., as amended.

8 * * *

9 Sec. 159. 21 V.S.A. § 1111(26) is amended to read:

10 (26) “Pre-apprenticeship program” means a training model or program
11 that prepares individuals for acceptance into an apprenticeship program and
12 that is registered by the Department as provided in section 1123 of this chapter,
13 pre-apprenticeship program, ~~of this title~~ or, as applicable, the federal Office of
14 Apprenticeship.

15 Sec. 160. 21 V.S.A. § 1112(b) is amended to read:

16 (b) The Department shall take all necessary steps as required and permitted
17 by law to maintain its status as the State Apprenticeship Agency and
18 ~~recognized~~ its recognition by the federal Office of Apprenticeship under
19 29 C.F.R. ~~Part 29, section~~ § 29.13.

1 Sec. 161. 21 V.S.A. § 1113(d)(1)(A) is amended to read:

2 (A) adopt rules to implement the Vermont Registered Apprenticeship
3 Program, ensuring that it complies with State law and federal regulations;

4 * * *

5 Sec. 162. 21 V.S.A. § 1115 is amended to read:

6 § 1115. PROGRAM REGISTRATION AND OPERATION

7 * * *

8 (f) Union participation.

9 * * *

10 (2) If a standard or a collective bargaining agreement or other
11 instrument exists for one or more of the employers or an industry association,
12 that provides for participation by a union and concerns any aspect of the
13 operation of the substantive matters of an apprenticeship program, a written
14 acknowledgment by the union about the terms of the proposed program and
15 any objections it may have shall accompany the program registration request.

16 * * *

17 (i) Program operation.

18 (1) Probationary ~~Employment~~ employment. A sponsor shall submit the
19 name of a person in a period of probationary employment as an apprentice
20 under an apprenticeship program within 45 days ~~of~~ after the start of

1 employment to the Vermont Registered Apprenticeship Program to establish
2 the apprentice in probationary status.

3 (2) Changes in status. A sponsor shall notify the Vermont Registered
4 Apprenticeship Program, using methods and procedures approved by the
5 Director, within 45 business days ~~of~~ after a registered ~~apprentices who~~
6 apprentice:

7 (A) ~~have successfully completed~~ successfully completes an
8 apprenticeship program;

9 (B) ~~transferred~~ transfers to other programs with the same sponsor or
10 to other sponsors;

11 (C) ~~are~~ is suspended;

12 (D) ~~are cancelled~~ is canceled; or

13 (E) ~~are~~ is reinstated.

14 * * *

15 Sec. 163. 21 V.S.A. § 1116(a)(3)(A) is amended to read:

16 (3)(A) The Commissioner, with advice from the Director, the Director
17 of the Vermont Occupational Safety and Health Administration, and the Board
18 shall review the request and respond in writing within 90 days ~~of~~ after receipt
19 of the request.

1 Sec. 164. 21 V.S.A. § 1117 is amended to read:

2 § 1117. STANDARDS OF APPRENTICESHIP

3 * * *

4 (c) The written plan shall contain provisions that address the following:

5 * * *

6 (3) Work process. An outline of the work processes in which the
7 apprentice will receive supervised work experience and on-the-job training and
8 the allocation of the approximate amount of time to be spent in each major
9 process;

10 * * *

11 (5) Wage schedule. A schedule of progressively increasing wages to be
12 paid to an apprentice consistent with the skill acquired. The entry wage shall
13 not be less than minimum wage or 50 percent of the journey-worker rate,
14 whichever is highest, for adult registered apprentices, unless a higher wage is
15 required by other applicable State law or rules or federal law, ~~rule or~~
16 regulations, or by collective bargaining agreement. For purposes of this
17 subdivision, "journey-worker rate" is the rate of pay established by the sponsor
18 for an apprentice who has met all of the skill, knowledge, and competency
19 requirements for that occupation.

20 * * *

1 (11) Minimum qualifications. Facially neutral, minimum qualifications
2 required by the sponsor for persons entering the apprenticeship program, with
3 an eligible starting age of not less than 16 years of age, or 18 years of age if
4 required by State law or rules or by federal laws law or regulations.

5 * * *

6 (21) Registering apprentices. Provision for apprenticeship agreements,
7 modifications, and amendments, notice to the Vermont Registered
8 Apprenticeship Program of persons who have successfully completed
9 apprenticeship programs within 45 days ~~of~~ after completion of all
10 requirements, and notice of transfers, suspensions, and cancellations of
11 apprenticeship agreements and a statement of the reasons ~~therefore~~ for the
12 action transfer, suspension, or cancellation.

13 * * *

14 Sec. 165. 21 V.S.A. § 1119(c)(12) is amended to read:

15 (12) to conform to the federal Equal Employment Opportunity Act of
16 1972, 42 ~~United States Code~~, U.S.C. Chapter chapter 21, subchapter VI and for
17 affirmative action compliance in apprenticeship programs, the voluntary
18 disclosure of the apprentice's race, sex, gender identity, sexual orientation,
19 ethnicity, and disability status; and

1 Sec. 166. 21 V.S.A. § 1120 is amended to read:

2 § 1120. DEREGISTRATION OF A REGISTERED APPRENTICESHIP
3 PROGRAM

4 * * *

5 (b) Deregistration at the request of the sponsor. The Vermont Registered
6 Apprenticeship Program may cancel the registration of an apprenticeship
7 program by written acknowledgement of such request stating the following:

8 * * *

9 (2) that, within 15 business days ~~of~~ after the date of the
10 acknowledgment, the sponsor will notify all apprentices of ~~such~~ the
11 cancellation and the effective date;

12 * * *

13 (c) Deregistration by the Vermont Registered Apprenticeship Program
14 upon reasonable cause.

15 * * *

16 (2) A notice of deregistration sent to the program sponsors contact
17 person shall:

18 * * *

19 (C) state that a determination of reasonable cause for deregistration
20 will be made unless corrective action is effected within 30 business days after
21 receiving the notice.

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* * *

(4) If the required correction is not completed within the allotted time, the Vermont Registered Apprenticeship Program shall send a notice to the sponsor, by registered or certified mail, return receipt requested, stating the following:

(A) the notice is sent under this section;

(B) the deficiencies that were called to the sponsor's attention, the remedial measures requested, with the dates of ~~such~~ the occasions and letters, and that the sponsor has failed or refused to take corrective action;

* * *

(5) Every order of deregistration shall contain a provision that the sponsor, within 15 business days ~~of~~ after the effective date of the order, notify all registered apprentices of the deregistration of the apprenticeship program, the effective date thereof, that ~~such~~ the cancellation automatically deprives the apprentice of individual registration, that the deregistration removes the apprentice from coverage for Federal purposes that require the Secretary of Labor's approval of an apprenticeship program, and that all apprentices are referred to the Vermont Registered Apprenticeship Program for information about potential transfer to other apprenticeship programs.

* * *

1 Sec. 167. 21 V.S.A. § 1203 is amended to read:

2 § 1203. EMPLOYMENT SERVICE DIVISION; CREATION; RULES AND
3 REGULATIONS

4 (a) There is hereby created, under the direction of the Commissioner of
5 Labor, a division to be known as the Vermont Employment Service Division,
6 responsible for administering a system of public employment offices for the
7 purpose of assisting employers to secure employees and workers to secure
8 employment.

9 (b) The Commissioner is authorized and directed to establish ~~such~~ Division
10 offices in ~~such parts of~~ various locations in the State as ~~he or she~~ the
11 Commissioner deems necessary and to ~~prescribe~~ adopt rules ~~and regulations~~
12 not inconsistent with any of the provisions of this chapter.

13 (c) The Commissioner shall appoint the director, assistants, and other
14 employees of the Vermont Employment Service Division in accordance with
15 the regulations prescribed by the Secretary of the U.S. Department of Labor.

16 Sec. 168. 21 V.S.A. § 1204 is amended to read:

17 § 1204. RECEIPT OF FUNDS

18 The State Treasurer is ~~hereby~~ authorized to receive, on behalf of this State,
19 all funds granted to it ~~under authority of the Act~~ pursuant to 29 U.S.C. § 49 et
20 seq.

1 Sec. 169. 21 V.S.A. § 1255(b) is amended to read:

2 (b) Within 30 days after receipt of a denial, the individual may appeal the
3 determination to the Commissioner by requesting a review of the decision. On
4 appeal to the Commissioner, the individual may provide supplementary
5 evidence to the record. The Commissioner shall review the record within
6 seven working days after the notice of the appeal is filed and promptly notify
7 the individual in writing of the Commissioner's decision. The decision of the
8 Commissioner shall become final unless an appeal to the Supreme Court is
9 taken within 30 days ~~of~~ after the date of the Commissioner's decision.

10 Sec. 170. 21 V.S.A. § 1301 is amended to read:

11 § 1301. DEFINITIONS

12 As used in this chapter:

13 (1) "Benefits" and "compensation" means the money payments payable
14 to an individual, as provided in this chapter, with respect to ~~his or her~~ the
15 individual's unemployment.

16 (2) "Commissioner" means the Commissioner of Labor ~~established by~~
17 ~~this chapter~~, or ~~his or her~~ the Commissioner's authorized representative.

18 * * *

19 (4) "Employing unit" means any individual or type of organization,
20 including any partnership, association, labor organization as defined in ~~section~~
21 ~~2(5)~~ of the National Labor Relations Act, 29 U.S.C. § 152(5), trust, estate, joint

1 stock company, insurance company, or corporation, whether domestic or
2 foreign, or the receiver, trustee in bankruptcy, trustee, or successor thereof, or
3 the legal representative of a deceased person, any federal, state, or local
4 governmental entity, which has had in its employ ~~since January 1, 1936~~, one or
5 more individuals performing services for it within this State. All individuals
6 performing services within this State for any employing unit ~~which~~ that
7 maintains two or more separate establishments within this State shall be
8 deemed to be employed by a single employing unit for all the purposes of this
9 chapter.

10 (5) "Employer" includes:

11 (A) Any employing unit that in any calendar quarter in either the
12 current or preceding calendar year paid for service in employment, as defined
13 pursuant to subdivision (6) of this section, wages of \$1,500.00 or more, or for
14 some portion of a day in each of 20 different calendar weeks, whether or not
15 ~~such~~ the weeks were consecutive, in either the current or the preceding
16 calendar year, had in employment at least one individual (irrespective of
17 whether the same individual was in employment in each such day). When an
18 employing unit described in either this subdivision or subdivision (B) of this
19 subdivision (5), becomes an employer within any calendar year, it shall be
20 subject to this chapter for the whole of the calendar year.

1 (B)(i) Any employing unit for which service in employment for a
2 religious, charitable, educational, or other organization as defined in
3 subdivision (6)(A)(ix) of this section is performed ~~after December 31, 1971,~~
4 except as provided in subdivision (C) of this subdivision (5).

5 (ii) Any employing unit for which service in employment for the
6 State and any of its instrumentalities, for a hospital or an institution of higher
7 education as defined in subdivision (6)(A)(x)(I) of this section is performed
8 ~~after December 31, 1971;~~ except as provided in subdivision (5)(C) of this
9 section.

10 (iii) Any employing unit for which service in employment for the
11 State or any political subdivision ~~thereof~~ as defined in subdivision (6)(A)(x)(II)
12 of this section is performed ~~after December 31, 1977;~~ except as provided in
13 subdivision (5)(C) of this section.

14 (iv) Any employing unit for which agricultural labor as described
15 in subdivision (6)(A)(vii)(I) of this section is performed ~~after December 31,~~
16 ~~1977.~~

17 (v) Any employing unit for which domestic service in
18 employment as described in subdivision (6)(A)(viii) is performed ~~after~~
19 ~~December 31, 1977.~~

20 (C) An employing unit as described in subdivisions (5)(A) and (B) of
21 this section except:

1 (i) In determining whether or not an employing unit for which
2 service other than domestic service is also performed is an employer under this
3 subdivision, the wages earned or the employment of an employee performing
4 domestic service as described in subdivision (5)(B)(v) of this section ~~after~~
5 ~~December 31, 1977~~, shall not be taken into account unless the total cash
6 remuneration paid in any calendar quarter for domestic services is \$1,000.00 or
7 more.

8 (ii) In determining whether or not an employing unit for which
9 service other than agricultural labor is also performed is an employer under
10 this subdivision, the wages earned or the employment of an employee
11 performing service in agricultural labor ~~after December 31, 1977~~ shall not be
12 taken into account unless the agricultural labor is in accordance with
13 subdivision (6)(A)(vii)(I) of this section. If an employing unit is determined an
14 employer of agricultural labor, ~~such~~ the employing unit shall be determined an
15 employer for purposes of subdivision (5)(A) of this section.

16 (D) Any individual or employing unit ~~which~~ that acquired the
17 organization, trade, or business of another ~~which~~ that at the time of ~~such~~ the
18 acquisition was an employer subject to this chapter.

19 (E)(i) Any employing unit that filed with and had approved by the
20 Commissioner, on the proper forms prescribed and supplied by the
21 Commissioner, its written election to become fully subject to this chapter for

1 not less than two calendar years. ~~Such~~ The employing unit, not otherwise
2 subject to this chapter, that files with the Commissioner its written election to
3 become an employer subject to this chapter for not less than two calendar
4 years, shall, with the written approval of ~~such~~ the election by the
5 Commissioner, become an employer subject to this chapter to the same extent
6 as all other employers, as of the date stated in the approval.

7 (ii) Any employing unit for which services that are excluded from
8 the term “employment” by subdivisions (6)(A)(ix) and (6)(C)(i) and (ii) of this
9 section are performed may, by election and approval, elect that all services
10 performed by individuals in its employ, in one or more establishments or
11 places of business, shall be deemed to constitute employment for all the
12 purposes of this chapter for not less than two calendar years. Upon the written
13 approval of ~~such~~ the election by the Commissioner ~~such~~ the services shall be
14 deemed to constitute employment subject to this chapter from the date stated in
15 the approval.

16 (iii) Any such employing unit may cease to be subject under either
17 subdivision (5)(E)(i) or (ii) of this section, as of January 1, of any calendar
18 year subsequent to ~~such~~ the two calendar years, only if at least 30 days prior to
19 ~~such~~ the first day of January it ~~has filed~~ files with the Commissioner a written
20 notice of its intention to cancel ~~such~~ the election ~~but this~~. This requirement
21 may be waived by the Commissioner for good cause.

1 (F) Any employing unit ~~which~~ that acquires a part of the
2 organization, trade, or business of another, which part, if a separate
3 organization, trade, or business, would have been an employer. Any
4 employing unit ~~which~~ that acquires the organization, trade, or business, or
5 acquires substantially all the assets of another employing unit, if the
6 employment record of ~~such~~ the acquiring employing unit subsequent to such an
7 acquisition, together with the employment record of the acquired unit prior to
8 ~~such~~ the acquisition, both within the same calendar year, would be sufficient to
9 constitute an employing unit an “employer.”

10 (G) Any employing unit not an employer by reason of any other
11 provision of this subdivision for which, within either the current or preceding
12 calendar year, service is or was performed with respect to which ~~such~~ the
13 employing unit is liable for any federal tax against which credit may be taken
14 for contributions required to be paid into a state unemployment fund; or ~~which~~
15 that, as a condition for approval of this chapter for full tax credit against the tax
16 imposed by the Federal Unemployment Tax Act, is required, pursuant to ~~such~~
17 ~~aet~~ the Act, to be an “employer” under this chapter.

18 (6)(A)(i) “Employment,” subject to the other provisions of this
19 subdivision (6), means service within the jurisdiction of this State performed
20 by an employee, as defined in subsections 3306(i) and (o) of the Federal
21 Unemployment Tax Act, including service in interstate commerce, performed

1 for wages or under any contract of hire, written or oral, expressed or implied.
2 Services partly within and partly outside this State may by election as provided
3 in subdivision (5)(E)(i) of this section be treated as if wholly within the
4 jurisdiction of this State. If an employing unit has elected to come under the
5 provisions of a similar act of a state where a part of the services of an
6 employee are performed, the Commissioner, upon approving the election as to
7 the employee, may treat the services covered by the election as having been
8 performed wholly outside the jurisdiction of this State.

9 (ii) The term “employment” ~~shall include~~ includes an individual’s
10 entire service, performed within, or both within and ~~without~~ outside, this State
11 if the service is localized in this State. Service shall be deemed to be localized
12 within a state if:

13 (I) the service is performed entirely within ~~such~~ the state; or
14 (II) the service is performed both within and ~~without such~~
15 outside the state but the service performed ~~without such~~ outside the state is
16 incidental to the individual’s service within the state; for example, is temporary
17 or transitory in nature or consists of isolated transactions.

18 (iii) The term “employment” ~~shall include~~ includes an individual’s
19 entire service, performed within, or both within and outside, this State if the
20 service is not localized in any state but some of the service is performed in this
21 State and:

1 (I) the individual's base of operations is in this State; ~~or~~

2 (II) if there is no base of operations, then the place from which
3 ~~such the~~ service is directed or controlled is in this State; or

4 (III) the individual's base of operations or place from which
5 ~~such the~~ service is directed or controlled is not in any state in which some part
6 of the service is performed, but the individual's residence is in this State.

7 (iv) The term "employment" ~~shall include~~ includes an individual's
8 service wherever performed within the United States, the Virgin Islands, or
9 Canada, if:

10 (I) ~~such the~~ service is not covered under the unemployment
11 compensation law of any other state, the Virgin Islands, or Canada; and

12 * * *

13 (v) The term "employment" ~~shall include~~ includes the service of
14 an individual who is a citizen of the United States, performed outside the
15 United States ~~after December 31, 1971 (except in Canada) or after December~~
16 ~~31, 1977 in the case of the Virgin Islands~~ in the employ of an American
17 employer (other than service ~~which that~~ is deemed "employment" under the
18 provisions of subdivisions (6)(A)(ii), (iii), or (iv) of this section or the parallel
19 provisions of another state's law), if:

20 * * *

1 (II) the employer has no place of business in the United States,
2 but the employer is an individual who is a resident of this State; or the
3 employer is a corporation ~~which~~ that is organized under the laws of this State;
4 or the employer is a partnership or a trust and the number of the partners or
5 trustees who are residents of this State is greater than the number who are
6 residents of any one other state; or

7 * * *

8 (vi) The term “employment” ~~shall also include~~ includes all service
9 performed ~~after July 1, 1946~~ by an officer or member of the crew of an
10 American vessel on or in connection with ~~such~~ the vessel, provided that the
11 operating office, from which the operations of ~~such~~ the vessel operating on
12 navigable waters within or within and ~~without~~ outside the United States is
13 ordinarily and regularly supervised, managed, directed, and controlled, is
14 within this State.

15 (vii) The term “employment” ~~shall also include~~ includes all
16 service performed ~~after December 31, 1977~~, by an individual in agricultural
17 labor as defined in subdivision (6)(C)(i)(I) of this section when:

18 (I) ~~such~~ the service is performed for a person who:

19 (aa) during any calendar quarter in either the current or the
20 preceding calendar year paid remuneration in cash of \$20,000.00 or more to
21 individuals employed in agricultural labor, ~~not taking into account service in~~

1 ~~agricultural labor performed before January 1, 1980, by an alien referred to in~~
2 ~~subdivision (6)(A)(vii)(II) of this section; or~~

3 (bb) for some portion of a day in each of 20 different
4 calendar weeks, whether or not ~~such~~ the weeks were consecutive, in either the
5 current or the preceding calendar year, employed in agricultural labor (~~not~~
6 ~~taking into account service in agricultural labor performed before January 1,~~
7 ~~1980, by an alien referred to in subdivision (6)(A)(vii)(II) of this section)~~ 10 or
8 more individuals, regardless of whether they were employed at the same
9 moment of time.

10 (II) ~~such~~ the service is not performed in agricultural labor if
11 performed ~~before January 1, 1980, or after December 31, 1986,~~ by an
12 individual who is an alien admitted to the United States to perform service in
13 agricultural labor pursuant to ~~sections 214(c) and 101(a)(15)(H) of the~~
14 ~~Immigration and Nationality Act~~ 8 U.S.C. §§ 1101(a)(15)(H) and 1184(c),
15 provided, that if ~~section 26 U.S.C. § 3306 in the~~ (Federal Unemployment Tax
16 Act, definitions) is amended so as to include ~~such~~ the service in the definition
17 of employment in agricultural labor ~~beginning on or after January 1, 1988,~~ then
18 ~~such~~ the service shall be employment in agricultural labor under this chapter.

19 (III) for the purposes of this subdivision any individual who is
20 a member of a crew furnished by a crew leader to perform service in

1 agricultural labor for any other person shall be treated as an employee of ~~such~~
2 the crew leader:

3 (aa) if ~~such~~ the crew leader holds a valid certificate of
4 registration under the ~~Farm Labor Contractor Registration Act of 1963~~ Migrant
5 Seasonal Agricultural Worker Protection Act, 29 U.S.C. § 1801 et seq.; or
6 substantially all the members of ~~such~~ the crew operate or maintain tractors,
7 mechanized harvesting or cropdusting equipment, or any other mechanized
8 equipment, ~~which~~ that is provided by such crew leader; and

9 (bb) if the individual is not an employee of ~~such~~ the other
10 person within the meaning of subdivision (6)(A) of this section.

11 (IV) for the purposes of this subdivision (vii), in the case of any
12 individual who is furnished by a crew leader to perform service in agricultural
13 labor for any other person and who is not treated as an employee of ~~such~~ the
14 crew leader under subdivision (6)(A)(vii)(III) of this section:

15 (aa) the other person and not the crew leader shall be treated
16 as the employer of ~~such~~ the individual; and

17 (bb) the other person shall be treated as having paid cash
18 remuneration to ~~such~~ the individual in an amount equal to the amount of cash
19 remuneration paid to ~~such~~ the individual by the crew leader (either on the crew
20 leader's own behalf or on behalf of ~~such~~ the other person) for the service in
21 agricultural labor performed for ~~such~~ the other person.

1 (V) for the purposes of this subdivision (vii) the term “crew
2 leader” means an individual who:

3 * * *

4 (bb) pays (either on the crew leader’s own behalf or on
5 behalf of ~~such~~ the other persons) the individuals ~~so~~ furnished by the crew
6 leader for the service in agricultural labor performed by them; and

7 (cc) has not entered into a written agreement with ~~such~~ the
8 other person under which ~~such~~ the individual is designated as an employee of
9 ~~such~~ the other person.

10 (viii) The term “employment” ~~shall also include~~ includes domestic
11 service as used in subdivision (6)(C)(ii) of this section ~~after December 31,~~
12 ~~1977,~~ in a private home, ~~in a~~ local college club, or local chapter of a college
13 fraternity or sorority, performed for a person who paid cash remuneration of
14 \$1,000.00 or more in any calendar quarter ~~after December 31, 1977,~~ in the
15 current calendar year or the preceding calendar year to individuals employed in
16 ~~such~~ domestic service.

17 (ix) The term “employment” ~~shall also include~~ includes service for
18 any employing unit performed by an individual in the employ of a religious,
19 charitable, educational, or other organization if the service is excluded from
20 “employment” as defined in the Federal Unemployment Tax Act solely by
21 reason of ~~subdivision~~ 26 U.S.C. § 3306(c)(8) of that act.

1 (x)(I) The term “employment” ~~shall also include~~ includes service
2 for any employing unit ~~which that~~ is performed ~~after December 31, 1971~~ by an
3 individual in the employ of this State or any of its instrumentalities, or in the
4 employ of this State and one or more other states or their instrumentalities, for
5 a hospital or institution of higher education located in this State provided that
6 ~~such~~ the service is excluded from “employment” as defined in the Federal
7 Unemployment Tax Act solely by reason of ~~section 26 U.S.C. § 3306(c)(7) of~~
8 ~~that act~~ and is not excluded from “employment” under subdivision (6)(C)(vii)
9 of this section.

10 (II) The term “employment” ~~shall also include~~ includes service
11 for any employing unit ~~which that~~ is performed ~~after December 31, 1977~~ by an
12 individual in the employ of this State or any political subdivision ~~thereof of the~~
13 State or any of its instrumentalities or any instrumentality of one or more of ~~the~~
14 ~~foregoing them~~; and service performed for this State or any political
15 subdivision ~~thereof of this State~~ and one or more other states or political
16 subdivisions ~~thereof of another state~~ or any instrumentality of ~~the foregoing~~
17 ~~which them that~~ is wholly owned by ~~such the~~ states or political subdivisions,
18 provided that ~~such the~~ service is excluded from “employment” as defined in
19 the Federal Unemployment Tax Act by ~~section 26 U.S.C. § 3306(c)(7) of that~~
20 ~~act~~ and is not excluded from “employment” under subdivision (6)(C)(vii) of
21 this section.

1 (B) Services performed by an individual for wages shall be deemed
2 to be employment subject to this chapter unless and until it is shown to the
3 satisfaction of the Commissioner that:

4 (i) ~~Such~~ the individual has been and will continue to be free from
5 control or direction over the performance of ~~such~~ the services, both under ~~his~~
6 ~~or her~~ the individual's contract of service and in fact; and

7 (ii) ~~Such~~ the service is either outside the usual course of the
8 business for which ~~such~~ the service is performed, or ~~that such~~ the service is
9 performed outside of all the places of business of the enterprise for which ~~such~~
10 the service is performed; and

11 (iii) ~~Such~~ the individual is customarily engaged in an
12 independently established trade, occupation, profession, or business.

13 (C) The term "employment" ~~shall~~ does not include:

14 (i)(I) Service performed by an individual in agricultural labor
15 except as provided in subdivision (6)(A)(vii) of this section. ~~For purposes of~~
16 As used in this subdivision (6)(C), the term "agricultural labor" means any
17 ~~service performed prior to January 1, 1972 which was agricultural labor as~~
18 ~~defined in this subdivision prior to such date,~~ and remunerated service
19 performed after December 31, 1971:

20 * * *

1 (bb) in the employ of the owner or tenant or other operator
2 of a farm, in connection with the operation, management, conservation,
3 improvement, or maintenance of ~~such~~ the farm and its tools and equipment or
4 in salvaging timber or clearing land of brush and other debris left by a
5 hurricane, if the major part of ~~such~~ the service is performed on a farm;

6 (cc) in connection with the production or harvesting of any
7 commodity defined as an agricultural commodity ~~in section 15(g) of~~ pursuant
8 to the Agricultural Marketing Act, ~~as amended~~ (12 U.S.C. § 1141j)₂, or in
9 connection with the operation or maintenance of ditches, canals, reservoirs, or
10 waterways, not owned or operated for profit, used exclusively for supplying
11 and storing water for farming purposes;

12 (dd) in the employ of the operator of a farm in handling,
13 planting, drying, packing, packaging, processing, freezing, grading, storing, or
14 delivering to storage or to market or to a carrier for transportation to market, in
15 its unmanufactured state, any agricultural or horticultural commodity; but only
16 if ~~such~~ the operator produced more than one-half of the commodity with
17 respect to which ~~such~~ the service is performed;

18 (ee) in the employ of a group of operators of farms, or a
19 cooperative organization of which ~~such~~ the operators are members, in the
20 performance of service described in subdivision (dd) of this subdivision

1 (C)(i)(I), but only if ~~such~~ the operators produced more than one-half of the
2 commodity with respect to which ~~such~~ the service is performed; or

3 (ff) on a farm operated for profit if ~~such~~ the service is not in
4 the course of the employer's trade or business.

5 (II) As used in subdivision (6)(C)(i)(I), the term "farm"
6 includes stock; dairy; poultry; fruit; fur-bearing animal; ~~and~~ truck farms;
7 plantations; ranches; nurseries; ranges; greenhouses, or other similar
8 structures used primarily for the raising of agricultural or horticultural
9 commodities; and orchards.

10 (III) The provisions of subdivisions (dd) and (ee) of
11 subdivision (6)(C)(i)(I) of this section shall not be deemed to be applicable
12 with respect to service performed in connection with commercial canning or
13 commercial freezing or in connection with any agricultural or horticultural
14 commodity after its delivery to a terminal market for distribution for
15 consumption.

16 * * *

17 (iii)(I) Service not in the course of the employer's trade or
18 business performed in any calendar quarter by an employee, unless the cash
19 remuneration paid for that service is \$50.00 or more and the service is
20 performed by an individual who is regularly employed by the employer to
21 perform the service. For purposes of this subdivision (6)(C)(iii), an individual

1 shall be deemed to be regularly employed by an employer during a calendar
2 quarter if:

3 (aa) on each of ~~some~~ 24 days during the quarter the
4 individual performs for the employer for some portion of the day service not in
5 the course of the employer's trade or business; or

6 (bb) the individual was regularly employed ~~(as determined~~
7 ~~under the preceding subdivision)~~, as defined pursuant to subdivision (aa) of
8 this subdivision (6)(C)(iii), by the employer in the performance of the service
9 during the preceding calendar quarter.

10 * * *

11 (iv) Service performed by an individual in the employ of ~~his or her~~
12 ~~son, daughter, the individual's child~~ or spouse, and service performed by a
13 minor in the employ of ~~his or her father or mother~~ the minor's parent; or
14 service by one member of a family to another under circumstances ~~which~~ that,
15 under the general law, do not give rise to the relation of employer and
16 employee;

17 (v) Service performed in the employ of the U.S. government or of
18 an instrumentality of the United States ~~but, provided that~~ if the U.S. Congress
19 ~~of the United States shall permit~~ permits states to require that the U.S.
20 government or any instrumentalities of the United States ~~shall~~ make payments
21 into an unemployment fund under a state unemployment compensation act,

1 then, to the extent permitted by ~~Congress~~ by federal law, and from and after
2 the date ~~as of~~ on which ~~such~~ the permission becomes effective, ~~all of~~ the
3 provisions of this chapter shall be applicable to the U.S. government or ~~such~~ its
4 instrumentalities, in the same manner, to the same extent, and on the same
5 terms as to all other employers, employing units, individuals, and services;
6 ~~provided that if this.~~ If the provisions of this chapter become applicable to the
7 U.S. government and its instrumentalities and, in any year, the State should is
8 not be certified by the Secretary of Labor under ~~section~~ 26 U.S.C. § 3304 of
9 ~~the Federal Unemployment Tax Act for any year~~, then the payments required
10 of the U.S. government or ~~such~~ its instrumentalities with respect to ~~such~~ that
11 year shall be deemed to have been erroneously collected ~~within the meaning of~~
12 under section 1337 of this ~~title~~ subchapter and shall be refunded by the
13 Commissioner from the Fund in accordance with the provisions of section
14 1337;

15 (vi)(I) ~~Before January 1, 1978, service performed in the employ of~~
16 ~~a state, a political subdivision thereof, or an instrumentality of one or more~~
17 ~~states or political subdivisions except as otherwise provided in this chapter~~
18 ~~with respect to service for a hospital or institution of higher education located~~
19 ~~in this State, and except as to any town, city, or other municipal corporation, as~~
20 ~~defined by 24 V.S.A. § 1751, or an instrumentality thereof, that duly elects~~
21 ~~otherwise, as provided by this chapter with the Commissioner's approval;~~

1 ~~(H) After December 31, 1977, Service performed~~ in the employ
2 of a governmental entity referred to in subdivision (6)(A)(x) of this section if
3 ~~such the~~ service is performed by an individual in the exercise of duties:

4 * * *

5 (cc) as a member of the ~~State~~ Vermont National Guard or
6 Air National Guard;

7 * * *

8 (ee) in a position ~~which that, under or~~ pursuant to the laws
9 of this State, is designated as a policymaking or advisory position the
10 performance of the duties of which ordinarily does not require more than eight
11 hours per week.

12 (vii) For the purposes of subdivisions (6)(A)(ix) and (6)(A)(x) of
13 this section, the term “employment” does not include service performed:

14 (I) in the employ of a church or convention or association of
15 churches, or an organization ~~which that~~ is operated primarily for religious
16 purposes and ~~which that~~ is operated, supervised, controlled, or principally
17 supported by a church or convention or association of churches;

18 (II) by a duly ordained, commissioned, or licensed minister of a
19 church in the exercise of ~~his or her~~ the individual’s ministry or by a member of
20 a religious order in the exercise of duties required by ~~such the~~ order;

1 (III) ~~prior to January 1, 1978, in the employ of a school which~~
2 ~~is not an institution of higher education; [Repealed.]~~

3 (IV) by an individual performing rehabilitative or remunerative
4 work in a facility ~~conducted~~ operated for the purpose of:

5 (aa) carrying out a program of rehabilitation for individuals
6 whose earning capacity is limited due to being an elder or having a disability
7 or injury; or

8 (bb) providing remunerative work for individuals who
9 because of having a disability cannot be readily absorbed in the competitive
10 labor market ~~by an individual receiving such rehabilitation or remunerative~~
11 ~~work;~~

12 (V) by an individual receiving work relief or work training as
13 part of an unemployment work-relief or work-training program assisted or
14 financed in whole or in part by any federal agency or an agency of a state or
15 political subdivision ~~thereof of a state, by an individual receiving such work~~
16 ~~relief or work training; or~~

17 (VI) ~~prior to January 1, 1978, for a hospital in a state prison or~~
18 ~~other state correctional institution by an inmate of the prison or correctional~~
19 ~~institution and after December 31, 1977, by an inmate of a custodial or penal~~
20 ~~institution.~~

1 (viii) Service with respect to which unemployment compensation
2 is payable under an unemployment compensation system established by an act
3 of Congress; provided, that the Commissioner is ~~hereby~~ authorized and
4 directed to enter into agreements with the proper agencies under such an act of
5 Congress, which agreements shall become effective 10 days after publication
6 ~~thereof~~ in one or more newspapers of general circulation in this State, to
7 provide reciprocal treatment to individuals who have, after acquiring potential
8 rights to unemployment compensation under ~~such~~ the act of Congress,
9 acquired rights to benefits under this chapter;

10 (ix) Service performed ~~on and after July 1, 1939,~~ with respect to
11 which unemployment compensation is payable under ~~an act of Congress~~
12 ~~entitled “~~ the Railroad Unemployment Insurance Act”~~”~~, 45 U.S.C. chapter 11.

13 (x) Service as an officer or member of a crew of an American
14 vessel performed on or in connection with ~~such~~ the vessel, if the operating
15 office, from which the operations of the vessel operating on navigable waters
16 within or ~~without~~ outside the United States are ordinarily and regularly
17 supervised, managed, directed, and controlled, is ~~without~~ outside this State;

18 (xi) Service performed on or in connection with a vessel that is not
19 an American vessel by an individual, if the individual performs services on and
20 in connection with ~~such~~ the vessel when outside the United States; ~~and, for the~~
21 ~~purpose of.~~ As used in this subdivision and subdivision (6)(C)(x) of this

1 section, ~~the term~~ “American vessel” means any vessel documented or
2 numbered under the laws of the United States; and includes any vessel ~~which~~
3 that is neither documented or numbered under the laws of the United States nor
4 documented under the laws of any foreign country, if its crew performs
5 services solely for one or more citizens or residents of the United States or
6 corporations organized under the laws of the United States or of any state;.

7 * * *

8 (xiii) Service performed in any calendar quarter in the employ of
9 any organization exempt from income tax under Section 501(a) (other than an
10 organization described in Section 401(a)) or under Section 521 of the federal
11 Internal Revenue Code, if the remuneration for ~~such~~ the service is less than
12 \$50.00;.

13 (xiv) Service performed, in the employ of a school, college, or
14 university, if ~~such~~ the service is performed by a student who is enrolled and is
15 regularly attending classes at ~~such~~ the school, college, or university, or by the
16 spouse of such a student, if the spouse is advised, at the time ~~such~~ the spouse
17 commences to perform ~~such~~ the service, that the employment of ~~such~~ the
18 spouse to perform ~~such~~ the service is provided under a program to provide
19 financial assistance to ~~such~~ the student by the school, college, or university,
20 and ~~such~~ the employment will not be covered by any program of
21 unemployment insurance;.

1 (xv) Service performed by an individual under ~~the age of 22 years~~
2 of age who is enrolled at a nonprofit or public educational institution ~~which~~
3 that normally maintains a regular faculty and curriculum and normally has a
4 regularly organized body of students in attendance at the place where its
5 educational activities are carried on as a student in a full-time program, taken
6 for credit at such institution, ~~which that~~ combines academic instruction with
7 work experience, if ~~such the~~ the service is an integral part of ~~such the~~ the program,
8 and ~~such the~~ the institution has so certified to the employer, ~~except that this.~~ This
9 subdivision shall not apply to service performed in a program established for
10 or on behalf of an employer or group of employers;.

11 (xvi) Service performed in the employ of a hospital, if ~~such the~~ the
12 service is performed by a patient of the hospital, as defined in this section;.

13 (xvii) Service performed by an individual for a person as an
14 insurance agent or as an insurance solicitor, if all ~~such the~~ the service performed
15 by ~~such the~~ the individual for ~~such the~~ the person is performed for remuneration solely
16 by way of commission;.

17 (xviii) Service performed by an individual for a person as a
18 salesman, agent, or solicitor if the state law requires the individual to be
19 registered or licensed to engage in the performance of the service and if the
20 individual in the performance of ~~such the~~ the service is an independent contractor

1 under common law rules and if the individual performs all such service for
2 remuneration solely by way of commission;

3 (xix) Service performed by an individual engaged in the
4 harvesting of timber; or in the transportation of timber from the place where
5 harvested to market, or service performed by an individual engaged as a stone
6 artisan, including sculpting, etching, or carving quarried stone when:

7 (I) ~~such~~ the individual has been and will continue to be free
8 from control or direction over the performance of ~~such~~ the services, both under
9 ~~his or her~~ the individual's contract of service and in fact; ~~and~~

10 (II) ~~such~~ the individual is customarily engaged in an
11 independently established trade, occupation, profession, or business; and

12 (III) ~~such~~ the individual furnishes substantially all of the
13 equipment, tools, and supplies necessary in carrying out ~~his or her~~ the
14 individual's contractual obligations to ~~his or her~~ the individual's clients.

15 (xx) Service performed by a full-time student as defined in
16 ~~subsection~~ subdivision (III) of this subdivision (6)(C)(xx) in the employ of an
17 organized camp; if:

18 (I) ~~if~~ ~~such~~ the camp:

19 * * *

20 (bb) had average gross receipts for any six months in the
21 preceding calendar year ~~which~~ that were not more than 33 1/3 percent of its

1 average gross receipts for the other six months in the preceding calendar year;
2 and

3 (II) ~~if such~~ the full-time student performed services in the
4 employ of ~~such~~ the camp for less than 13 calendar weeks in ~~such~~ the calendar
5 year; provided, that if the individual does not enroll in the immediately
6 succeeding academic year or term, then the services of ~~such~~ the individual as
7 defined in this subsection shall be deemed to be employment for all purposes
8 under this chapter.

9 (III) ~~full-time student. For the purposes of~~ As used in this
10 subdivision (6)(C)(xx), an individual shall be treated as a full-time student for
11 any period:

12 (aa) during which the individual is enrolled as a full-time
13 student at an educational institution; or

14 (bb) ~~which~~ that is between academic years or terms if ~~(A)~~
15 the individual was enrolled as a full-time student at an educational institution
16 for the immediately preceding year or term; and ~~(B)~~ there is a reasonable
17 assurance that the individual will be so enrolled for the immediately
18 succeeding academic year or term ~~after the period described in subdivision~~
19 ~~(A)~~.

20 * * *

1 (8) “Fund” means the Unemployment Compensation Trust Fund
2 established by this chapter, to which all contributions required and from which
3 all benefits provided under this chapter shall be paid.

4 (9) “Total and partial unemployment.”

5 (A) An individual shall be deemed “totally unemployed” in any week
6 during which the individual performs no services and with respect to which no
7 wages are earned by ~~him or her~~ the individual.

8 (B) An individual shall be deemed “partially unemployed” in any
9 week of less than full time work if the wages earned by ~~him or her~~ the
10 individual with respect to ~~such~~ the week are less than the weekly benefit
11 amount ~~he or she~~ the individual would be entitled to receive if totally
12 unemployed and eligible.

13 (C) As used in this subdivision, “wages” includes only that part of
14 remuneration in any one week rounded to the next higher dollar ~~which~~ that is
15 in excess of the amount specified in section 1338a of this ~~title~~ subchapter.

16 (D) An individual’s week of unemployment shall be deemed to
17 commence only after ~~his or her~~ the individual’s registration at an employment
18 office, except as the Vermont Employment Security Board may by ~~regulation~~
19 rule otherwise prescribe.

1 (10) “State” means the states of the United States of America, the
2 Commonwealth of Puerto Rico, the District of Columbia, and ~~after December~~
3 ~~31, 1977,~~ the Virgin Islands.

4 * * *

5 (12) “Wages” means all remuneration paid for services rendered by an
6 individual, including commissions and bonuses and the cash value of all
7 remuneration paid in any medium other than cash. Gratuities customarily
8 received by an individual in the course of ~~his or her~~ the individual’s
9 employment from persons other than the individual’s employer and reported
10 by the individual to the individual’s employer shall be treated as wages paid by
11 the individual’s employer. The reasonable cash value of remuneration paid in
12 any medium other than cash shall be estimated and determined in accordance
13 with rules ~~prescribed~~ adopted by the Board. The term “wages” ~~as used in this~~
14 ~~chapter shall~~ does not include:

15 (A) The amount of any payment (including any amount paid by an
16 employer for insurance or annuities, or into a fund, to provide for any such
17 payment) made to, or on behalf of, an employee or any of ~~his or her~~ the
18 employee’s dependents under a plan or system established by an employer
19 ~~which~~ that makes provision for ~~his or her~~ the employer’s employees generally
20 (or for ~~his or her~~ the employer’s employees generally and their dependents) or
21 for a class or classes of ~~his or her~~ the employer’s employees (or for a class or

1 classes of ~~his or her~~ the employer's employees and their dependents), on
2 account of:

3 (i) sickness or accident disability (but, in the case of payments
4 made directly to an employee or any of ~~his or her~~ the employee's dependents,
5 this subparagraph shall exclude from the term "wages" only payments ~~which~~
6 that are received under a workers' compensation law);

7 * * *

8 (B) Any payment on account of sickness or accident disability, or
9 medical or hospitalization expenses in connection with sickness or accident
10 disability, made by an employer to, or on behalf of, an employee after the
11 expiration of six calendar months following the last calendar month in which
12 the employee worked for ~~such~~ the employer.

13 (C) Any payment made to, or on behalf of, an employee or ~~his or her~~
14 the employee's beneficiary:

15 (i) from or to a trust described in ~~Section 26 U.S.C. § 401(a) of the~~
16 ~~U.S. Internal Revenue Code which~~ that is exempt from tax under ~~Section 26~~
17 ~~U.S.C. § 501(a) of the U.S. Internal Revenue Code~~ at the time of ~~such~~ the
18 payment unless ~~such~~ the payment is made to an employee of the trust as
19 remuneration for services rendered as ~~such~~ the employee and not as a
20 beneficiary of the trust; or

1 (ii) under or to an annuity plan ~~which that~~, at the time of ~~such the~~
2 payment, is a plan described in ~~Section 26 U.S.C. § 403(a) of the U.S. Internal~~
3 ~~Revenue Code~~.

4 (D) The payment by an employer (without deduction from the
5 remuneration of the employee) of the tax imposed upon an employee under
6 ~~Section 26 U.S.C. § 3101 of the U.S. Internal Revenue Code~~.

7 (E) Any amounts received from the federal government by members
8 of the National Guard and ~~organized~~ reserve components of the U.S. Armed
9 Forces, as drill pay, including longevity pay and allowances.

10 (F) ~~Provided; that if~~ If the definition of “wages” in ~~section 26 U.S.C.~~
11 ~~§ 3306 of the~~ Federal Unemployment Tax Act, is amended so as to no longer
12 exclude ~~from such definition~~ any or all of the payments or amounts
13 enumerated in subdivisions ~~(12)(A)~~ through (E) of this ~~section~~
14 subdivision (12), then ~~any or all such~~ payments or amounts shall no longer be
15 excluded from the federal definition shall be included in the definition of
16 “wages” under this ~~chapter~~ this subdivision (12), effective on ~~a date to coincide~~
17 ~~with~~ the effective date of ~~such the~~ amendment ~~(or amendments)~~ to the Federal
18 Unemployment Tax Act.

19 (G) Any foster care payments excluded from the definition of gross
20 income under ~~Section 26 U.S.C. § 131 of the U.S. Internal Revenue Code~~.

1 (13) “Week” means ~~such~~ a period or periods of seven consecutive days,
2 as the Board may by ~~regulation~~ rule prescribe.

3 (14) “Calendar quarter” means a period of three consecutive calendar
4 months ending on March 31, June 30, September 30, or December 31, or the
5 equivalent ~~thereof~~ of such a period as the Board may by ~~regulation~~ rule
6 prescribe.

7 (15) An individual’s “weekly benefit amount” with respect to any week
8 means the amount of benefits ~~he or she~~ the individual would be entitled to
9 receive for ~~such~~ the week if totally unemployed and eligible for benefits
10 ~~therein~~ for the week.

11 (16)(A) “Benefit year,” with respect to any individual, means the one-
12 year period beginning with the first day of the week with respect to which the
13 individual first files a valid claim for benefits in accordance with section 1346
14 of this ~~title~~ subchapter, and thereafter the one-year period beginning with the
15 first day of the first week with respect to which the individual next files such a
16 claim for benefits after the termination of ~~his or her~~ the individual’s last
17 preceding benefit year.

18 (B) [Repealed.]

19 (17)(A) ~~For benefit years beginning prior to January 3, 1988, the “base~~
20 ~~period” is the period of 52 weeks ending with the day immediately preceding~~
21 ~~the first day of a claimant’s benefit year. Such period shall be extended by one~~

1 ~~week for each week, not to exceed 18, in which the claimant had no earnings~~
2 ~~because of sickness or disability as certified by a duly licensed physician.~~

3 ~~(B) For benefit years beginning on January 3, 1988 and subsequent~~
4 ~~thereto the “base “Base period” shall be the means:~~

5 ~~(A) The period made up of the first four of the most recently~~
6 ~~completed five calendar quarters immediately preceding the first day of a~~
7 ~~claimant’s benefit year, and for,~~

8 ~~(B) For any individual who fails to meet the eligibility requirements~~
9 ~~of section 1338 of this ~~title~~ subchapter in this the base period set forth pursuant~~
10 ~~to subdivision (A) of this subdivision (17), the Commissioner shall make a~~
11 ~~redetermination of entitlement based upon a base period ~~which~~ that consists of~~
12 ~~the last four completed calendar quarters immediately preceding the first day~~
13 ~~of the claimant’s benefit year.~~

14 ~~(C) For any individual who fails to qualify for benefits under~~
15 ~~subdivision subdivisions (A) and (B) of this subdivision (17), the~~
16 ~~Commissioner shall make a redetermination of entitlement based upon a base~~
17 ~~period ~~which~~ that consists of the last three completed calendar quarters and all~~
18 ~~wages paid prior to the effective date of the claimant’s initial claim in the~~
19 ~~calendar quarter in which the initial claim was filed.~~

1 (D) All wages ~~which~~ that fall within the “base period” of valid claims
2 under this section shall not be available for reuse in qualifying for any
3 subsequent benefit years under section 1338 or 1318 of this ~~title~~ subchapter.

4 (18)(A) “Institution of higher education” means an educational
5 institution ~~which~~ that:

6 (A)(i) admits as regular students only individuals having a
7 certificate of graduation from a high school, or the recognized equivalent of
8 such a certificate;

9 (B)(ii) is legally authorized in this State to provide a program of
10 education beyond high school;

11 (C)(iii) provides an educational program for which it awards a
12 bachelor’s or higher degree, or provides a program ~~which~~ that is acceptable for
13 full credit toward such a degree, a program of post-graduate or post-doctoral
14 studies, or a program of training to prepare students for gainful employment in
15 a recognized occupation; and

16 (D)(iv) is a public or other nonprofit institution.

17 (B) Notwithstanding any ~~of the foregoing provisions~~ provision of this
18 subdivision (18) to the contrary, all colleges and universities in this State are
19 institutions of higher education for purposes of this chapter.

20 * * *

1 livelihood. Earnings from such a sideline activity shall not constitute wages or
2 disqualifying income for unemployment purposes.

3 * * *

4 Sec. 171. 21 V.S.A. § 1302 is amended to read:

5 § 1302. VERMONT EMPLOYMENT SECURITY BOARD_;

6 COMPOSITION_; DUTIES

7 (a)(1) There is ~~hereby~~ created a board of three members to be known as the
8 Vermont Employment Security Board.

9 (2)(A) One member, who will serve as the chair of the Board, shall be
10 the Commissioner of Labor, ex officio.

11 (B) The two other members of the Board shall be appointed by the
12 Governor, with the advice and consent of the Senate. The term of each
13 appointed member shall be six years.

14 (C) Biennially, in the month of February, with the advice and consent
15 of the Senate, the Governor shall appoint a person as a member of the Board
16 for the term of six years, whose term of office shall commence March 1 of the
17 year in which ~~such~~ the appointment is made.

18 (D) Any appointment to fill a vacancy shall be for the unexpired
19 term.

20 (E) In case of a vacancy by resignation, the member resigning shall
21 continue in office until that member's successor is appointed.

1 (3) Not more than two members of the Board shall be members of the
2 same political party.

3 (4) The Governor may at any time remove an appointed member of ~~such~~
4 the Board for gross inefficiency, neglect of duty, malfeasance, misfeasance, or
5 nonfeasance in office.

6 (b)(1) The Board may hear and decide all matters appealed to it under this
7 chapter. It shall determine its own methods of procedure.

8 (2) ~~¶~~ The Board may, with the approval of the Governor, adopt, amend,
9 suspend, or rescind such rules ~~and regulations~~ as it considers necessary and
10 consistent with this chapter. The rules ~~and regulations~~ of the Board shall have
11 the force and effect of law after public hearing thereon of which reasonable
12 notice has been given, and after filing with the Secretary of State, and
13 publication in such manner as the Board shall prescribe.

14 (3) The Board may administer oaths, take depositions, certify to official
15 acts, and subpoena witnesses and compel the production of books, papers,
16 correspondence, memoranda, and other records necessary and material in the
17 discharge of its duties imposed by this chapter.

18 Sec. 172. 21 V.S.A. § 1311 is amended to read:

19 § 1311. EMPLOYEES

20 Subject to other provisions of this chapter, the Commissioner is authorized
21 to appoint a Deputy Commissioner and such officers, accountants, attorneys,

1 and employees as may be necessary in the performance of ~~his or her~~ the
2 Commissioner's duties. The Commissioner may delegate to any ~~such~~ person
3 ~~so~~ appointed such pursuant to the provisions of this section any power and
4 authority ~~deemed~~ the Commissioner deems reasonable and proper for the
5 effective administration of this chapter, and may, in the Commissioner's
6 discretion, bond any person handling monies or signing checks ~~hereunder~~
7 pursuant to the provisions of this chapter.

8 Sec. 173. 21 V.S.A. § 1312 is amended to read:

9 § 1312. PUBLICATION OF RULES, ~~REGULATIONS,~~ AND REPORTS

10 The Commissioner shall ~~cause to be printed~~ make available for distribution
11 to the public the text of this chapter, the Board's rules ~~and regulations,~~ ~~his or~~
12 ~~her~~ the Commissioner's annual reports to the Governor, and any other material
13 the Commissioner considers relevant and suitable. ~~He or she~~ The
14 Commissioner shall furnish the ~~same~~ materials made available to the public
15 pursuant to this section to any person upon ~~application therefor~~ request.

16 Sec. 174. 21 V.S.A. § 1314 is amended to read:

17 § 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;
18 DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT
19 EMPLOYMENT INFORMATION; DISCLOSURE OF
20 INFORMATION TO OTHER STATE AGENCIES TO
21 INVESTIGATE MISCLASSIFICATION OR MISCODING

1 (a) The Commissioner may require any employing unit to keep ~~such~~ true
2 and accurate records and make ~~such~~ reports covering persons employed by it
3 respecting employment, wages, hours, unemployment, and related matters as
4 the Commissioner deems reasonably necessary for the effective administration
5 of this chapter. ~~Such~~ The records shall be open to inspection and subject to
6 being copied by the Commissioner or ~~his or her~~ the Commissioner's authorized
7 representatives at any reasonable time and as often as may be necessary.

8 (b) On request of the Commissioner, an employing unit shall report, within
9 10 days ~~of~~ after the mailing or personal delivery of the request, employment
10 and separation information with respect to a claimant and the wages paid to a
11 claimant.

12 (c) If an employing unit fails to comply adequately with the provisions of
13 subsection (b) of this section and section 1314a of this ~~title~~ subchapter, the
14 Commissioner shall determine the benefit rights of a claimant upon ~~such~~ the
15 available information ~~as is available~~. Prompt notice in writing of the
16 determination shall be given to the employing unit. The determination shall be
17 final with respect to a noncomplying employer as to any charges against its
18 experience-rating record for benefits paid to the claimant before the week
19 following the receipt of the employing unit's reply. The employing unit's
20 experience rating record shall not be relieved of these charges, notwithstanding

1 any other provision of this chapter, unless the Commissioner determines that
2 failure to comply was due to unavoidable accident or mistake.

3 (d)(1) Except as otherwise provided in this chapter, information obtained
4 from any employing unit or individual in the administration of this chapter and
5 determinations as to the benefit rights of any individual shall be held
6 confidential and shall not be disclosed or open to public inspection in any
7 manner revealing the individual's or employing unit's identity, nor be
8 admissible in evidence in any action or proceeding other than one arising out
9 of this chapter, or to support or facilitate an investigation by a public agency
10 identified in subdivision (e)(1) of this section.

11 (2) An individual or ~~his or her~~ an individual's duly authorized agent
12 may be supplied with information from those records to the extent necessary
13 for the proper presentation of ~~his or her~~ the individual's claims for benefits or
14 to inform ~~him or her~~ the individual of ~~his or her~~ the individual's existing or
15 prospective rights to benefits; ~~an.~~ An employing unit may be furnished with
16 ~~such information,~~ as may be deemed the Commissioner deems proper, ~~within~~
17 ~~the discretion of the Commissioner,~~ to enable it to fully discharge its
18 obligations and safeguard its rights under this chapter.

19 * * *

20 (4) Notwithstanding the provisions in subdivision (3) of this subsection,
21 the Department of Labor shall, at the request of the Agency of Administration,

1 perform ~~such~~ services for other departments and agencies of the State as that
2 are within the capacity of its data processing equipment and personnel,
3 provided that ~~such~~ the services can be accomplished without undue
4 interference with the designated work of the Department of Labor.

5 (e)(1) Subject to ~~such~~ restrictions as adopted by the Board ~~may~~ by
6 ~~regulation prescribe~~ rule, information from unemployment insurance records
7 may be made available to any public officer or public agency of this or any
8 other state or the federal government dealing with the administration or
9 regulation of relief, public assistance, unemployment compensation, a system
10 of public employment offices, wages and hours of employment, workers'
11 compensation, misclassification or miscoding of workers, occupational safety
12 and health, or a public works program for purposes appropriate to the
13 necessary operation of those offices or agencies. The Commissioner may also
14 make information available to colleges, universities, and public agencies of the
15 State for use in connection with research projects of a public service nature and
16 to the Vermont Economic Progress Council with regard to the administration
17 of 32 V.S.A. chapter 105, subchapter 2, but no person associated with those
18 institutions or agencies may disclose that information in any manner that
19 would reveal the identity of any individual or employing unit from or
20 concerning whom the information was obtained by the Commissioner.

21 * * *

1 (2)(A)(i) The Department of Labor shall disclose, upon request, to
2 officers or employees of any state or local child support enforcement agency
3 any wage information or other information material to the location of an
4 individual, the individual’s assets, or the individual’s place of employment or
5 other source of income contained in the Department’s unemployment
6 compensation claim records with respect to an identified individual that is
7 contained in those records.

8 (ii) The term “state or local child support enforcement agency”
9 means any agency of a state or political subdivision ~~thereof~~ of a state operating
10 pursuant to a plan described in ~~Section 454 of the Social Security Act, which~~
11 42 U.S.C. § 654 that has been approved by the Secretary of Health and Human
12 Services under ~~part D, Title IV of the Social Security Act~~ 42 U.S.C. chapter 7,
13 subchapter IV, part D.

14 (B) The requesting agency shall agree that information provided
15 under this subsection is to be used only for the following purposes:

16 (i) establishing and collecting child support obligations from, and
17 locating, individuals owing such obligations that are being enforced pursuant
18 to a plan described in ~~Section 454 of the Social Security Act~~ 42 U.S.C. § 654
19 that has been approved by the Secretary of Health and Human Services under
20 ~~part D, Title IV of the Social Security Act~~ 42 U.S.C. chapter 7, subchapter IV,
21 part D; and

1 (ii) establishing parentage and expediting procedures relating to
2 establishing parentage pursuant to ~~Section 466(e)(1) of the Social Security Act~~
3 ~~as added by Section 325(a)(2) of the Personal Responsibility and Work~~
4 ~~Opportunity Reconciliation Act of 1996, Pub. L. 104-193~~ 42 U.S.C. § 666.

5 (3)(A) The Department of Labor shall disclose, upon request, to officers
6 and employees of the U.S. Department of Agriculture and any state agency,
7 with respect to an identified individual, any of the following information that is
8 contained in its records:

9 (i) wage information;

10 (ii) whether the individual is receiving, has received, or has made
11 application for unemployment compensation and the amount of any
12 compensation being received or to be received by ~~such~~ the individual;

13 (iii) the current or most recent home address of the individual; and

14 (iv) whether the individual has refused an offer of employment
15 and, if so, a description of the employment offered and the associated terms,
16 conditions, and rate of pay ~~therefor~~.

17 (B) ~~The term~~ As used in this subdivision (e)(3), “state agency” means
18 any agency described in 7 U.S.C. § 2012(s) that administers the Supplemental
19 Nutrition Assistance Program ~~established under that act.~~

20 (C) The requesting agency shall agree that ~~such~~ the information shall
21 be used only for purposes of determining the applicant’s eligibility for benefits,

1 or the amount of benefits, under the Supplemental Nutrition Assistance
2 Program established under 7 U.S.C. chapter 51.

3 (D) The information shall not be released unless the requesting
4 agency agrees to reimburse the costs involved for furnishing ~~such~~ the
5 information.

6 (E) In addition to the requirements of this subdivision, all other
7 requirements with respect to confidentiality of information obtained in the
8 administration of this chapter and the sanctions imposed for improper
9 disclosure of information obtained in the administration of this chapter shall
10 apply to the use of ~~such~~ the information by the officers and employees of any
11 state agency or the U.S. Department of Agriculture.

12 (4)(A)(i) The Department of Labor shall disclose, upon request, to
13 officers or employees of any state or local agency charged with administering
14 TANF, any wage information with respect to an identified individual that is
15 contained in its records, which is necessary for the purpose of determining an
16 individual's eligibility for aid or services or the amount of ~~such~~ the aid or
17 services to needy families with children.

18 (ii) ~~The term~~ As used in this subdivision (e)(4), "state or local
19 agency charged with administering TANF" means any such agency
20 administering a plan approved under ~~part A of Title IV of the Social Security~~
21 ~~Act~~ 42 U.S.C. chapter 7, subchapter IV, part A.

1 (B) The information requested shall not be released unless the
2 requesting TANF agency agrees to reimburse the Department of Labor for the
3 costs involved in furnishing ~~such~~ the information.

4 * * *

5 (5)(A) The Department of Labor shall disclose to officers or employees
6 of the Federal Parent Locator Service (FPLS) or National New Hire Directory
7 any employment, wage, and unemployment compensation claim information
8 contained in its claim records that may be useful in locating an absent parent or
9 the parent’s employer solely for purposes of administering the child support
10 enforcement provisions of ~~Title IV of the Social Security Act~~ 42 U.S.C.
11 chapter 7, subchapter IV.

12 (B) The requesting Federal Parent Locator Service shall agree that
13 the requested information shall be used only for purposes authorized in ~~Section~~
14 303(h)(1) of the Social Security Act 42 U.S.C. § 503(h)(1).

15 * * *

16 (6)(A) The Department of Labor shall disclose, upon request, to officers
17 or employees of the Department of Housing and Urban Development (HUD)
18 and to representatives of a public housing agency any wage information and
19 unemployment compensation benefit information that is contained in its
20 records with respect to an identified individual applying for or participating in
21 any housing assistance program administered by HUD that is necessary for the

1 purposes of determining the individual’s eligibility for benefits or the amount
2 of benefits under a HUD housing assistance program. ~~For the purposes of As~~
3 ~~used in this subdivision (e)(6),~~ the term “public housing agency” means any
4 agency described in ~~section 3(b)(6) of the U.S. Housing Act of 1937~~ 42 U.S.C.
5 § 1437a(b)(6) that is authorized to engage in or assist in the development or
6 operation of low-income housing.

7 (B) HUD or the requesting public housing agency shall agree that the
8 requested information shall be used only for purposes of determining
9 individual’s eligibility for benefits or the amount of benefits under a HUD
10 housing assistance program and that it will comply with the provisions of
11 20 C.F.R. § 603.7 and the limitations on the use of the information set forth in
12 ~~section 904(c)(2) of P.L.~~ Pub. L. No. 100-628, § 904(c)(2).

13 (C) The information requested shall not be released unless the
14 individual about whom the requested information relates has signed a consent
15 form, approved by the Secretary of HUD, ~~which~~ that permits the release of the
16 requested information.

17 * * *

18 (g) All written or oral reports, or other communications, from an employer
19 or ~~his or her~~ the employer’s workers to each other, or to the Commissioner or
20 any of ~~his or her~~ the Commissioner’s agents, representatives, or employees,
21 made in connection with the requirements and administration of this chapter or

1 the ~~regulations thereunder~~ rules adopted pursuant to this chapter, shall be
2 absolutely privileged and shall not be made the subject matter or basis for any
3 suit for slander or libel in any court of this State, unless they are false in fact
4 and malicious in intent.

5 (h) Any employing unit that fails to report employment and separation
6 information with respect to a claimant and wages paid to a claimant required
7 under subsection (b) of this section shall be subject to a penalty of \$100.00 for
8 each report not received by the prescribed due date, ~~which~~. The penalty
9 imposed pursuant to this subsection shall be collected in the manner provided
10 for the collection of contributions in section 1329 of this ~~title~~ subchapter and
11 shall be paid into the contingent fund ~~provided~~ established in section 1365 of
12 this ~~title~~ subchapter. If the employing unit demonstrates that its failure was
13 due to a reasonable cause, the Commissioner may waive the penalty.

14 Sec. 175. 21 V.S.A. § 1314a(e) is amended to read:

15 (e) On request of the Commissioner, any employing unit or employer shall
16 report, within 10 days ~~of~~ after the mailing or personal delivery of the request,
17 separation information for a claimant, any disqualifying income the claimant
18 may have received, and any other information that the Commissioner may
19 require to determine the claimant's eligibility for unemployment
20 compensation. The Commissioner shall make a request when:

21 * * *

1 Sec. 176. 21 V.S.A. § 1315 is amended to read:

2 § 1315. STATE-FEDERAL COOPERATION

3 In the administration of this chapter, the Commissioner shall:

4 (1) cooperate with the Secretary of Labor to the fullest extent consistent
5 with the provisions ~~thereof, with the Secretary of Labor~~ of this chapter;

6 (2) ~~shall make such reports, in such a form and containing such~~
7 information as required by the Secretary of Labor ~~may from time to time~~
8 ~~require, and shall~~;

9 (3) comply with ~~such any~~ any provisions as the Secretary of Labor ~~may from~~
10 ~~time to time find~~ deems necessary to ~~assure~~ ensure the correctness and
11 verification of ~~such~~ the reports; and

12 (4) ~~shall~~ comply with the regulations prescribed by the Secretary of
13 Labor governing the expenditures of ~~such~~ sums ~~as may be~~ allotted and paid to
14 ~~this the~~ State under ~~Title III of the Social Security Act~~ 42 U.S.C. chapter 7,
15 subchapter III for the purpose of assisting in the administration of this chapter.

16 Sec. 177. 21 V.S.A. § 1316 is amended to read:

17 § 1316. FURNISHING DATA

18 Upon request ~~therefor~~, the Commissioner shall furnish to any agency of the
19 United States charged with the administration of public works or assistance
20 through public employment the name, address, ordinary occupation, and

1 employment status of each recipient of benefits and ~~such~~ the recipient's rights
2 to further benefits under this chapter.

3 Sec. 178. 21 V.S.A. § 1318 is amended to read:

4 § 1318. RECIPROCAL BENEFIT ARRANGEMENTS

5 (a) The Commissioner is ~~hereby~~ authorized to enter into arrangements with
6 the appropriate agencies of other states or the federal government ~~whereby~~
7 under which potential rights to benefits accumulated under the unemployment
8 compensation laws of ~~the several~~ other states or under ~~such law of the federal~~
9 ~~government law~~, or both, may constitute the basis for the payment of benefits
10 through a single appropriate agency under terms ~~which~~ that the Commissioner
11 finds will be fair and reasonable as to all affected interests and will not result in
12 any substantial loss to the Fund, ~~and the~~. The Commissioner is authorized to
13 reimburse ~~such~~ a state or federal agency for ~~such~~ benefits ~~as may be~~ paid by
14 that agency upon the basis of wages received in employment subject to this
15 chapter or to receive from ~~such~~ a state or federal agency ~~such~~ amounts ~~as may~~
16 ~~be~~ paid from the Fund upon the basis of wages received in employment subject
17 to the laws of ~~such~~ the state or ~~of the~~ to federal ~~government law~~.

18 (b) The Commissioner shall participate in any arrangements for the
19 payment of compensation on the basis of combining an individual's wages and
20 employment covered under this chapter with ~~his~~ the individual's wages and
21 employment covered under the unemployment compensation laws of other

1 states ~~which~~ that are approved by the U.S. Secretary of Labor ~~of the United~~
2 ~~States~~ in consultation with the state unemployment compensation agencies as
3 reasonably calculated to ~~assure~~ ensure the prompt and full payment of
4 compensation in such a situation and ~~which~~ that include provisions for:

5 (1) applying the base period of a single state law to a claim involving
6 the combining of an individual's wages and employment covered under two or
7 more state unemployment compensation laws; and

8 (2) avoiding the duplicate use of wages and employment by reason of
9 ~~such combining~~ the combination pursuant to subdivision (1) of this subsection
10 (b).

11 (c)(1) Reimbursements paid from the Fund pursuant to this section shall be
12 deemed to be benefits for the purposes of this chapter, ~~except that no.~~

13 (2) No charge on account of said reimbursements paid pursuant to
14 subdivision (1) of this subsection (c) shall be made to an employer's
15 experience rating record under subsection 1325(a) of this ~~title~~ subchapter.

16 (3) Benefits paid from the Fund to an individual, under arrangements
17 entered into pursuant to this section, shall not be charged to an employer's
18 experience rating record under subsection 1325(a) of this ~~title~~ subchapter when
19 ~~such~~ the benefits would not have been payable to the individual but for this
20 section because ~~of lack of~~ the individual lacked wages in ~~subject~~ employment
21 necessary to qualify for benefits under section 1338 of this ~~title~~ subchapter.

1 Sec. 179. 21 V.S.A. § 1320 is amended to read:

2 § 1320. INVESTIGATIONS; GENERAL POWERS

3 (a)(1) The Commissioner is authorized to ~~make such~~ conduct
4 investigations, secure and transmit ~~such~~ information, make available ~~such~~
5 services and facilities, and exercise ~~such~~ of the other powers provided ~~herein~~
6 ~~with respect to the administration of~~ pursuant to this chapter as the
7 Commissioner deems necessary or appropriate to facilitate the administration
8 of any unemployment compensation or public employment service law, ~~and in~~
9 ~~like manner,~~

10 (2) The Commissioner is also authorized to accept and utilize
11 information, services, and facilities made available to this State by any agency
12 charged with the administration of any ~~such~~ other unemployment
13 compensation or public employment service law.

14 (3) To the extent permissible under the laws and constitution of the
15 United States, the Commissioner of Labor is authorized to enter into or
16 cooperate in arrangements ~~whereby~~ under which facilities and services
17 provided under this chapter and facilities and services provided under the
18 unemployment compensation law of any foreign government, may be utilized
19 for the taking of claims and the payment of benefits under this chapter, or
20 under a similar law of ~~such~~ the foreign government.

1 (b) On request of an agency ~~which~~ that administers an employment security
2 law of another state or of a foreign government, and ~~which~~ that has found in
3 accordance with the provisions of ~~such~~ its law that an individual is liable to
4 repay benefits received under ~~such~~ the law, the Commissioner may collect
5 from the individual the amount of ~~such~~ benefits to be refunded to ~~such~~ the
6 agency, and ~~such~~ the amounts may be collected by civil action in the name of
7 the Commissioner acting as agent for ~~such~~ the agency.

8 (c) Records, with any necessary authentication ~~thereof~~ of the records,
9 required in the prosecution of any criminal action brought by another state or
10 foreign government for misrepresentation to obtain benefits under the law of
11 this State shall be made available to the agency administering the employment
12 security law of ~~any such~~ the other state or foreign government for the purpose
13 of ~~such~~ the prosecution.

14 (d)(1) The Commissioner may begin and prosecute civil proceedings in any
15 other state to collect contributions, penalties, and interest legally due under this
16 chapter.

17 (2) The officials of other states ~~which~~ that extend a like comity to this
18 State may sue for the collection of contributions, interest, and penalties
19 imposed by those other states, in the courts of this State; ~~in~~. In any such case,
20 the Commissioner of Labor ~~of this State~~ may, through ~~his or her~~ the
21 Commissioner's legal assistant, begin and conduct the suit for the other state.

1 ~~after remuneration equal to \$10,000.00 has been paid in a calendar year to an~~
2 ~~individual by an employer with respect to employment during a calendar year,~~
3 ~~unless that part of the remuneration is subject to a tax under a federal law~~
4 ~~imposing a tax against which credit may be taken for contributions required to~~
5 ~~be paid into a state unemployment fund.~~ The term “wages” shall not include
6 that part of remuneration that, after remuneration equal to \$13,000.00 on
7 January 1, 2011, and \$16,000.00 on January 1, 2012, has been paid in a
8 calendar year to an individual by an employer with respect to employment
9 during a calendar year, unless that part of the remuneration is subject to a tax
10 under a federal law imposing a tax against which credit may be taken for
11 contributions required to be paid into a state unemployment fund. After
12 January 1, 2012, whenever the Unemployment Compensation Fund has a
13 positive balance and all advances made to the State Unemployment
14 Compensation Fund pursuant to Title XII of the Social Security Act have been
15 repaid as of June 1, the base of contribution amount shall be adjusted on
16 January 1 of the following year by the same percentage as any increase in the
17 State annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of
18 this ~~title~~ subchapter. When the unemployment contribution rate schedule
19 established by subsection 1326(e) of this ~~title~~ subchapter is reduced to schedule
20 III, the base of contribution amount shall be reduced by \$2,000.00 on January
21 1 of the following year and shall be adjusted annually thereafter on January 1

1 of the following year by the same percentage as any increase in the State
2 annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of this
3 ~~title~~ subchapter. When the unemployment contribution rate schedule
4 established by subsection 1326(e) of this ~~title~~ subchapter is reduced to schedule
5 I, the base of contribution amount shall be reduced by \$2,000.00 on January 1
6 of the following year and shall be adjusted annually thereafter on January 1 of
7 the following year by the same percentage as any increase in the State annual
8 average wage as calculated ~~by~~ pursuant to subsection 1338(g) of this ~~title~~
9 subchapter. For the purposes of this subsection:

10 (1) any employer who acquired the entire or a distinct and severable
11 portion of the organization, trade, or business of an employer shall be treated
12 as a single unit with its predecessor for the calendar year in which ~~such~~ the
13 acquisition occurs; and

14 * * *

15 (d) In lieu of contributions required of employers subject to this chapter,
16 the State of Vermont, including State hospitals but excluding any State
17 institution of higher education, shall pay to the Commissioner, for the
18 Unemployment Compensation Fund, an amount equal to the amount of
19 benefits paid, including the full amount of extended benefits paid, attributable
20 to service by individuals in the employ of the State. At the end of each
21 calendar quarter, or at the end of any other period as determined by the

1 Commissioner, the Commissioner shall bill the State for the amount of benefits
2 paid during ~~such~~ the quarter or other prescribed period that is attributable to
3 service in the employ of the State. Subdivisions (c)(3)(C) through (3)(F),
4 inclusive, and subdivisions (c)(5) and (6) of this section as they apply to
5 nonprofit organizations shall also apply to the State of Vermont, except that the
6 State shall be liable for all benefits paid, including the full amount of extended
7 benefits paid, attributable to service in the employ of the State.

8 (e) Any municipality, any State institution of higher education, and any
9 political or governmental subdivisions or instrumentalities of the State shall
10 pay contributions unless it elects to pay to the Commissioner for the
11 Unemployment Compensation Fund, an amount equal to the amount of
12 benefits paid, including the full amount of extended benefits paid, attributable
13 to service by individuals in the employ of ~~these entities~~ the entity. Subsections
14 (a) and (b) and subdivisions (c)(3)(C) through (3)(F), inclusive, and
15 subdivisions (c)(4) through (6), inclusive of this section as they apply to
16 nonprofit organizations shall also apply to the entities designated in this
17 subsection, except that these entities shall be liable for all benefits paid,
18 including the full amount of extended benefits paid, attributable to service in
19 the employ of these entities.

20 (1) Any entity designated in this subsection ~~that is, or becomes, subject~~
21 ~~to this chapter on January 1, 1978~~ may elect to become liable for payments in

1 lieu of contributions for a period of not less than one calendar year ~~beginning~~
2 ~~with January 1, 1978 provided if~~ it files with the Commissioner a written
3 notice of its election within the 30-day period immediately following that date.

4 (2) Any entity designated in this subsection ~~that becomes subject to this~~
5 ~~chapter after January 1, 1978~~ may elect to become liable for payments in lieu
6 of contributions for a period of not less than one calendar year following the
7 date on which ~~the subjectivity begins~~ it becomes subject to the provisions of
8 this chapter by filing a written notice of its election with the Commissioner not
9 later than 30 days immediately following the date of the determination of that
10 subjectivity.

11 (3) Any entity designated in this subsection that makes an election in
12 accordance with subdivisions (1) and (2) of this subsection will continue to be
13 liable for payments in lieu of contributions until it files with the Commissioner
14 a written notice terminating its election not later than 30 days prior to the
15 beginning of the calendar year for which the termination shall first be effective.

16 (4) Any entity designated in this subsection that has been paying
17 contributions under this chapter ~~for a period subsequent to January 1, 1978~~
18 may change to a reimbursable basis by filing with the Commissioner not later
19 than 30 days prior to the beginning of any calendar year a written notice of
20 election to become liable for payments in lieu of contributions. The election
21 shall not be terminable by the organization for that year and the next year.

1 another shall give the Commissioner 10 days' notice of the sale before the
2 completion of the transfer of the property.

3 (2) The employer shall file all contribution reports with the
4 Commissioner to the date of the proposed transfer of property and pay all
5 contributions, interest, and penalties due and payable ~~thereon~~. The employer
6 shall also file the detailed quarterly wage report required by section 1314a of
7 this ~~title (subsequent to June 30, 1986)~~ subchapter covering employee wages to
8 date of proposed transfer. ~~When the reports are filed the~~

9 (3)(A) The Commissioner shall furnish to the employer within 10 days
10 ~~thereafter~~ after the reports are filed a certificate showing that all reports have
11 been filed and contributions, interest, and penalties have been paid to the date
12 of the proposed transfer. If the certificate is not furnished by the
13 Commissioner within 10 days, no liability may thereafter be imposed upon the
14 purchaser.

15 (B) The employer shall present the certificate to the purchaser of the
16 property.

17 (C) The failure of the purchaser to require the certificate makes the
18 purchaser liable to the Commissioner for the unpaid contributions, interest, and
19 penalties owed by the employer in an amount not to exceed the reasonable
20 value of the assets purchased. The liability imposed upon the purchaser by this
21 subsection shall be secondary to the liability of the employer.

1 (c) Subsection (b) of this section shall not apply to sales made under any
2 ~~order of court~~ order or to any sales made by assignees for the benefit of
3 creditors, executors, administrators, receivers, or any public officer in ~~his or~~
4 ~~her~~ the officer's official capacity or by any officer of the court ~~or to any other~~
5 ~~transfer excepted under Uniform Commercial Code, 9A V.S.A. § 6-103.~~

6 (d) An employing unit ~~which~~ that has been liable otherwise than by its
7 election to pay contributions as an employer under this chapter for any
8 calendar year shall file ~~such~~ reports and pay ~~such~~ contributions for the next
9 succeeding calendar year as the Commissioner may prescribe.

10 Sec. 182. 21 V.S.A. § 1322a is amended to read:

11 § 1322a. OUT-OF-STATE OR NONRESIDENT SUBCONTRACTORS

12 (a) Any contractor, who is or becomes an employer under the provisions of
13 this chapter, who contracts with any out-of-state or nonresident subcontractor,
14 who also is or becomes an employer under the provisions of this chapter, shall:

15 (1) withhold sufficient monies on ~~said~~ the contract to guarantee that all
16 contributions, penalties, and interest are paid upon completion of ~~said~~ the
17 contract; ~~or shall~~

18 (2) require ~~of said~~ the subcontractor to secure a ~~good and sufficient~~ bond
19 guaranteeing payment of all contributions, penalties, and interest due or to
20 become due with respect to wages paid for employment on ~~said~~ the contract.

1 **(b)** Failure to comply with the provisions of this section shall render ~~said~~
2 the contractor directly liable for ~~such~~ the contributions, penalties, and interest
3 due from ~~said~~ the subcontractor and the Commissioner shall have all of the
4 remedies of collection against ~~said~~ the contractor under the provisions of this
5 chapter as though the services in question were performed directly for ~~said~~ the
6 contractor.

7 **(c)** Any ~~such~~ contractor who ~~shall become~~ becomes liable for and ~~pay~~ pays
8 contributions with respect to individuals in the employ of ~~any such a~~
9 subcontractor may recover the ~~same~~ amounts paid from ~~such~~ the subcontractor.

10 **(d)** ~~For the purpose of~~ As used in this section, the words “contractor” and
11 “subcontractor” mean and include individuals, partnerships, firms or
12 corporations, or other associations of persons engaged in the business of
13 construction, alteration, repairing, dismantling, or demolition of buildings,
14 roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants,
15 water filters, tanks and towers, airports, dams, water wells, pipelines, and every
16 other type of structure, project, development, or improvement coming within
17 the definition of real property.

1 Sec. 183. 21 V.S.A. § 1323 is amended to read:

2 § 1323. TERMINATION OF COVERAGE; AGREEMENT BY EMPLOYEE
3 TO MAKE CONTRIBUTION

4 (a) An employing unit shall cease to be an employer subject to this chapter
5 only as of the first day of January of any calendar year, if it files with the
6 Commissioner, on or before March 31 next following, a written application for
7 termination of coverage, and the Commissioner finds that ~~such the~~ employing
8 unit was not an employer during the preceding calendar year, ~~but these~~. The
9 requirements of this subsection may be waived by the Commissioner for good
10 cause.

11 (b) The Commissioner may terminate coverage of any employing unit on
12 ~~his or her~~ the Commissioner's own motion when ~~he or she~~ the Commissioner
13 finds that the employing unit has not selected coverage in accordance with
14 subdivision 1301(5)(E) of this ~~title~~ subchapter and that:

15 (1) ~~that~~ the employing unit has not been an employer for the period of
16 one year immediately preceding; ~~or~~

17 (2) ~~that~~ the person who is the employing unit is deceased; or

18 (3) ~~that~~ the employing unit has ceased to employ at least one person
19 within the State.

20 (c) Any agreement by an individual ~~in his or her employ~~ employed by an
21 employer to pay the whole or any portion of the ~~employer~~ employer's

1 contributions required by this chapter shall be void and no employer shall
2 make any deduction for ~~such~~ that purpose from the wages or salary of any
3 individual ~~in his or her employ~~ employed by the employer.

4 Sec. 184. 21 V.S.A. § 1324 is amended to read:

5 § 1324. RATE OF CONTRIBUTION

6 (a) ~~For contribution rate years beginning prior to July 1, 1987, the standard~~
7 ~~rate of contributions shall be five and four tenths percent. Each employer who~~
8 ~~has not been subject to this chapter for a sufficient period of time to have his or~~
9 ~~her rate computed under section 1326 of this title shall pay contributions at a~~
10 ~~rate, not exceeding five and four tenths percent, that is the higher of (1) one~~
11 ~~percent or (2) that percent represented by rate class 11 in applicable rate~~
12 ~~schedule determined pursuant to section 1326 of this title, in effect with respect~~
13 ~~to the calendar quarter for which contributions are payable.~~

14 (b) ~~For contribution rate years beginning July 1, 1987 and subsequent~~
15 ~~thereto:~~

16 (1) ~~the~~ The standard rate of contributions shall be five and four-tenths
17 percent;

18 (2)(b) ~~each~~ Each employer ~~who~~ that has not been subject to this chapter for
19 a sufficient period of time to have the rate computed under section 1326 of this
20 ~~title~~ subchapter shall pay contributions at the rate of one percent, except that
21 foreign corporations classified in the three-digit North American Industry

1 Classification System Code as 236, 237, or 238 shall pay contributions at a rate
2 equal to the average rate as of the most recent computation date paid by all
3 employers so classified.

4 Sec. 185. 21 V.S.A. § 1326 is amended to read:

5 § 1326. RATE BASED ON BENEFIT EXPERIENCE

6 (a)(1) The Commissioner shall for each rate year compute a benefit ratio
7 for each employer who meets the requirements of section 1327 of this ~~title~~
8 subchapter. For an employer whose record has been chargeable with benefits
9 throughout the three consecutive calendar years immediately preceding the rate
10 year for which the ratio is computed, the benefit ratio shall be the quotient
11 obtained by dividing the total benefits charged to ~~his or her~~ the employer's
12 record in ~~such~~ those three years by the total of ~~his or her~~ the employer's
13 taxable payrolls for the same three-year period; ~~for~~.

14 (2) For an employer whose record has been chargeable with benefits for
15 at least one but less than three consecutive calendar years immediately
16 preceding the rate year for which the ratio is computed, the benefit ratio shall
17 be the quotient obtained by dividing the total benefits charged to ~~his or her~~ the
18 employer's record for ~~such~~ the calendar year or years by the total of ~~his or her~~
19 the employer's taxable payrolls for the same period.

1 (3) The contribution rate of each employer, not otherwise ineligible,
2 who meets the requirements of section 1327 of this ~~title~~ subchapter, shall be
3 determined under subsections (b) through (g) of this section.

4 (b) The Commissioner shall prepare a schedule ~~on which he or she shall list~~
5 that lists all employers for whom a benefit ratio has been computed pursuant to
6 this section, in the order of their benefit ratios, beginning with the lowest such
7 ratio, and on which shall be shown with respect to each such employer:

8 (1) the amount of ~~his or her~~ the employer's benefit ratio;

9 (2) the amount of ~~his or her~~ the employer's annual taxable payroll; and

10 (3) a cumulative total consisting of the amount of ~~his or her~~ the
11 employer's annual taxable payroll plus the amount of the annual taxable
12 payrolls of all other employers preceding ~~him or her~~ the employer on the list.

13 (c) The Commissioner shall segregate employers so listed into classes in
14 accordance with the cumulative payrolls. The classes shall be determined by
15 the cumulative payroll percentage limits set forth in column B of the table
16 ~~below~~ set forth in subsection (e) of this section. Each such class shall be
17 identified by the rate class number in column A that is opposite the figures in
18 column B that represents the percentage limits of each class. In the event an
19 employer's taxable payroll falls in more than one rate class, ~~he or she~~ the
20 employer shall be assigned to the lower numbered rate class except that no

1 employer shall be assigned to a higher rate class than is assigned any other
2 employer with the same benefit ratio.

3 * * *

4 (f) The contribution rate to become effective ~~July 1, 1977 and thereafter~~ on
5 July 1 of each year shall be the rate determined for that class into which the
6 given employer is placed by application of this section.

7 (g) If, subsequent to the assignment of rates of contribution for any rate
8 year, the benefit ratio of any employer is recomputed and changed, ~~such the~~
9 employer shall be placed in that position on the list that ~~he or she~~ the employer
10 would have occupied had ~~his or her~~ the employer's corrected benefit ratio been
11 shown on the list, but ~~such the~~ altered position on the list shall not affect the
12 position of any other employer.

13 * * *

14 Sec. 186. 21 V.S.A. § 1327 is amended to read:

15 § 1327. RATE_; REDUCTION_; CONDITIONS

16 No employer's contribution rate shall be reduced from five and four-tenths
17 percent for any rate year, except as provided in section 1324 of this ~~title~~
18 subchapter, unless and until ~~his or her~~ the employer's experience-rating record
19 has been chargeable with benefits throughout the three consecutive calendar
20 years immediately preceding the rate year with respect to which ~~said the~~ the rate
21 shall be reduced and contributions were payable by ~~him or her~~ the employer

1 with respect to ~~such~~ the three calendar years; ~~provided that an.~~ An employer
2 who has not been subject to the law for a period of time sufficient to meet this
3 requirement may qualify for a reduced rate if ~~his or her~~ the employer's record
4 has been chargeable with benefits throughout a lesser number of consecutive
5 calendar years but in no event less than one calendar year immediately
6 preceding the rate year with respect to which ~~said~~ the rate shall be reduced and
7 contributions were payable by ~~him or her~~ the employer with respect to ~~such~~ the
8 period.

9 Sec. 187. 21 V.S.A. § 1329 is amended to read:

10 § 1329. COLLECTION OF UNPAID CONTRIBUTIONS; SUIT

11 * * *

12 (b) In addition to other remedies and proceedings authorized by this
13 chapter, a civil action in the name of the Commissioner may be maintained and
14 the remedies available in ~~such~~ a civil action, including attachment and trustee
15 process, shall be available to the Commissioner for the collection of
16 contributions, interest, and penalties under this chapter.

17 (c) An employer failing, for any two calendar quarters during the preceding
18 20 calendar quarters, to make return or to pay contributions required under this
19 chapter, and who has not ceased to be an employer as provided in section 1323
20 of this ~~title~~ subchapter, may be required by the Commissioner to furnish a good
21 and sufficient bond conditioned upon the payment of ~~such~~ the delinquent

1 contributions, together with interest and penalty from the due date ~~thereof~~ of
2 the delinquent contributions, and containing ~~such any~~ terms ~~as may be~~
3 ~~determined~~ required by the Commissioner. An employer who fails to furnish
4 ~~such a~~ bond when required by the Commissioner may be enjoined from
5 employing individuals in employment, as defined by this chapter, upon
6 complaint of the Commissioner in the Superior Court of any county in which
7 the employer is doing business, until the contributions due, together with
8 interest and penalty, are paid to the Commissioner.

9 (d) In the event of an employer's dissolution, adjudicated insolvency,
10 adjudicated bankruptcy, receivership, assignment for benefit of creditors, or
11 judicially confirmed extension proposals or composition, claims ~~or~~ for
12 contributions due under this chapter and for interest ~~thereon then or thereafter~~
13 ~~due under this chapter~~ on the unpaid contributions shall be a lien upon ~~such the~~ the
14 employer's assets and shall have priority over all other claims except expenses
15 of administration, taxes, wage claims, and prior liens valid under the laws of
16 this State.

17 * * *

18 Sec. 188. 21 V.S.A. § 1330 is amended to read:

19 § 1330. ASSESSMENT PROVIDED

20 When any employer fails to pay any contributions or payments required
21 under this chapter, the Commissioner shall make an assessment of

1 contributions against ~~such~~ the employer together with applicable interest and
2 penalty ~~thereon~~. After making the assessment, ~~due notice shall be given~~
3 ~~thereof~~, the Commissioner shall give notice to the employer by ordinary or
4 certified mail, ~~to the employer~~ and the assessment shall be final unless the
5 employer petitions for a hearing on ~~such~~ the assessment ~~within the time~~
6 ~~hereinafter specified~~ pursuant to section 1331 of this subchapter.

7 Sec. 189. 21 V.S.A. § 1331 is amended to read:

8 § 1331. NOTICE; HEARING

9 (a) Any employer against whom an assessment is made may, within 30
10 days after the date thereof of the assessment, file with the Commissioner a
11 petition for a hearing before a referee appointed for ~~such~~ that purpose, ~~which~~.
12 The petition shall set forth specifically and in detail the grounds upon which it
13 is claimed the assessment is erroneous.

14 (b) Hearing or hearings on the assessment shall be held by the referee at
15 ~~such~~ times and places ~~as may be provided by~~ the rules ~~and regulations~~ of the
16 Board and due notice of the time and place of ~~such~~ the hearing or hearings
17 shall be given by ordinary or certified mail to the petitioner.

18 (c) After the hearing ~~as above provided~~, the petitioner shall be promptly
19 notified by ordinary or certified mail of the findings of fact, conclusions, and
20 decision of the referee.

1 (d) The decision of the referee shall be final unless the employer or
2 Commissioner makes application for review ~~thereof~~ of the decision by the
3 Board within 30 days after the date thereof of the decision or unless the Board,
4 on its own motion within ~~said~~ the same period, initiates a review ~~thereof~~ of the
5 decision.

6 Sec. 190. 21 V.S.A. § 1332 is amended to read:

7 § 1332. REVIEW BY BOARD; SUPREME COURT APPEAL

8 (a) The Board, upon an application filed or on its own motion, within the
9 time specified in section 1331 of this subchapter, shall, on notice to interested
10 parties, review the decision of the referee.

11 (b) Before rendering its decision, the Board may order the taking of
12 additional evidence by the referee or, in its discretion, the Board may hear
13 additional evidence to be made a part of the record in the case.

14 (c) Upon the basis of evidence previously submitted in the case and ~~such~~
15 any additional evidence ~~as~~ the Board may take or direct to be taken, the Board
16 may affirm, modify, or reverse the findings and conclusions of the referee and
17 shall render its decision ~~thereon~~.

18 (d) The parties shall be promptly notified by ordinary or certified mail of
19 the findings of fact, conclusions, and decision of the Board. The decision of
20 the Board shall be final unless ~~an appeal is taken therefrom~~ it is appealed to the
21 Supreme Court.

1 Sec. 191. 21 V.S.A. § 1334 is amended to read:

2 § 1334. JUDGMENT; EXCEPTION

3 * * *

4 (b) The Commissioner may file in the Superior Court for the county
5 ~~wherein~~ in which the employer resides, or the Washington Superior Court if
6 the employer is a nonresident, a certified copy of an assessment for
7 contributions from which an appeal has not been taken within the time allowed
8 ~~therefor, whereupon such.~~ The court, after due notice to all interested parties
9 ~~interested,~~ shall summarily render a final judgment in accordance ~~therewith~~
10 with the assessment. ~~Such~~ The judgment shall have the same effect, and all
11 proceedings in relation ~~thereto~~ to the judgement shall ~~thereafter~~ be the same, as
12 though ~~such~~ the judgment had been rendered in an action duly heard and
13 determined by ~~such~~ the court, provided, however, there shall not be an appeal
14 ~~therefrom~~ from the judgment except on matters of law heard and determined in
15 ~~such~~ the court.

16 (c) When an assessment has been made under section 1330 of this ~~title~~
17 subchapter from which a timely appeal has not been taken or when any appeal
18 taken has been finally determined under sections 1331 and 1332 of this ~~title~~
19 subchapter, the Commissioner may, as an additional or alternate remedy to
20 other remedies and proceedings authorized by this chapter, issue a warrant
21 directed to the sheriff of any county of this State. The warrant shall command

1 the sheriff to levy upon and sell the real and personal property of any person
2 liable for unpaid contributions, payments, interest, penalties, and costs due
3 under this chapter, for payment of the amount due and the cost of executing the
4 warrant, and to return the warrant to the Commissioner and to pay ~~him or her~~
5 the Commissioner the money collected by virtue of the warrant within 60 days
6 after receipt of the warrant. The sheriff shall within five days after receipt of
7 the warrant file with the county clerk a copy of the warrant, and the clerk shall
8 then enter in the judgment docket the name of the person liable, the amount of
9 the contributions, payments, interest, penalties, and costs for which the warrant
10 is issued and the date when the copy is filed. The levy and sale shall be
11 effected in the manner prescribed for levy of execution. If a warrant is
12 returned not fully satisfied, the Commissioner may ~~from time to time~~ issue new
13 warrants for the balance due in accordance with the procedure ~~described~~
14 hereinabove set forth in this subsection.

15 Sec. 192. 21 V.S.A. § 1336 is amended to read:

16 § 1336. LIEN; FEE; FORECLOSURE

17 (a)(1) All contributions, interest, penalties, and costs thereon due and
18 payable by an employer under the provisions of this chapter shall be a lien
19 upon the real estate of ~~such~~ the employer from the date a lien for ~~such~~ the
20 contributions, interest, penalties, and costs is entered in the land records of the
21 town in which is located real estate of the employer.

1 (2) A lien for ~~such~~ contributions, penalties, interest, and costs shall be
2 created upon the personal property or franchises of the employer if ~~such~~ the
3 lien is recorded in the town clerk's office of the town in which the employer
4 resides; ~~and, if.~~ If the employer is a corporation or a co-partnership, then ~~such~~
5 the lien on the franchises or personal property of ~~such~~ the employer shall be
6 recorded in the town clerk's office in the town in which ~~such~~ the employer has
7 its principal place of business in the State.

8 (3) Liens created under this section shall show the name of the
9 employer, and the amount of contributions; and other indebtedness due to the
10 Commissioner of Labor.

11 (4) A lien created under this section shall be a lien prior to all other liens
12 except liens created for taxes due the State of Vermont, the federal
13 government, or a town or municipality in this State and wage claims. ~~Such~~ A
14 lien created under this section shall not be a prior lien to liens on record prior
15 to the recording of the lien provided for ~~herein~~ by this section.

16 (b) There shall be paid to the town clerk by the Commissioner for
17 recording each ~~such~~ lien, and the discharge of a recorded lien, the fees
18 prescribed in 32 V.S.A. § 1671. The fees shall be added to the amount due
19 from the employer under the lien.

1 (c) An employer upon whose property a lien is created as provided ~~herein~~
2 in this section shall be given ~~due~~ notice ~~thereof~~ of the lien by ordinary or
3 certified mail within five days after the creation of ~~such~~ the lien.

4 (d) When the contributions, interest, penalties, and costs, secured by a lien
5 in accordance with this section, remains unpaid for 90 days after the creation
6 of ~~such~~ the lien, ~~such~~ the lien on personal property may be foreclosed in the
7 same manner as provided by law for the foreclosure of mortgages on personal
8 property; and ~~such~~ a lien on real property may be foreclosed in the same
9 manner as provided by law for the foreclosure of mortgages on real property.
10 The ~~foregoing~~ remedy provided by this section shall be in addition, or as an
11 alternative, to the remedy provided by section 1329 of this ~~title~~, subchapter for
12 the collection of unpaid contributions.

13 (e) In the event the employer files a written protest to the creation of the
14 lien within 30 days after the date ~~thereof~~ the lien is created, assessment
15 proceedings as provided in sections 1329–1334 of this ~~title~~ subchapter shall be
16 had.

17 (f) If final judgment is in favor of the employer, the property of the
18 employer shall be discharged from the lien. If final judgment is against the
19 employer, the property under the lien shall be held to respond to the judgment
20 rendered and may be taken in execution thereon unless the employer otherwise
21 satisfies the execution and charges.

1 (g) The Commissioner shall issue and record a certificate of release of the
2 lien if:

3 * * *

4 (2) There is furnished to the Commissioner a bond with surety approved
5 by the Commissioner in a penal sum sufficient to equal the amount of
6 contributions due, together with interest, penalty, and costs, ~~said.~~ The bond to
7 shall be conditioned upon the payment of any judgment rendered in
8 proceedings regularly instituted by the Commissioner to enforce collection
9 ~~thereof~~ of the amount due.

10 * * *

11 Sec. 193. 21 V.S.A. § 1337 is amended to read:

12 § 1337. ADJUSTMENTS AND REFUNDS

13 (a) If not later than three years after the date on which any contributions or
14 interest thereon became due, an employer who has paid ~~such~~ the contributions
15 or interest thereon ~~shall make application~~ applies for an adjustment ~~thereof~~ of
16 the contributions or interest in connection with subsequent contribution
17 payments, or for a refund ~~thereof~~ of the amounts paid because ~~such~~ an
18 adjustment cannot be made, and the Commissioner ~~shall determine~~ determines
19 that ~~such~~ the payments or any portion ~~thereof~~ of the payments were
20 erroneously collected, the Commissioner shall allow ~~such~~ the employer to
21 make an adjustment ~~thereof~~ for the amounts erroneously collected, without

1 interest, in connection with subsequent payments by ~~him or her~~ by the
2 employer, or if ~~such~~ the adjustment cannot be made, shall refund ~~said~~ the
3 amount without interest from the ~~fund~~ Fund.

4 (b) ~~For like cause and within the same period,~~ The Commissioner may
5 make an adjustment or refund ~~may be so made~~ on the Commissioner's own
6 initiative for the same reasons and within the time period set forth in
7 subsection (a) of this section.

8 Sec. 194. 21 V.S.A. § 1337a is amended to read:

9 § 1337a. ADMINISTRATIVE DETERMINATION; HEARING ON

10 (a) Any employing unit aggrieved by an administrative determination
11 affecting its rate of contributions, its rights to adjustment or refund on
12 contributions paid, its coverage as an employer, or its termination of coverage
13 may, within 30 days after the date thereof of the determination, file with the
14 Commissioner a petition for a hearing ~~thereon, which~~ on the determination.
15 The petition shall set forth specifically and in detail the grounds upon which it
16 is claimed the administrative determination is erroneous. Hearing or hearings
17 on ~~such~~ the petition shall be held by a referee appointed for ~~such~~ that purpose,
18 at ~~such~~ times and places as ~~may be~~ provided by rules of the Board, ~~and due~~
19 ~~notice~~. Notice of the time and place of ~~such~~ the hearing or hearings shall be
20 given by ordinary or certified mail to the petitioner.

1 (b) After a hearing ~~as provided in~~ pursuant to subsection (a) of this section,
2 the petitioner shall be promptly notified by ordinary or certified mail of the
3 findings of fact, conclusions, and decision of the referee. The decision of the
4 referee shall be final unless the employing unit or Commissioner makes
5 application for review ~~thereof~~ of the decision by the Board within 30 days after
6 the date thereof of the decision or unless the Board, on its own motion within
7 ~~said~~ the same period, initiates a review ~~thereof~~ of the decision.

8 Sec. 195. 21 V.S.A. § 1338 is amended to read:

9 § 1338. WEEKLY BENEFITS

10 (a) Each eligible individual who is totally unemployed in any week shall be
11 paid with respect to ~~such a~~ the week a weekly benefit amount determined as
12 provided in this section.

13 * * *

14 (d)(1) To qualify for benefits an individual must:

15 (A) have been paid in one quarter of ~~his or her~~ the individual's base
16 period wages in employment with an employer or employers subject to this
17 chapter that equal at least \$1,000.00; ~~and~~

18 (B) have been paid in ~~his or her~~ the individual's base period
19 additional wages in employment with an employer or employers subject to this
20 chapter that equal or exceed 40 percent of the total wages paid in the highest
21 quarter of ~~his or her~~ the individual's base period; and

1 Sec. 196. 21 V.S.A. § 1343 is amended to read:

2 § 1343. CONDITIONS

3 (a) An unemployed individual shall be eligible to receive benefits with
4 respect to any week only if the Commissioner finds that the individual has met
5 all of the following requirements ~~are met and the individual:~~

6 (1) Has registered for work at and thereafter has continued to report at
7 an employment office in accordance with ~~regulations prescribed~~ rules adopted
8 by the Board.

9 * * *

10 (3)(A) Is able to work, and is available for work; ~~provided, that in.~~ In
11 determining the availability of any individual for work during any week, the
12 Commissioner may require, in addition to registration at any employment
13 office, that the individual participate in reemployment services; or ~~at any time~~
14 make ~~such~~ other efforts to secure suitable work as the Commissioner ~~may~~
15 reasonably ~~direct~~ requires under the circumstances and to supply proper
16 evidence ~~thereof; and shall, if~~ of the efforts to secure work.

17 (B) If, without good cause, the individual fails ~~without good cause to~~
18 ~~do so to comply with the requirements of subdivision (A) of this subdivision~~
19 (a)(3), the individual shall be ineligible for each week such the failure
20 ~~continues; provided further that no.~~ A claimant shall be considered not be
21 ineligible in any week of unemployment for failure to comply with the

1 provisions of this subdivision ~~(a)(3)~~ if ~~such~~ the failure is due to an illness or
2 disability that occurs during a week for which the individual was entitled to
3 waiting period credit or benefit payments and after the claimant has registered
4 for work, and filed a claim for benefits and ~~during a week for which the~~
5 ~~individual was entitled to waiting period credit or benefit payments~~, and no
6 work that would have been considered suitable but for the illness or disability
7 has been offered after the beginning of ~~such~~ the illness or disability.

8 * * *

9 (6) Participates in reemployment services, such as job search assistance
10 services, if ~~he or she~~ the individual has been determined to be likely to exhaust
11 regular benefits and needs reemployment services pursuant to a profiling
12 system established by the Commissioner.

13 (7) Is not self-employed or engaged in self-employment to the extent
14 that it makes ~~him or her~~ the individual unavailable for work.

15 (8) Has given written notice of resignation to ~~his or her~~ the individual's
16 employer and the employer subsequently made the termination of employment
17 effective prior to the ~~date of termination~~ as separation date given in the notice.
18 Provided that the claimant could not establish good cause for leaving work
19 pursuant to subdivision 1344(a)(2)(A) of this ~~title~~ subchapter and was not
20 discharged for misconduct as provided in subdivision 1344(a)(1)(A) of this
21 subchapter or for gross misconduct as provided in subdivision 1344(a)(2)(B) of

1 this subchapter, in no case shall unemployment benefits awarded under this
2 subdivision exceed four weeks or extend beyond the date of separation as
3 provided in the employee's notice to the employer.

4 (b) Notwithstanding any other provisions of this chapter, any otherwise
5 eligible claimant regularly attending a training course or program approved for
6 ~~him or her~~ the claimant by the Commissioner shall be deemed to be available
7 for work and while attending the course and making satisfactory progress in
8 the training shall not be denied benefits solely because of ~~his or her~~ attendance
9 at the course or because of ~~his or her~~ the claimant's refusal of an offer of
10 suitable work. Benefits paid to an eligible claimant regularly attending a
11 training course or program approved pursuant to this subsection for any
12 unemployment following ~~his or her~~ the claimant's refusal of an offer of
13 suitable work, shall not be charged against the experience rating record of any
14 employer, but shall be charged to the Fund.

15 (c) ~~After March 31, 1984 benefits~~ Benefits are payable on the basis of
16 service in employment as defined in subdivisions 1301(6)(A)(ix) and (x) of
17 ~~this title~~ this subchapter, in the same amount, on the same terms, and subject to the
18 same conditions as benefits payable on the basis of other service subject to this
19 chapter, except that:

20 (1) With respect to services performed in an instructional, research, or
21 principal administrative capacity for an educational institution, benefits shall

1 not be payable on the basis of such services for any week of unemployment
2 commencing during the period between two successive academic years or
3 terms (or, when an agreement provides instead for a similar period between
4 two regular but not successive terms, during such period) or during a period of
5 paid sabbatical leave provided for in the individual's contract, to any
6 individual if ~~such~~ the individual performs such services in the first of ~~such~~ the
7 academic years or terms and if there is a contract or reasonable assurance that
8 ~~such~~ the individual will perform services in any such capacity for any
9 educational institution in the second of ~~such~~ the academic years or terms.

10 (2) With respect to services performed in any other capacity for an
11 educational institution, benefits shall not be payable on the basis of such
12 services to any individual for any week of unemployment that commences
13 during a period between two successive academic years or terms if ~~such~~ the
14 individual performs such services in the first of ~~such~~ the academic years or
15 terms and there is a reasonable assurance that ~~such~~ the individual will perform
16 such services for any educational institution in the second of ~~such~~ the academic
17 years or terms, except that if benefits are denied to any individual under this
18 subdivision and ~~such~~ the individual was not offered an opportunity to perform
19 such services for the educational institution for the second of ~~such~~ the
20 academic years or terms, ~~such~~ the individual shall be entitled to a retroactive
21 payment of the benefits for each week for which the individual filed a timely

1 claim for benefits and for which benefits were denied solely by reason of this
2 subdivision.

3 (3) With respect to any services described in subdivision (1) or (2) of
4 this subsection, benefits shall not be payable on the basis of services in any
5 such capacities to any individual for any week that commences during an
6 established and customary vacation period or holiday recess if ~~such~~ the
7 individual performs such services in the period immediately before ~~such~~ the
8 vacation period or holiday recess, and there is a reasonable assurance that ~~such~~
9 the individual will perform such services in the period immediately following
10 ~~such~~ the vacation period or holiday recess.

11 * * *

12 (d) Notwithstanding any other provision of this chapter, any otherwise
13 eligible claimant who was separated from employment due to an accident or
14 injury resulting in a temporary total disability for which the claimant received
15 workers' compensation benefits under chapter 9 of this title shall be entitled to
16 receive, after the termination of the period of temporary total disability,
17 benefits that would have been available at the time of separation from
18 employment. Payment of benefits for any week under this section shall be
19 made only if, at the time the claimant files the initial claim, ~~he or she~~ the
20 claimant was not monetarily eligible for benefits under subsection 1338(d) of

1 this ~~title~~ subchapter and the claim is filed within six months after the
2 termination of the period of temporary total disability.

3 (e) ~~After December 31, 1977, benefits~~ Benefits shall not be paid to any
4 individual on the basis of any services, substantially all of which consist of
5 participating in sports or athletic events or training or preparing to so
6 participate, for any week that commences during the period between two
7 successive sport seasons, or similar periods, if ~~such~~ the individual performed
8 such services in the first of ~~such~~ the seasons, or similar periods, and there is a
9 reasonable assurance that ~~such~~ the individual will perform such services in the
10 later of ~~such~~ the seasons, or similar periods.

11 (f)(1) ~~After December 31, 1977, benefits~~ Benefits shall not be payable on
12 the basis of services performed by an alien unless ~~such~~ the alien is an
13 individual who was lawfully admitted for permanent residence at the time the
14 services were performed, was lawfully present for purposes of performing the
15 services, or was permanently residing in the United States under color of law at
16 the time the services were performed, including an alien who was lawfully
17 present in the United States as a result of the application of the provisions of
18 ~~section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act~~ 8
19 U.S.C. § 1182(d)(5). Provided, that any modifications to the provisions of
20 ~~section 26 U.S.C. § 3304(a)(14) of the Federal Unemployment Tax Act~~ as
21 provided by ~~Public Law~~ Pub. L. No. 94-566 that specify other conditions or

1 other effective date than stated ~~herein~~ in this section for the denial of benefits
2 based on services performed by aliens and which modifications are required to
3 be implemented under ~~State~~ state law as a condition for full tax credit against
4 the tax imposed by the Federal Unemployment Tax Act, shall be deemed
5 applicable under the provisions of this section.

6 * * *

7 Sec. 197. 21 V.S.A. § 1347 is amended to read:

8 § 1347. NONDISCLOSURE OR MISREPRESENTATION

9 (a) Any person who fails, without good cause, to make reasonable ~~effort~~
10 efforts to secure suitable work when directed to do so by the employment
11 office or the Commissioner and has received any amount as benefits under this
12 chapter with respect to weeks for which the person is determined to be
13 ineligible ~~for such~~ because of the failure, and any person who by nondisclosure
14 or misrepresentation by ~~him or her~~ the person, or by another, of a material fact
15 (irrespective of whether ~~such~~ the nondisclosure or misrepresentation was
16 known or fraudulent) has received any amount as benefits under this chapter
17 while any conditions for the receipt of benefits imposed by this chapter were
18 not fulfilled in ~~his or her~~ the person's case or while ~~he or she~~ the person was
19 disqualified from receiving benefits, shall be liable for ~~such~~ the amount.
20 Notice of determination in such cases shall specify that the person is liable to
21 repay to the Fund the amount of overpaid benefits, the basis of the

1 overpayment, and the week or weeks for which ~~such~~ the benefits were paid.

2 The determination shall be made within three years ~~from~~ after the date of ~~such~~
3 the overpayment.

4 (b) Any person who receives remuneration described in subdivision
5 1344(a)(5) of this ~~title~~ subchapter that is allocable in whole or in part to prior
6 weeks during which ~~he or she~~ the person received any amounts as benefits
7 under this chapter shall be liable for all such amounts of benefits or those
8 portions of ~~such~~ the amounts equal to the portions of ~~such~~ the remuneration
9 properly allocable to the weeks in question. Notice of determination in such
10 cases shall specify that the person is liable to repay to the Fund the amount of
11 overpaid benefits, the basis of the overpayment, and the week or weeks for
12 which ~~such~~ the benefits were paid. The determination shall be made within
13 three years ~~from~~ after the date of ~~such~~ the overpayment or within one year
14 ~~from~~ after the date of receipt of the remuneration, whichever period is longer.

15 (c) The person liable under this section shall repay ~~such~~ the amount to the
16 Commissioner for the Fund. In addition to the repayment, if the Commissioner
17 finds that a person intentionally misrepresented or failed to disclose a material
18 fact with respect to ~~his or her~~ the person's claim for benefits, the person shall
19 pay an additional penalty of 15 percent of the amount of the overpaid benefits.
20 Any additional penalty amount collected shall be deposited in the Fund. ~~Such~~

1 Sec. 198. 21 V.S.A. § 1348 is amended to read:

2 § 1348. PROCEDURE

3 (a)(1) An authorized representative of the Commissioner shall ~~pass upon~~
4 review each claim for benefits as provided in this chapter and shall, after ~~such~~
5 filing review of the claim, promptly award ~~such any~~ benefits ~~as shall be found~~
6 that are determined to be payable under the provisions of this chapter. Prompt
7 notice in writing of the determination of ~~such the~~ representative and reasons
8 ~~therefor in respect to such claim~~ for it shall be given to the claimant, ~~his or her~~
9 the claimant's last employer, all other interested parties, and the
10 Commissioner.

11 (2) Any interested party may, within 30 days after notice ~~thereof of the~~
12 determination, file an appeal from the determination with an appeals referee
13 employed by the Commissioner. ~~Such~~ The appeal shall, ~~after notice to the~~
14 ~~claimant, his or her last employer, and all other interested parties~~, be heard
15 within 30 days after it is filed at a place as convenient to the parties as, in the
16 judgment of the referee, is practical, ~~within 30 days after such appeal is filed~~
17 ~~with the referee; after~~. Notice of the hearing shall be provided to the claimant,
18 the claimant's last employer, and all other interested parties. After the hearing,
19 the determination shall be sustained, modified, or set aside by the referee as
20 may be warranted. Prompt notice in writing of the decision of the referee and

1 the reasons ~~therefor~~ for it shall be given to the claimant, the claimant's last
2 employer, and all other interested parties.

3 (b) The authorized representative of the Commissioner may, for good
4 cause, at any time within one year after date of the original determination,
5 reconsider an award of benefits or the denial of a claim ~~therefor~~ for benefits,
6 and may issue a redetermination ~~which that~~ that may award, terminate, continue,
7 increase, or decrease ~~such the~~ benefits. ~~Such The~~ The redetermination shall not
8 affect any benefits paid before the date ~~thereof~~ of the determination under
9 authority of the prior determination in the absence of nondisclosure or
10 misrepresentation of a material fact. Prompt notice in writing of ~~such the~~ the
11 redetermination and the reasons ~~therefor~~ for it shall be given to the claimant,
12 ~~his or her~~ the claimant's last employer, and all other interested parties ~~any of~~
13 ~~whom~~. All parties shall have the same right to appeal and the same procedure
14 shall be followed as provided for in case of appeal from the original
15 determination.

16 Sec. 199. 21 V.S.A. § 1349 is amended to read:

17 § 1349. APPEALS TO BOARD; SUPREME COURT APPEAL

18 (a) Within 30 days after the date thereof of the referee's decision pursuant
19 to section 1348 of this chapter, an interested party may appeal from the
20 decision of the referee to the Board, by filing ~~a written request therefor~~ an
21 appeal in the manner prescribed by ~~regulations~~ the rules of the Board.

1 (b) The appeal shall be heard by the Board within a reasonable time after
2 the appeal is filed and after notice to the claimant and ~~his or her~~ the claimant's
3 last employer, ~~within a reasonable time after notice of the appeal is filed, and~~
4 ~~the~~.

5 (c) The Board may affirm, modify, or reverse the decision of the referee
6 solely on the basis of evidence in the record transferred to it by the referee, or
7 upon the basis of evidence in the record and ~~such~~ any additional evidence ~~as it~~
8 ~~may direct~~ the Board directs to be taken.

9 (d) Upon motion made by the Commissioner, ~~a review may be initiated by~~
10 the Board ~~of~~ may review a decision of the referee or a benefit determination.

11 (e) The Board shall make its findings of fact and conclusions ~~thereon~~.
12 Prompt notice of the findings of fact, ruling of law, conclusions, and decision
13 of the Board shall be given ~~as hereinabove provided~~ to the interested parties.

14 (f) The decision shall be final unless an appeal to the Supreme Court is
15 taken. Testimony given at any hearing upon a disputed claim shall be
16 recorded, but the record need not be transcribed unless ordered.

17 Sec. 200. 21 V.S.A. § 1351 is amended to read:

18 § 1351. PROCEDURE

19 The manner in which disputed claims shall be presented and the conduct of
20 hearings before the Commissioner, a referee, and the Board shall be governed
21 by ~~suitable rules and regulations established~~ adopted by the Board. The

1 Commissioner, the referee, and the Board shall not be bound by common law
2 or statutory rules of evidence or by technical or formal rules of procedure
3 except as provided in this chapter, but may conduct a hearing or trial in such
4 manner as to ascertain the substantial rights of the parties.

5 Sec. 201. 21 V.S.A. § 1357 is amended to read:

6 § 1357. NOTICES; FORM AND SERVICE

7 Notices required under the provisions of this chapter, unless otherwise
8 provided ~~herein~~ by the provisions of this chapter or by rules ~~of court~~
9 ~~promulgated~~ adopted by the Supreme Court, shall be deemed sufficient if
10 given in writing and delivered to the person entitled ~~thereto~~ to it by an agent of
11 the Commissioner, or sent by ordinary or certified mail to the last address of
12 the person appearing ~~upon~~ in the records of the Commissioner. The manner of
13 service shall be certified by the agent of the Commissioner making the service.
14 Regardless of the manner of service and unless otherwise provided, appeal
15 periods shall commence to run from the date of the determination or decision
16 rendered. ~~In the event that~~ If a person to whom a notice has been sent files
17 with the Commissioner within 60 days ~~from~~ after the date of ~~said~~ the notice a
18 sworn statement to the effect that the notice was not received, or if the
19 Commissioner is satisfied that the addressee did not receive the notice, a new
20 notice shall be sent to that person and the appeal period shall commence to run
21 from the date on which the new notice is sent.

1 Sec. 202. 21 V.S.A. § 1358 is amended to read:

2 § 1358. UNEMPLOYMENT COMPENSATION TRUST FUND;

3 ESTABLISHMENT AND CONTROL

4 (a) There is hereby established as a special fund, to The Unemployment
5 Compensation Trust Fund is established. The Fund shall be kept separate and
6 apart from all other public monies or funds of this State, ~~an Unemployment~~
7 ~~Compensation Fund, which~~ and shall be administered by the Commissioner
8 exclusively for the purposes of this chapter.

9 (b) This The Fund shall consist of:

10 (1) all contributions collected under this chapter;

11 (2) interest earned upon any monies in the Fund;

12 (3) any property or securities acquired through the use of monies
13 belonging to the Fund;

14 (4) all earnings of ~~such~~ the property or securities;

15 (5) all money credited to this State's account in the Unemployment
16 Trust Fund pursuant to ~~section 903 of the Social Security Act as amended~~
17 42 U.S.C. § 1103; and

18 (6) all other monies received for the Fund from any other source.

19 (c) All monies in the Fund shall be mingled and undivided.

20 Sec. 203. 21 V.S.A. § 1359 is amended to read:

21 § 1359. ADMINISTRATION OF UNEMPLOYMENT COMPENSATION

1 TRUST FUND

2 (a) The Fund shall be administered in trust and used solely to pay benefits
3 and refunds upon vouchers drawn on the Fund by the Commissioner pursuant
4 to this chapter and to such rules as the Board is authorized to adopt, except that
5 money credited to this State's account under ~~Section 903 of the Social Security~~
6 ~~Act, as amended,~~ 42 U.S.C. § 1103 shall be used exclusively as provided in
7 subsection ~~(b)~~(d) of this section.

8 (b) There shall be maintained within the Fund three separate fund accounts:

9 (1) a clearing account;

10 (2) an Unemployment Trust Fund account; and

11 (3) a benefit account.

12 (c) All monies payable to the Fund ~~upon receipt thereof~~ shall be
13 immediately deposited in the clearing account upon receipt, and, after
14 clearance ~~thereof~~, shall, except that the monies may be expended for the
15 payment of refunds under this chapter, be deposited immediately with the U.S.
16 Secretary of the Treasury to the credit of the Unemployment Trust Fund
17 account of the State of Vermont in the Unemployment Trust Fund established
18 and maintained pursuant to ~~the act of Congress designated as the Social~~
19 Security Act, as amended. The Commissioner shall requisition from the
20 Vermont Unemployment Trust Fund account ~~such amounts from time to time~~
21 as that are necessary for and to be used solely in the payment of benefits and

1 refunds under this chapter. The requisitioned sums shall be deposited in the
2 benefit account. Any monies so withdrawn shall not be used for expenses of
3 administration or any purpose other than the payment of benefits and refunds
4 under this chapter. Requirements with respect to specific appropriation or
5 other formal release by State officers of monies belonging to the State shall not
6 be applicable to withdrawals from the Fund.

7 ~~(b)(d)~~ Money credited to the account of this State in the Unemployment
8 Trust Fund by the U.S. Secretary of the Treasury ~~of the United States of~~
9 ~~America under section 903 of the Social Security Act, as amended:~~

10 (1) ~~may~~ May not be requisitioned from this State's account or used
11 except for the payment of benefits and for the payment of expenses incurred
12 for the administration of this chapter. ~~Such~~ The money may be requisitioned
13 under subsection (a) of this section for the payment of benefits. That money
14 may also be requisitioned and used for the payment of expenses incurred for
15 the administration of this chapter but only under a specific appropriation by the
16 ~~Legislature~~ General Assembly and only if the expenses are incurred and the
17 money is requisitioned after the enactment of an appropriation law ~~which~~ that:

18 (A) specifies the purpose for which the money is appropriated and
19 the amount appropriated ~~therefor~~ for that purpose;

1 (B) limits the period within which the money may be obligated to a
2 period ending not more than two years after the date of the enactment of the
3 appropriation law; and

4 (C) limits the amount ~~which~~ that may be obligated during any 12-
5 month period beginning on July 1 and ending on the next June 30, ~~including~~
6 ~~the 12-month period which began on July 1, 1968 and ends on June 30, 1969,~~
7 to an amount ~~which~~ that does not exceed the amount by which:

8 (i) the aggregate of the amounts credited to the account of this
9 State under ~~Section 903 of the Social Security Act, as amended,~~ 42 U.S.C.
10 § 1103 during the same 12-month period and the 14 preceding 12-month
11 periods, exceeds;

12 (ii) the aggregate of the amount obligated for administration and
13 paid out for benefits and charged against the amounts credited to the account of
14 this State during those 15 12-month periods.

15 (2) ~~which~~ That is obligated for administration or paid out for benefits
16 shall be charged against equivalent amounts ~~which~~ that were first credited and
17 ~~which~~ that are not already so charged; except that no amount obligated for
18 administration during a 12-month period specified ~~herein~~ in this section may
19 be charged against any amount credited during such a 12-month period earlier
20 than the 14th preceding such period. Amounts credited to this State's account
21 in the Unemployment Trust Fund under ~~Section 903 of the Social Security Act,~~

1 as amended, which has 42 U.S.C. § 1103 that have been appropriated for
2 expenses of administration shall be excluded from the Unemployment
3 Compensation Trust Fund balance for the purposes of section 1326 of this title.

4 ~~(e)~~(e) Money appropriated as provided ~~herein~~ in this section for the
5 payment of expenses of administration shall be requisitioned as needed for the
6 payment of obligations incurred under the appropriation and, upon requisition,
7 shall be deposited in the Unemployment Compensation Administration Fund
8 from which those payments shall be made. Money so deposited shall, until
9 expended, remain a part of the Unemployment Compensation Trust Fund and,
10 if it will not be expended, shall be returned promptly to the account of this
11 State in the Unemployment Trust Fund.

12 Sec. 204. 21 V.S.A. § 1361 is amended to read:

13 § 1361. MANAGEMENT OF FUNDS UPON DISCONTINUANCE OF
14 UNEMPLOYMENT TRUST FUND

15 The provisions of sections 1358–1360 of this ~~title~~ subchapter to the extent
16 that they relate to the federal Unemployment Trust Fund, shall be operative
17 only so long as ~~such~~ the federal Unemployment Trust Fund continues to exist
18 and so long as the U.S. Secretary of the Treasury continues to maintain for this
19 State a separate book account of all Funds deposited ~~therein~~ in the federal
20 Unemployment Trust Fund by this State for benefit purposes, together with
21 this State's proportionate share of the earnings of ~~such~~ the Unemployment

1 Trust Fund, from which only the Commissioner of Labor is permitted to make
2 withdrawals. If and when ~~such Unemployment Trust Fund shall~~ federal law no
3 longer ~~be required by the laws of the United States~~ requires the federal
4 Unemployment Trust Fund to be maintained ~~as aforesaid~~ as a condition of
5 approval of this chapter as provided in Title III of the Social Security Act, then
6 all monies, properties, or securities ~~therein~~ in the Fund, belonging to the
7 Unemployment Compensation Trust Fund of this State, shall be transferred to
8 the treasurer of the Unemployment Compensation Trust Fund, who shall hold,
9 invest, transfer, sell, deposit, and release ~~such~~ the monies, properties, or
10 securities in a manner approved by the Commissioner and appropriate for trust
11 funds, subject to all claims for benefits under this chapter.

12 Sec. 205. 21 V.S.A. § 1362 is amended to read:

13 § 1362. UNEMPLOYMENT COMPENSATION ADMINISTRATION

14 FUND

15 ~~There is hereby created the~~ The Unemployment Compensation
16 Administration Fund is created to consist of all monies received by the State or
17 by the Commissioner for the administration of this chapter. ~~This special~~ The
18 fund shall be a special fund managed pursuant to 32 V.S.A. chapter 7,
19 subchapter 5. The Fund shall be handled through the State Treasurer as other
20 State monies are handled, but it shall be expended solely for the purposes and
21 in the amounts found necessary by the Secretary of Labor for the proper and

1 efficient administration of ~~such~~ this chapter and its balance shall not lapse at
2 any time but shall remain continuously available to the Commissioner for
3 expenditures consistent ~~herewith~~ with the provisions of this section. All
4 federal monies allotted or apportioned to the State by the Secretary of Labor,
5 or other agency, for the administration of this chapter shall be paid into the
6 Unemployment Compensation Administration Fund and are hereby
7 appropriated to ~~such~~ the Fund.

8 Sec. 206. 21 V.S.A. § 1363 is amended to read:

9 § 1363. EXPENDITURES

10 All monies made available by or received by the State for the State
11 employment service, as provided in chapter 15 of this title, shall be paid to and
12 expended from the Unemployment Compensation Administration Fund, and a
13 special employment service account shall be maintained for that purpose as a
14 part of ~~said~~ the Fund. For the purpose of establishing and maintaining free
15 public employment offices, the Commissioner is authorized to enter into
16 agreements with the Railroad Retirement Board or any other agency of the
17 United States charged with the administration of an unemployment
18 compensation law, with any political subdivision of this State or with any
19 private, nonprofit organization, and as a part of any such agreement, the
20 Commissioner may accept monies, services, or quarters as a contribution to the
21 employment service account.

1 Sec. 207. 21 V.S.A. § 1364 is amended to read:

2 § 1364. REPLACEMENT

3 This State shall replace any monies received ~~after July 1, 1941,~~ from the
4 Secretary of Labor under Title III of the Social Security Act, ~~any~~
5 ~~unencumbered balances in the Unemployment Compensation Administration~~
6 ~~Fund as of that date,~~ any monies ~~thereafter~~ granted to this State pursuant to the
7 provisions of the Wagner-Peyser Act, and any monies made available by the
8 State or its political subdivisions and matched by ~~such~~ monies granted to this
9 State pursuant to the provisions of the Wagner-Peyser Act, ~~which~~ that the
10 Secretary of Labor finds after reasonable notice and opportunity for hearing to
11 the Commissioner have, because of any action or contingency, been lost or
12 ~~have been~~ expended for purposes other than, or in amounts in excess of, those
13 found necessary by the Secretary of Labor for the proper administration of this
14 chapter. In the event that there are insufficient funds in the Contingent Fund as
15 provided in section 1365 of this ~~title~~ subchapter, ~~such~~ the monies shall be
16 promptly replaced by monies appropriated for ~~such~~ the purpose from the
17 general funds of this State to the Unemployment Compensation Administration
18 Fund for expenditure as provided in sections 1362 and 1363 of this ~~title~~
19 subchapter. The Commissioner shall promptly report to the Governor, and the
20 Governor to the General Assembly, the amount required for ~~such~~ the
21 replacement.

1 Sec. 208. 21 V.S.A. § 1365 is amended to read:

2 § 1365. CONTINGENT FUND

3 (a) There is ~~hereby~~ created a special fund to be known as the Contingent
4 Fund. All interest, fines, and penalties collected under the provisions of ~~the~~
5 ~~unemployment compensation law after April 1, 1947~~ this chapter, together
6 with any voluntary contributions tendered as a contribution to this Fund, shall
7 be paid into this Fund. ~~Such~~ The monies shall not be expended or available for
8 expenditures in any manner ~~which~~ that would permit their substitution for, or a
9 corresponding reduction in, federal funds ~~which~~ that would in the absence of
10 ~~such~~ the monies be available to finance expenditures for the administration of
11 the unemployment compensation law.

12 (b) ~~But nothing~~ Nothing in this chapter shall prevent ~~such~~ the monies from
13 being used as a revolving fund to cover expenditures, necessary and proper
14 under the law for which federal funds have been duly requested but not yet
15 received, subject to the charging of ~~such~~ the expenditures against ~~such~~ the
16 funds when received.

17 (c) The monies in this Fund shall be used by the Commissioner for the
18 payment of costs of administration ~~which~~ that are found not to have been
19 properly and validly chargeable against federal grants, or other funds, received
20 for or in the Unemployment Compensation Administration Fund ~~on or after~~
21 ~~January 1, 1947~~. No expenditure of the Fund shall be made unless and until

1 the Commissioner finds that no other funds are available or can properly be
2 used to finance ~~such~~ the expenditures.

3 (d) The State Treasurer shall co-sign all expenditures from this Fund
4 authorized by the Commissioner.

5 (e) The monies in this Fund are ~~hereby specifically made~~ available to
6 replace, within a reasonable time, any monies received by this State pursuant
7 to ~~section 302 of the federal Social Security Act, as amended, which~~ 42 U.S.C.
8 § 502 that because of any action or contingency, have been lost or have been
9 expended for purposes other than, or in amounts in excess of, those necessary
10 for the proper administration of the unemployment compensation law.

11 (f) The monies in this Fund shall be continuously available to the
12 Commissioner for expenditure in accordance with the provisions of this section
13 and shall not lapse at any time or be transferred to any other fund except as
14 ~~herein~~ provided pursuant to this section.

15 (g) ~~Provided, however, that on~~ On December 31 of each year, all monies in
16 excess of \$10,000.00 in this Fund shall be transferred to the Unemployment
17 Compensation Trust Fund. On or before March 31 of each year, an audit of
18 this Fund ~~will~~ shall be completed and a report of that audit ~~will~~ shall be made
19 public.

1 42 U.S.C. § 654(19)(B)(i) by the state or local child support enforcement
2 agency, unless subdivision (3) of this subsection is applicable; or

3 (3) any amount otherwise required to be so deducted and withheld from
4 such unemployment compensation pursuant to legal process ζ , as that term is
5 defined in ~~Section 462(e) of the Social Security Act~~ 42 U.S.C. § 659(i)(5),
6 properly served upon the Commissioner.

7 * * *

8 (d) Any amount deducted and withheld under subsection (b) of this section
9 shall for all purposes be treated as if it were paid to the individual as
10 unemployment compensation and paid by ~~such~~ the individual to the state or
11 local child support enforcement agency in satisfaction of the individual's child
12 support obligations.

13 (e) For purposes of this section, the term "unemployment compensation"
14 means any compensation payable under the state law ζ , including amounts
15 payable by the commissioner pursuant to an agreement under any federal law
16 providing for compensation, assistance, or allowances with respect to
17 unemployment).

18 (f) ~~The term~~ As used in this section, "child support obligations" ~~is defined~~
19 ~~for purposes of these provisions as including only~~ means obligations ~~which~~
20 that are being enforced pursuant to a plan described in ~~Section 454 of the~~
21 ~~Social Security Act which~~ 42 U.S.C. § 654 that has been approved by the

1 Secretary of Health and Human Services under part D of Title IV of the Social
2 Security Act.

3 (g) ~~The term~~ As used in this section, “state or local child support
4 enforcement agency” ~~as used in this section~~ means any agency of a state or
5 political subdivision ~~thereof~~ of a state operating pursuant to a plan described in
6 subsection (f) of this section.

7 (h) The Commissioner shall implement the provisions of this section only
8 if appropriate arrangements have been made for full reimbursement by the
9 state or local child support enforcement agency for all administrative costs
10 incurred by the Commissioner under this section ~~which~~ that are attributable to
11 child support obligations being enforced by the state or local child support
12 enforcement agency.

13 Sec. 210. 21 V.S.A. § 1368 is amended to read:

14 § 1368. FALSE STATEMENTS TO INCREASE PAYMENTS

15 A person shall not ~~willfully and~~ intentionally make a false statement or
16 representation to obtain or increase any benefit or other payment under this
17 chapter, either for ~~himself, herself,~~ the employee or any other person.

18 Sec. 211. 21 V.S.A. § 1369 is amended to read:

19 § 1369. FALSE STATEMENTS TO AVOID UNEMPLOYMENT

20 PROGRAM OBLIGATIONS

1 A person who ~~willfully~~ intentionally makes a material false statement or
2 representation to avoid becoming or remaining subject to this chapter, or to
3 avoid or reduce a contribution or other payment required of an employer under
4 this chapter for either ~~herself or himself~~ themselves or for any other person,
5 after notice and opportunity for hearing, may be assessed an administrative
6 penalty of not more than \$5,000.00.

7 Sec. 212. 21 V.S.A. § 1370 is amended to read:

8 § 1370. FURNISHING REPORTS

9 A person shall not ~~willfully~~ intentionally fail or refuse to furnish any reports
10 ~~duly~~ required under this chapter or to submit ~~his or her~~ the person's records to
11 inspection when ~~duly~~ required under this chapter, or to make or require any
12 deduction from wages to pay all or any portion of the contributions required
13 from employers.

14 Sec. 213. 21 V.S.A. § 1372 is amended to read:

15 § 1372. VIOLATION BY CORPORATE AGENT

16 If the employer in question is a corporation, any official or agent ~~thereof of~~
17 the corporation responsible for ~~such a~~ falsehood, failure, or refusal mentioned
18 in sections 1369–1371 of this ~~title~~ subchapter shall be subject to the penalties
19 provided in section 1373 of this ~~title~~ subchapter.

1 Sec. 214. 21 V.S.A. § 1373 is amended to read:

2 § 1373. GENERAL PENALTY; ~~CIVIL~~ ADMINISTRATIVE

3 A person who violates a provision of this chapter or any lawful rule ~~or~~
4 ~~regulation~~ of the Board, for which no other penalty is provided, shall be
5 assessed an administrative penalty of not more than \$5,000.00.

6 Sec. 215. 21 V.S.A. § 1374 is amended to read:

7 § 1374. REPRESENTATION IN COURT

8 The Attorney General shall represent the Commissioner and State in any
9 court action relating to this chapter or to its administration and enforcement,
10 except as other counsel may be designated by the Commissioner with the
11 approval of the Attorney General; provided, however, in prosecutions under
12 this chapter the State's Attorney of the county ~~wherein such~~ in which the
13 offense occurs shall represent the State as in other causes.

14 Sec. 216. 21 V.S.A. § 1376 is amended to read:

15 § 1376. LIMITATION OF LIABILITY OF STATE

16 Benefits shall be deemed to be due and payable under this chapter only to
17 the extent provided in this chapter and to the extent that monies are available
18 ~~therefor~~ for the payment of benefits to the credit of the Unemployment
19 Compensation Trust Fund. Neither the State nor the Commissioner shall be
20 liable for any amount in excess of such sums.

1 Sec. 217. 21 V.S.A. § 1377 is amended to read:

2 § 1377. RIGHTS ~~HEREUNDER~~ SUBJECT TO LEGISLATIVE CONTROL

3 All the rights, privileges, or immunities conferred by this chapter or by acts
4 done pursuant ~~hereto~~ to this chapter shall exist subject to the power of the
5 General Assembly to amend or repeal this chapter at any time; and there shall
6 be no vested rights of any kind against ~~such~~ the amendment or repeal or the
7 termination of this chapter or the subdivisions of any of its provisions by its
8 own terms.

9 Sec. 218. 21 V.S.A. § 1378 is amended to read:

10 § 1378. REQUIREMENTS FOR OBTAINING LICENSE OR
11 GOVERNMENTAL CONTRACT

12 (a) ~~For purposes of~~ As used in this section, “agency” means any unit of
13 State government, including agencies, departments, boards, commissions,
14 authorities, ~~or~~ and public corporations.

15 * * *

16 (c) Every agency shall, upon request, furnish to the Commissioner a list of
17 licenses and contracts issued or renewed by ~~such~~ the agency during the
18 reporting period; provided, however, that the Secretary of State shall, with
19 respect to certificates of authority to transact business issued to foreign
20 corporations, furnish to the Commissioner only those certificates originally
21 issued by the Secretary of State during the reporting period and not renewals of

1 ~~such~~ the certificates. The lists should include the name, address, Social
2 Security or federal identification number of ~~such~~ the licensee or provider, and
3 ~~such~~ any other information as required by the Commissioner ~~may require~~.

4 (d) If the Commissioner determines that any employing unit that has agreed
5 to furnish goods, services, or real estate space to any agency has neglected or
6 refused to pay contributions or payments in lieu of contributions and that the
7 employing unit's liability for ~~such~~ the contributions or payments in lieu of
8 contributions is not under appeal, the Commissioner shall notify the agency
9 and the employing unit in writing of the amount owed by ~~such~~ the employing
10 unit. Upon receipt of ~~such~~ the notice, the agency shall ~~thereafter~~ transfer to the
11 Commissioner any amounts that would otherwise be payable by the agency to
12 the employing unit, up to the amount certified by the Commissioner. The
13 Commissioner may treat any such payment as if it were a payment received
14 from the employing unit.

15 (e) No agency of the State shall make final payment of any amount owed
16 under a contract that contemplates the employment of any employing unit
17 within the State or the use of any property within the State, or otherwise
18 release any employing unit from the obligations of any such contract, unless
19 ~~such~~ the employing unit shall first obtain a certificate issued by the
20 Commissioner that the employing unit is in good standing with respect to or in

1 full compliance with a plan to pay any and all contributions or payments in lieu
2 of contributions due as of the date of issuance of the certificate.

3 (f) Upon written request by the Commissioner and after notice and hearing
4 to the employing unit as required under any applicable provision of law, an
5 agency shall revoke or suspend any license or other authority to conduct a
6 trade or business (including a license to practice a profession), issued to any
7 employing unit if the agency finds that contributions or payments in lieu of
8 contributions have not been paid and the employing unit's liability for
9 contributions or payments in lieu of contributions is not under appeal. For
10 purposes of such findings, the written representation to that effect by the
11 Commissioner to the agency shall constitute prima facie evidence ~~thereof~~ that
12 contributions have not been paid and the employing unit's liability is not under
13 appeal. The Commissioner shall have the right to intervene in any hearing
14 conducted with respect to ~~such a~~ a license revocation or suspension. Any
15 findings made by the agency with respect to ~~such a~~ a license revocation or
16 suspension shall be made only for the purposes of ~~such the~~ the proceeding and
17 shall not be relevant to or introduced in any other proceeding at law, except for
18 any appeal from ~~such a~~ a license revocation or suspension. Any license or
19 certificate of authority suspended or revoked under this section shall not be
20 reissued or renewed until the agency receives a certificate issued by the
21 Commissioner that the applicable employing unit is in good standing with

1 respect to any and all contributions or payments in lieu of contributions
2 payable to the Commissioner as of the date of issuance of ~~such~~ the certificate.
3 Any person aggrieved by the decision of the agency may appeal ~~therefrom~~
4 from the decision in accordance with the provisions of 3 V.S.A. chapter 25.

5 * * *

6 Sec. 219. 21 V.S.A. § 1383 is amended to read:

7 § 1383. SEVERABILITY OF PROVISIONS

8 It is ~~hereby declared to be~~ the purpose and intention of the General
9 Assembly that the provisions of this chapter are severable and that the
10 invalidity or ineffectiveness of any provision or provisions of ~~such~~ this chapter
11 shall not affect the validity or operative force of the remainder of the chapter,
12 except only that it is the legislative intent that the whole chapter shall fail if
13 any one or more of the following and only of the following provisions, are
14 finally determined to be invalid and ineffective:

15 * * *

16 (2) the requirement contained in section 1359 of this ~~title~~ subchapter
17 providing for the deposit with the U.S. Secretary of the Treasury ~~of the United~~
18 ~~States~~ of all monies received in the Unemployment Compensation Trust Fund
19 and the use of monies requisitioned from the U.S. Secretary of the Treasury;

20 * * *

1 (5) the provisions of sections 1386–1388 of this ~~title~~ subchapter with
2 respect to suspension or termination of the operation of this chapter or parts
3 ~~thereof of this chapter~~ in the event of modification or invalidity of ~~the Act of~~
4 ~~Congress designated as~~ 42 U.S.C. chapter 7, the Social Security Act.

5 Sec. 220. 21 V.S.A. § 1384 is amended to read:

6 § 1384. CONSTRUCTION

7 (a) This chapter is ~~declared to be~~ enacted in correlation with Titles III and
8 IX of ~~the Act of Congress approved August 14, 1935, designated as the Social~~
9 Security Act, 42 U.S.C. chapter 7, and with the Federal Unemployment Tax
10 Act, 26 U.S.C. chapter 23, and the expediency of certain provisions of this
11 chapter depend as ~~hereinafter set forth~~ upon the scope and operation within this
12 State of the provisions of ~~said titles and of said act as originally enacted or as~~
13 ~~hereafter amended~~ Titles III and IX of the Social Security Act and the Federal
14 Unemployment Act as set forth in this section.

15 (b) If the Federal Unemployment Tax Act ~~shall be~~ is interpreted or
16 extended to impose within this State a tax with respect to employing units
17 having in their employ less than four persons, or with respect to employing
18 units having in their employ individuals who are not now in “employment” as
19 defined in subdivision 1301(6)(C) of this ~~title~~ subchapter, the Governor by
20 proclamation within 10 days of the effective date of ~~said~~ the interpretation or
21 extension shall so declare and thereupon and thereafter issue a declaration that:

1 (1) the word “employer” and the words “individual in employment,” as
2 used in this chapter ~~shall extend to and include in the first instance,~~ all
3 employing units having in their employ ~~such~~ the applicable smaller number of
4 persons and the individuals in their employ; ~~and in the second instance~~

5 (2) all employing units having in their employ individuals who
6 ~~thereafter shall be~~ are newly defined as being in “employment” and the
7 individuals in their employ.

8 (c) ~~Said~~ The affected persons shall be treated as individuals in the employ
9 of ~~said~~ the employer with respect to contributions and eligibility for benefits
10 under this chapter.

11 Sec. 221. 21 V.S.A. § 1385 is amended to read:

12 § 1385. CONTINGENT PROVISIONS

13 If the Federal Unemployment Tax Act ~~has been or shall be~~ is amended,
14 interpreted, or extended so that employing units not ~~heretofore~~ previously
15 included under the definition of “employer,” as that term is used in this
16 chapter, are included under ~~such~~ the definition after ~~said~~ the Act of Congress is
17 ~~so~~ amended, interpreted, or extended, then, subject to other provisions of this
18 chapter, benefits shall become payable to any individual on the basis of wages
19 earned in the employ of ~~such~~ the newly defined employer, and ~~such~~ the wages
20 shall be available to any individual for determining ~~his or her~~ the individual’s
21 eligibility for benefits after the effective date of ~~such~~ the extension, or after the

1 date when ~~such~~ the newly defined employer's approved election to be so
2 defined ~~shall have~~ has made ~~him or her~~ the employer subject to this chapter,
3 and the benefit year of ~~such~~ the individual shall ~~have begun subsequent to~~
4 begin after the date ~~such~~ the newly defined employer became subject to this
5 chapter.

6 Sec. 222. 21 V.S.A. § 1386 is amended to read:

7 § 1386. OPERATION DEPENDENT UPON FEDERAL ACT

8 (a) ~~It is hereby declared to be the legislative judgment~~ The General
9 Assembly finds that the expediency and beneficial operation of this chapter are
10 dependent upon the effective operation within this State of certain sections of
11 the Federal Unemployment Tax Act, ~~and amendments thereto~~:

12 (1) ~~section 3301 of said Act~~ 26 U.S.C. § 3301, imposing an excise tax
13 upon employers as defined in ~~said~~ the Act;

14 (2) ~~section~~ 26 U.S.C. § 3302 allowing ~~against said~~ credits against the
15 federal tax ~~credits~~ for contributions ~~exacte~~ of paid by employers ~~for~~ into an
16 unemployment fund ~~whether or not exacted in full of the particular taxpayer~~
17 ~~under certain circumstances~~ under the unemployment compensation law of a
18 state;

19 (3) ~~section~~ 26 U.S.C. § 3303 prescribing the conditions upon which ~~said~~
20 certain credits under 26 U.S.C. § 3302 may be allowed ~~in addition to actual~~
21 payments by said taxpayer;

1 (4) ~~sections~~ 26 U.S.C. §§ 3303 and 3304 requiring the certification ~~for~~
2 ~~the purpose of said credits~~ of state law for certain credits under 26 U.S.C.
3 § 3302 and prescribing the conditions ~~precedent of such~~ for certification.

4 (b) If any ~~of said~~ sections ~~shall be~~ identified in subsection (a) of this section
5 is repealed, amended, suspended, or finally declared invalid ~~so as to deprive in~~
6 a manner that deprives a contributor under this ~~act~~ chapter of credits against
7 ~~the excise tax against him or her under said section~~ tax imposed pursuant to
8 26 U.S.C. § 3301 of the Federal Unemployment Tax Act, then any contribution
9 required by this chapter, to the extent that ~~by reason of said~~ the repeal,
10 amendment, suspension, or declared invalidity of ~~said the~~ the federal ~~act, a~~
11 ~~contributor is~~ law deprived the contributor of the benefit of ~~such the~~ the credit,
12 shall be suspended as provided in section 1387 of this title.

13 Sec. 223. 21 V.S.A. § 1387 is amended to read:

14 § 1387. SUSPENSION OF CONTRIBUTIONS

15 ~~Whenever~~ If the Governor ~~shall determine~~ determines that the conditions ~~of~~
16 for the suspension of the contributions required by this chapter, ~~as hereinbefore~~
17 ~~defined,~~ pursuant to section 1386 of this subchapter exist ~~by reason~~ because of
18 any repeal, amendment, suspension, or declared invalidity of the ~~federal~~ Social
19 Security Act, 42 U.S.C. chapter 7, or the Federal Unemployment Tax Act,
20 26 U.S.C. chapter 23, ~~he or she~~ the Governor shall ~~so declare by~~ issue a
21 proclamation ~~and thereupon the suspension hereinbefore provided~~ regarding

1 the suspension of contributions pursuant to section 1386 of this subchapter and
2 the suspension shall become effective and continue for a period of two years
3 ~~from said~~ after the date of the proclamation, subject to ~~such legislative~~
4 ~~amendment, modification, or repeal as may be enacted within said~~ legislation
5 amending, modifying, or repealing the proclamation during that period.

6 Sec. 224. 21 V.S.A. § 1388 is amended to read:

7 § 1388. INVALIDITY OF ACTS

8 If the ~~federal~~ Social Security Act, 42 U.S.C. chapter 7, or the Federal
9 Unemployment Tax Act, 26 U.S.C. chapter 23, shall be finally held and
10 determined to be wholly invalid or shall be repealed, then this chapter shall
11 become wholly inoperative and ineffective except ~~only~~ that ~~thereafter~~ the
12 Commissioner shall ~~continue in office for the purpose of~~:

13 (1) ~~recovering~~ recover any monies on deposit with the U.S. Secretary of
14 the Treasury ~~of the United States and the redistribution to contributors of~~
15 redistribute all monies on hand to contributors in proportion to contributions
16 received, ~~said redistribution to be~~ under the direction of a presiding judge of a
17 Superior Court upon an action brought by the Commissioner against five or
18 more employers; and

19 (2) ~~doing~~ take any other ~~act or thing~~ actions necessary or proper to
20 liquidate assets and discharge the Commissioner's obligations ~~of the office~~
21 pursuant to this chapter.

1 Sec. 225. 21 V.S.A. § 1421 is amended to read:

2 § 1421. DEFINITIONS

3 ~~The following words and phrases, as As used in this subchapter, shall have~~
4 ~~the following meanings unless the context clearly requires otherwise:~~

5 (1) “Extended benefit period” means a period ~~which~~ that:

6 * * *

7 (B) ends with either of the following weeks, whichever occurs later:

8 * * *

9 (ii) the 13th consecutive week of ~~such~~ the period;

10 (I) ~~However, no~~ No extended benefit period may begin by
11 reason of a State “on” indicator before the 14th week following the end of a
12 prior extended benefit period ~~which~~ that was in effect with respect to this State.

13 (2) State “on” indicator.

14 (A) There is a State “on” indicator for a week ~~beginning after~~
15 ~~September 25, 1982 and before March 7, 1993~~, if the Commissioner
16 determines, in accordance with the regulations of the U.S. Secretary of Labor
17 ~~of the United States~~, that, for the period consisting of ~~such~~ that week and the
18 immediately preceding 12 weeks, the rate of insured unemployment, not
19 seasonally adjusted, under this chapter:

20 (i) equaled or exceeded six percent; or

1 (ii) equaled or exceeded five percent and equaled or exceeded
2 120 percent of the average of those rates for the corresponding 13-week period
3 ending in each of the two preceding calendar years.

4 (B) There is a State “on” indicator for a week ~~beginning after March~~
5 ~~6, 1993~~, if:

6 ~~(i) The requirements of either subdivision (A)(i) or (ii) of this~~
7 ~~subdivision (2) are satisfied; or~~

8 ~~(ii) The the seasonally adjusted average rate of total~~
9 unemployment in this State ~~(seasonally adjusted)~~ for the period consisting of
10 the most recent three months for which data for all states are published before
11 the close of ~~such~~ the week:

12 ~~(i)~~ (i) equaled or exceeded 6.5 percent; and

13 ~~(ii)~~ (ii) equaled or exceeded 110 percent of ~~such~~ the average rate
14 for either ~~(or both)~~ 2 of the corresponding three-month periods ending in the
15 two preceding calendar years.

16 (3) State “off” indicator. There is a State “off” indicator for a week if
17 the requirements of both subdivisions (A) and (B) of this subdivision are
18 satisfied.

19 (A) ~~There is a State “off” indicator for a week beginning after~~
20 ~~September 25, 1982 and before March 7, 1993, if the~~ The Commissioner
21 determines, in accordance with the regulations of the U.S. Secretary of Labor

1 of the United States, that, for the period consisting of that week and the
2 immediately preceding 12 weeks, the rate of insured unemployment, not
3 seasonally adjusted, under this chapter was:

4 (i) less than five percent; or

5 (ii) less than six percent and less than 120 percent of the average
6 of those rates for the corresponding 13-week period ending in each of the
7 preceding two calendar years.

8 (B) ~~There is a State “off” indicator for a week beginning after March~~
9 ~~6, 1993, if there would be a State “off” indicator pursuant to subdivision (3)(A)~~
10 ~~of this section and the~~ The requirements of either subdivision ~~(2)(B)(ii)(I)~~
11 ~~(2)(B)(i)~~ or ~~(H)(ii)~~ of this section are not satisfied.

12 (4) “Rate of insured unemployment” and “rate of total unemployment.”

13 (A) “Rate of insured unemployment,” ~~for purposes of~~ as used in
14 subdivisions (2)(A) and (3)(A) of this section, means the percentage derived by
15 dividing the average weekly number of individuals filing claims for regular
16 benefits in this State for weeks of unemployment with respect to the most
17 recent 13-consecutive-week period, as determined by the Commissioner on the
18 basis of ~~his or her~~ the Commissioner’s reports to the U.S. Secretary of Labor ~~of~~
19 ~~the United States~~, by the average monthly employment covered under this
20 chapter for the first four of the most recent six completed calendar quarters
21 ending before the end of the 13-week period.

1 (B) ~~For purposes of~~ As used in subdivisions (2)(B) and (3)(B) of this
2 section, determinations of the “rate of total unemployment” in this State for
3 any period ~~(and of any seasonal adjustment)~~, shall be made by the U.S.
4 Secretary of Labor ~~of the United States~~.

5 (5) “Regular benefits” mean benefits payable to an individual under this
6 chapter or under any other ~~State~~ state’s law, including benefits payable ~~to~~
7 ~~federal civilian employees and to ex-servicemen~~ for federal service pursuant to
8 ~~chapter 85 of Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, other than extended
9 benefits.

10 (6) “Extended benefits” mean benefits, including benefits payable ~~to~~
11 ~~federal civilian employees and to ex-servicemen~~ for federal service pursuant to
12 ~~chapter 85 of Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, payable to an
13 individual under the provisions of this section for weeks of unemployment in
14 ~~his or her~~ the individual’s eligibility period.

15 (7) “Eligibility period” of an individual means the period consisting of
16 weeks in ~~his or her~~ the individual’s benefit year ~~which~~ that begin in an
17 extended benefit period and, if ~~his or her~~ the individual’s benefit year ends
18 within the extended benefit period, any weeks ~~thereafter which~~ after the
19 individual’s benefit year that begin in that period.

20 (8) “Exhaustee” means an individual who, with respect to any week of
21 unemployment in ~~his or her~~ the individual’s eligibility period:

1 (A) has received, prior to ~~such~~ that week, all of the regular benefits
2 that were available to ~~him or her~~ the individual under this chapter or any other
3 state law, including dependent's allowances and benefits payable ~~to federal~~
4 ~~civilian employees and ex-servicemen~~ for federal service under ~~chapter 85 of~~
5 ~~Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, in ~~his or her~~ the individual's
6 current benefit year that includes the week; provided that, for the purposes of
7 this subdivision, an individual shall be deemed to have received all of the
8 regular benefits that were available to ~~him or her~~ the individual although as a
9 result of a pending appeal with respect to wages or employment that were not
10 considered in the original monetary determination in ~~his or her~~ the individual's
11 benefit year, ~~he or she~~ the individual may subsequently be determined to be
12 entitled to added regular benefits; or

13 (B) ~~his or her~~ the individual's benefit year having expired prior to the
14 week, has no, or insufficient, wages or employment on the basis of which ~~he or~~
15 ~~she~~ the individual could establish a new benefit year that would include that
16 week; and

17 (C) the individual has no right to unemployment benefits or
18 allowances, ~~as the case may be~~, under the Railroad Unemployment Insurance
19 Act, and ~~such~~ other federal laws ~~as are~~ specified in regulations issued by the
20 U.S. Secretary of Labor of the United States; and has not received and is not
21 seeking unemployment benefits under the unemployment compensation law of

1 Canada; but if ~~he or she~~ the individual is seeking such benefits and the
2 appropriate agency finally determines that ~~he or she~~ the individual is not
3 entitled to benefits under ~~such~~ the law ~~he or she~~ the individual is considered an
4 exhaustee.

5 (9) “State law” means the unemployment insurance law of any state,
6 approved by the U.S. Secretary of Labor ~~of the United States~~ under ~~section~~
7 26 U.S.C. § 3304 ~~of the Internal Revenue Code of 1986~~.

8 (10) “Suitable work” means, with respect to any individual, any work
9 ~~which~~ that is within the individual’s capabilities; except that, if the individual
10 furnished evidence satisfactory to the Commissioner that the individual’s
11 prospects for obtaining work in ~~his or her~~ the individual’s customary
12 occupation within a reasonably short period are good, the determination of
13 whether any work is suitable work with respect to the individual shall be made
14 in accordance with the provisions of subdivision 1344(a)(2) of this ~~title~~
15 chapter.

16 Sec. 226. 21 V.S.A. § 1423 is amended to read:

17 § 1423. ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS

18 (a) An individual shall be eligible to receive extended benefits with respect
19 to any week of unemployment in ~~his or her~~ the individual’s eligibility period
20 only if the Commissioner finds that with respect to ~~such~~ the week:

1 Sec. 227. 21 V.S.A. § 1423a is amended to read:

2 § 1423a. DISQUALIFICATIONS

3 (a) Notwithstanding any other provision of this subchapter, if so found by
4 the Commissioner, payment of extended compensation shall not be made to
5 any individual for any week of unemployment in ~~his or her~~ the individual's
6 eligibility period during which the individual:

7 (1) ~~during which he or she~~ fails to accept any offer of suitable work; ~~or~~

8 (2) fails to apply for any suitable work to which ~~he or she~~ the individual
9 was referred by the Commissioner; or

10 (3) ~~during which he or she~~ fails to actively engage in seeking work.

11 (b) If any individual is ineligible for extended compensation for any week
12 by reason of a failure described in subsection (a) of this section, the individual
13 shall be ineligible to receive extended compensation for any week which
14 begins during a period ~~which~~ that:

15 (1) begins with the week following the week in which ~~such~~ the failure
16 occurs; and

17 (2) does not end until ~~such~~ the individual has been employed during at
18 least four weeks ~~which~~ that begin after ~~such~~ the failure and the total of the
19 remuneration earned by the individual for being so employed is not less than
20 the product of six multiplied by the individual's average weekly benefit
21 amount as determined for ~~his or her~~ the individual's benefit year.

1 (c) Extended compensation shall not be denied under subsection (a) of this
2 section to any individual for any week by reason of a failure to accept an offer
3 of, or apply for, suitable work if:

4 (1) ~~if~~ the gross average weekly remuneration payable to that individual
5 for the position does not exceed the sum of:

6 (A) the individual's average weekly benefit amount as determined for
7 ~~his or her~~ the individual's benefit year, plus

8 (B) the amount, if any, of supplemental unemployment compensation
9 benefits, as defined in ~~section~~ 26 U.S.C. § 501(c)(17)(D) of the Internal
10 ~~Revenue Code of 1986~~, payable to that individual for that week;

11 (2) ~~if~~ the position was not offered to the individual in writing and was
12 not listed with the State employment service;

13 (3) ~~if~~ the failure would not result in a denial of compensation under the
14 provisions of subdivision 1344(a)(2) of this ~~title~~ chapter to the extent that those
15 provisions are not inconsistent with the provisions of subdivision 1421(10) of
16 this ~~title~~ subchapter and subsection (d) of this section; or

17 (4) ~~if~~ the position pays wages less than the higher of:

18 (A) the minimum wage provided by ~~section 6(a)(1) of the Fair Labor~~
19 ~~Standards Act of 1938~~ 29 U.S.C. § 206(a)(1), without regard to any exemption;

20 or

21 (B) any applicable state or local minimum wage.

1 (d) For purposes of this subsection, an individual shall be treated as
2 actively engaged in seeking work during any week if:

3 * * *

4 (2) the individual provides tangible evidence to the Commissioner that
5 ~~he or she~~ the individual has engaged in such an effort during that week.

6 (e) No provision of section 1344 ~~which~~ of this chapter that terminates a
7 disqualification for voluntarily leaving employment, being discharged for
8 misconduct, or refusing suitable employment shall apply for purposes of
9 determining eligibility for extended compensation unless that termination is
10 based upon employment subsequent to the date of the disqualification.

11 Sec. 228. 21 V.S.A. § 1426(b) is amended to read:

12 (b) Computations required by the provisions of section 1421 of this ~~title~~
13 subchapter shall be made by the Commissioner, in accordance with regulations
14 prescribed by the U.S. Secretary of Labor ~~of the United States~~.

15 Sec. 229. 21 V.S.A. § 1427 is amended to read:

16 § 1427. AMENDMENTS TO THE FEDERAL-STATE EXTENDED
17 UNEMPLOYMENT COMPENSATION ACT OF 1970

18 To the extent that the Federal-State Extended Unemployment
19 Compensation Act of 1970 ~~has been or may be~~, Pub. L. No. 91-373, is
20 amended ~~so as~~ to authorize this State to pay benefits for an extended benefit
21 period in a manner other than provided by this title, then, and in such cases, all

1 the terms and conditions contained in the amended provisions of ~~such~~ the
2 federal law shall become a part of this title to the extent necessary to authorize
3 the payment of benefits to eligible individuals as permitted under ~~such~~ those
4 provisions, provided that the federal share continues to be at least 50 percent of
5 the extended benefits paid to individuals under the extended benefits program.

6 Sec. 230. 21 V.S.A. § 1452 is amended to read:

7 § 1452. CRITERIA FOR APPROVAL

8 (a) An employer wishing to participate in an STC program shall submit a
9 Department of Labor electronic application or a signed written short-time
10 compensation plan to the Commissioner for approval. The Commissioner may
11 approve an STC plan only if the following criteria are met:

12 * * *

13 (5) The plan certifies that the aggregate reduction in work hours is in
14 lieu of layoffs of one or more workers ~~which~~ that would have resulted in an
15 equivalent reduction in work hours and ~~which~~ that the Commissioner finds
16 would have caused an equivalent dollar amount to be payable in
17 unemployment compensation.

18 * * *

19 (7) The identified workweek reduction is applied consistently
20 throughout the duration of the plan unless otherwise approved by the

1 Department. ~~The plan shall not subsidize seasonal employers during the off-~~
2 ~~season.~~

3 * * *

4 (9) The plan ~~will~~ shall not subsidize seasonal employers during the off-
5 season, nor subsidize employers who have traditionally used part-time
6 employees or intermittent employment.

7 (10) The employer agrees to maintain records relative to the plan for a
8 period of three years and furnish reports relating to the proper conduct of the
9 plan and agrees to allow the Commissioner or ~~his or her~~ the Commissioner's
10 authorized representatives access to all records necessary to verify the plan
11 prior to approval and, after approval, to monitor and evaluate application of the
12 plan.

13 (11) The plan certifies that the collective bargaining agent or agents for
14 the employees, if any, have agreed to participate in the program. If there is no
15 bargaining unit, the employer specifies how ~~he or she~~ it will notify the
16 employees in the affected group and work with them to implement the program
17 once the plan is approved.

18 * * *

19 (b) In the event of any conflict between any provision of sections 1451–
20 1460 of this ~~title~~ subchapter, or the ~~regulations implemented~~ rules adopted

1 pursuant to these sections, and applicable federal law, the federal law shall
2 prevail and the provision shall be deemed invalid.

3 Sec. 231. 21 V.S.A. § 1453 is amended to read:

4 § 1453. APPROVAL OR REJECTION; RESUBMISSION

5 The Commissioner shall approve or reject a plan in writing within 30 days
6 ~~of its receipt~~ after receiving it, and in the case of rejection shall state the
7 reasons ~~therefor~~ for the rejection. The reasons for rejection shall be final and
8 nonappealable, but the employer shall be allowed to submit another plan for
9 approval; that addresses the reasons that led to the rejection of the original
10 plan.

11 Sec. 232. 21 V.S.A. § 1455 is amended to read:

12 § 1455. REVOCATION

13 (a) The Commissioner may revoke approval of a plan for good cause. The
14 revocation order shall be in writing and shall specify the date the revocation is
15 effective and the reasons ~~therefor~~ for revocation.

16 * * *

17 (c) ~~Such~~ The action may be taken at any time by the Commissioner on ~~his~~
18 ~~or her~~ the Commissioner's own motion. The Commissioner shall review the
19 operation of each qualified employer plan at least once during the first three
20 months that the plan is in effect to ~~assure~~ ensure its compliance with the
21 requirements of this subchapter. In addition, the Commissioner shall

1 investigate any written complaint about the operation of the approved plan and
2 determine in writing whether or not good cause exists for revocation. ~~Such~~
3 The determination to investigate is not appealable.

4 (d) An employer may appeal a revocation decision by the Commissioner
5 and ~~such~~ the appeal shall be treated as a “contested case” under the
6 Administrative Procedure Act.

7 Sec. 233. 21 V.S.A. § 1458 is amended to read:

8 § 1458. SHORT-TIME COMPENSATION BENEFITS

9 * * *

10 (e) Provisions of this subchapter and Vermont Employment Security Board
11 rules applicable to unemployment compensation claimants shall apply to STC
12 claimants to the extent that they are not inconsistent with this subchapter. An
13 individual who files a new initial claim for STC benefits shall be provided, if
14 eligible ~~therefor~~ for STC benefits, a monetary determination of entitlement to
15 STC benefits and shall serve a waiting week as required under § subdivision
16 1343(a)(4) of this ~~title~~ chapter.

17 (f)(1) If an individual works in the same week for both the short-time
18 employer and another employer and ~~his or her~~ the individual's combined hours
19 of work for both employers are equal to or greater than 81 percent of the usual
20 hours of work with the short-time employer, ~~he or she~~ the individual shall not

1 be entitled to benefits under these short-time provisions or the unemployment
2 compensation provisions.

3 (2) If an individual works in the same week for both the short-time
4 employer and another employer and ~~his or her~~ the individual's combined hours
5 of work for both employers are equal to or less than 80 percent of the usual
6 hours of work for the short-time employer, the benefit amount payable for that
7 week shall be the weekly unemployment compensation amount reduced by the
8 same percentage that the combined hours are of the usual hours of work. A
9 week for which benefits are paid under this provision shall count as a week of
10 short-time compensation.

11 (3) An individual who does not work during a week for the short-time
12 employer, and is otherwise eligible, shall be paid ~~his or her~~ the individual's full
13 weekly unemployment compensation benefit amount under the provisions of
14 the regular unemployment compensation program. Such a week shall not be
15 counted as a week for which short-time compensation benefits were received.

16 * * *

17 Sec. 234. 21 V.S.A. § 1502 is amended to read:

18 § 1502. DEFINITIONS

19 As used in this chapter:

20 * * *

1 (C) ~~Any~~ any person subject to the Railway Labor Act, ~~as amended~~
2 ~~from time to time.~~ 45 U.S.C. §§ 151–165;

3 (D) ~~Any~~ any labor organization (~~other than when acting as an~~
4 employer), or anyone acting in the capacity of officer or agent of ~~such a~~ a labor
5 organization; or

6 (E) ~~A~~ a person operating a hospital or a nursing home, if no part of
7 the net earnings inures to the benefit of a private individual or shareholder.

8 * * *

9 (11) “Professional employee” means:

10 * * *

11 (B) any employee who:

12 * * *

13 (ii) is performing related work under the supervision of a
14 professional person to qualify ~~himself or herself~~ to become a professional
15 employee as defined in subdivision (A) of this subdivision (11).

16 * * *

17 (13) “Supervisor” means an individual having authority, in the interest
18 of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge,
19 assign, reward, or discipline other employees or responsibly to direct them, or
20 to adjust their grievances, or effectively to recommend such action, if ~~in~~

1 ~~connection with the foregoing~~ the exercise of ~~such~~ the authority is not of a
2 merely routine or clerical nature but requires the use of independent judgment.

3 * * *

4 Sec. 235. 21 V.S.A. § 1504 is amended to read:

5 § 1504. GENERAL DUTIES

6 (a) All employers, and their officers, agents, and employees or
7 representatives shall exert every reasonable effort to make and maintain
8 agreements concerning rates of pay, rules, wages, hours of employment, and
9 conditions of work, and to settle all disputes, whether arising out of the
10 application of those agreements or growing out of any dispute between the
11 employer and the employer's employees ~~thereof~~.

12 (b) All labor disputes between employers and their employees shall, upon
13 the request of either party, be considered within 15 days ~~of~~ after the request, or
14 at ~~such times as may be~~ a time that is mutually agreed to, and, if possible,
15 settled, with all expedition, in conference between representatives designated
16 and authorized ~~to~~ confer, by the employer or by the employer's employees
17 ~~thereof~~ who are interested in the dispute. However, this obligation does not
18 compel either party to agree to a proposal or make a concession.

1 Sec. 236. 21 V.S.A. § 1505 is amended to read:

2 § 1505. APPLICATION

3 This chapter shall not apply to any employer or any labor dispute ~~which that~~
4 affects commerce within the meaning of the National Labor Relations Act, as
5 ~~amended 29 U.S.C. § 151–169~~, unless the National Labor Relations Board
6 shall have ceded jurisdiction ~~thereof~~ to the Board pursuant to ~~section 10(a) of~~
7 ~~the Act 29 U.S.C. § 160~~ or shall have declined to assert jurisdiction ~~thereof~~
8 pursuant to ~~section 14(e) of the Act 29 U.S.C. § 164(c)~~.

9 Sec. 237. 21 V.S.A. § 1543 is amended to read:

10 § 1543. APPROPRIATE UNIT; BASIS FOR DETERMINATION

11 (a) The Board shall decide in each case whether, in order to ~~assure~~ ensure
12 the employees have the fullest freedom in exercising the rights guaranteed by
13 this Act, the unit appropriate for the purpose of collective bargaining is the
14 employer unit, craft unit, plant unit, or a subdivision thereof. However, the
15 Board shall not decide that:

16 * * *

17 Sec. 238. 21 V.S.A. § 1544 is amended to read:

18 § 1544. ~~RULES AND REGULATIONS~~

19 (a) The Board shall have authority ~~from time to time~~ to ~~make~~ adopt,
20 amend, and rescind ~~such rules and regulations, not inconsistent with this~~
21 ~~chapter~~, as ~~may be~~ necessary to carry out the provisions of this chapter.

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* * *

Sec. 239. 21 V.S.A. § 1581 is amended to read:

§ 1581. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS;
HEARINGS; DETERMINATIONS

(a) A petition may be filed with the Board, in accordance with ~~regulations~~
~~prescribed~~ rules adopted by the Board:

* * *

(c) In determining whether or not a question of representation exists, it
shall apply the same ~~regulations and rules of decision~~ regardless of the identity
of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation
for a consent election in conformity with ~~regulations and rules of decision~~ of
the Board.

* * *

Sec. 240. 21 V.S.A. § 1582 is amended to read:

§ 1582. ELECTION; ELIGIBILITY TO VOTE; RUNOFF ELECTIONS

An election shall not be directed in any bargaining unit or any subdivision
within which, in the preceding 12 months, a valid election has been held.
Employees engaged in an economic strike who are not entitled to reinstatement
are eligible to vote, under ~~regulations~~ rules of the Board consistent with the
provisions of this Act chapter, in any election conducted within 12 months

1 after the beginning of the strike. In any election where none of the choices on
2 the ballot receive a majority, a runoff shall be conducted by the Board. The
3 ballot shall provide for a selection between the two choices receiving the
4 largest and second largest number of valid votes cast in the election.

5 Sec. 241. 21 V.S.A. § 1621 is amended to read:

6 § 1621. UNFAIR LABOR PRACTICES

7 (a) It shall be an unfair labor practice for an employer:

8 * * *

9 (b) It shall be an unfair labor practice for a labor organization or its agents:

10 (1)(A) To restrain or coerce employees in the exercise of the rights
11 guaranteed in section 1503 of this ~~title~~ chapter. However this subdivision shall
12 not impair the right of a labor organization to prescribe its own rules with
13 respect to the acquisition or retention of membership ~~therein; or~~ in the labor
14 organization.

15 * * *

16 (7) To picket or cause to be picketed, or threaten to picket or cause to be
17 picketed, any employer where an object ~~thereof~~ of the picketing is forcing or
18 requiring an employer to recognize or bargain with a labor organization as the
19 employee's representative, or forcing or requiring the employees of an
20 employer to accept or select the labor organization as their collective

1 bargaining representative, unless the labor organization is currently certified as
2 the representative of the employees:

3 * * *

4 (C) Where the picketing has been conducted without a petition under
5 section 1581 of this title being filed within 30 days after the picketing began.

6 When such a petition has been filed, the Board shall ~~forthwith~~ promptly,
7 without regard to section 1581 of this ~~title~~ chapter or the absence of a showing
8 of a substantial interest on the part of the labor organization, direct an election
9 in ~~such~~ the unit as the Board finds to be appropriate and shall certify the results
10 ~~thereof~~ of the election. This subdivision (C) shall not be construed to prohibit
11 any picketing or other publicity for the purpose of truthfully advising the
12 public ~~(including consumers)~~, that an employer does not employ members of,
13 or have a contract with, a labor organization, unless an effect of the picketing
14 is to induce any individual employed by any other person in the course of ~~his~~
15 ~~or her~~ the individual's employment, not to pick up, deliver, or transport any
16 goods or not to perform any services. This subdivision (b)(7) shall not be
17 construed to permit any act which would otherwise be an unfair labor practice
18 under this subsection.

19 (8) Compulsory membership; employees' rights. A labor organization
20 entering into an agreement requiring a person's membership ~~therein~~ in the
21 labor organization as a condition of employment by the employer shall not:

1 (A) discriminate against a person seeking or holding membership
2 ~~therein~~ in the labor organization on account of race, color, disability, religion,
3 creed, sex, sexual orientation, gender identity, age, or national origin;

4 * * *

5 (C) cause the discharge from employment of employees who refuse
6 membership ~~therein~~ in the labor organization because of religious beliefs.

7 (c) It shall be an unfair labor practice for any labor organization and any
8 employer to enter into any contract or agreement, express or implied, ~~whereby~~
9 under which the employer ceases or refrains or agrees to cease or refrain from
10 handling, using, selling, transporting, or otherwise dealing in any of the
11 products of any other employer, or to cease doing business with any other
12 person, and any contract or agreement entered into before or after enactment of
13 this chapter containing such an agreement shall be to that extent unenforceable
14 and void.

15 * * *

16 (e)(1) For the purposes of this section, to bargain collectively is the
17 performance of the mutual obligation of the employer and the representative of
18 the employees to meet at reasonable times and confer in good faith with
19 respect to wages, hours, and other terms and conditions of employment, or the
20 negotiation of an agreement, or any question arising ~~thereunder~~ under the
21 agreement, and the execution of a written contract incorporating any agreement

1 reached is requested by either party; but the failure or refusal of either party to
2 agree to a proposal, or to change or withdraw a lawful proposal, or to make a
3 concession shall not constitute, or be evidence direct or indirect of, a breach of
4 this obligation.

5 * * *

6 * * * Title 22 * * *

7 Sec. 242. 22 V.S.A. chapter 2 is amended to read:

8 CHAPTER 2. INTERSTATE LIBRARY COMPACT

9 * * *

10 § 23. INTERSTATE LIBRARY DISTRICTS—ARTICLE III

11 (a) Any one or more public library agencies in a party state in cooperation
12 with any public library agency or agencies in one or more other party states
13 may establish and maintain an interstate library district. Subject to the
14 provisions of this compact and any other laws of the party states which
15 pursuant ~~hereto~~ to this compact remain applicable, ~~such~~ the district may
16 establish, maintain, and operate some or all of the library facilities and services
17 for the area concerned in accordance with the terms of a library agreement
18 ~~therefor~~. Any private library agency or agencies within an interstate library
19 district may cooperate ~~therewith~~, with; assume duties, responsibilities and
20 obligations ~~thereto, of~~; and receive benefits ~~therefrom~~ from the district as

1 provided in any library agreement to which such agency or agencies become
2 party.

3 * * *

4 (c) If a library agreement provides for joint establishment, maintenance, or
5 operation of library facilities or services by an interstate library district, ~~such~~
6 the district shall have power to do any one or more of the following in
7 accordance with ~~such~~ the library agreement:

8 ~~1.~~(1) Undertake, administer, and participate in programs or
9 arrangements for securing, lending, or servicing of books and other
10 publications; any other materials suitable to be kept or made available by
11 libraries; library equipment; or ~~for~~ the dissemination of information about
12 libraries, the value and significance of particular items ~~therein~~ in libraries, and
13 the use ~~thereof~~ of items.

14 ~~2.~~(2) Accept for any of its purposes under this compact any and all
15 donations and grants of money, equipment, supplies, materials, and services,
16 (conditional or otherwise), from any state of the United States or any
17 subdivision or agency ~~thereof~~ of a state, or interstate agency, or from any
18 institution, person, firm, or corporation, and receive, utilize, and dispose of the
19 same.

20 ~~3.~~(3) Operate mobile library units or equipment for the purpose of
21 rendering bookmobile service within the district.

1 ~~4.~~(4) Employ professional, technical, clerical, and other personnel and
2 fix terms of employment, compensation, and other appropriate benefits; and,
3 where desirable, provide for the in-service training of ~~such~~ the personnel.

4 ~~5.~~(5) Sue and be sued in any court of competent jurisdiction.

5 ~~6.~~(6) Acquire, hold, and dispose of any real or personal property or any
6 interest or interests ~~therein~~ in property as may be appropriate to the rendering
7 of library service.

8 ~~7.~~(7) Construct, maintain, and operate a library, including any
9 appropriate branches ~~thereof~~ of a library.

10 ~~8.~~(8) Do such other things as may be incidental to or appropriate for the
11 carrying out of any of the ~~foregoing~~ powers enumerated in this subsection.

12 § 24. INTERSTATE LIBRARY DISTRICTS; GOVERNING BOARD—

13 ARTICLE IV

14 (a) An interstate library district ~~which~~ that establishes, maintains, or
15 operates any facilities or services in its own right shall have a governing board
16 ~~which~~ that shall direct the affairs of the district and act for it in all matters
17 relating to its business. Each participating public library agency in the district
18 shall be represented on the governing board ~~which~~ that shall be organized and
19 conduct its business in accordance with ~~provision therefor~~ in the library
20 agreement. But in no event shall a governing board meet less often than twice
21 a year.

1 (b) Any private library agency or agencies party to a library agreement
2 establishing an interstate library district may be represented on or advise with
3 the governing board of the district in ~~such~~ any manner as the library agreement
4 may provide.

5 § 25. STATE LIBRARY AGENCY COOPERATION—ARTICLE V

6 Any two or more state library agencies of two or more of the party states
7 may undertake and conduct joint or cooperative library programs, render joint
8 or cooperative library services, and enter into and perform arrangements for
9 the cooperative or joint acquisition, use, housing, and disposition of items or
10 collections of materials ~~which~~ that, by reason of expense, rarity, specialized
11 nature, or infrequency of demand ~~therefor~~, would be appropriate for central
12 collection and shared use. Any such programs, services, or arrangements may
13 include provision for the exercise on a cooperative or joint basis of any power
14 exercisable by an interstate library district and an agreement embodying any
15 such program, service, or arrangement shall contain provisions covering the
16 subjects detailed in Article VI [section 26 of this title] of this compact for
17 interstate library agreements.

18 § 26. LIBRARY AGREEMENTS—ARTICLE VI

19 (a) In order to provide for any joint or cooperative undertaking pursuant to
20 this compact, public and private library agencies may enter into library

1 agreements. Any agreement executed pursuant to the provisions of this
2 compact shall, as among the parties to the agreement:

3 ~~1.~~(1) Detail the specific nature of the services, programs, facilities,
4 arrangements, or properties to which it is applicable.

5 ~~2.~~(2) Provide for the allocation of costs and other financial
6 responsibilities.

7 ~~3.~~(3) Specify the respective rights, duties, obligations, and liabilities of
8 the parties.

9 ~~4.~~(4) Set forth the terms and conditions for duration, renewal,
10 termination, abrogation, disposal of joint or common property, if any, and all
11 other matters ~~which~~ that may be appropriate to the proper effectuation and
12 performance of the agreement.

13 (b) No public or private library agency shall undertake to exercise itself, or
14 jointly with any other library agency, by means of a library agreement any
15 power prohibited to ~~such~~ the agency by the constitution or statutes of its state.

16 * * *

17 § 27. APPROVAL OF LIBRARY AGREEMENTS—ARTICLE VII

18 (a) Every library agreement made pursuant to this compact shall, prior to
19 and as a condition precedent to its entry into force, be submitted to the attorney
20 general of each state in which a public library agency party ~~thereto~~ to the
21 agreement is situated, who shall determine whether the agreement is in proper

1 form and compatible with the laws of ~~his or her~~ the state. The attorneys
2 general shall approve any agreement submitted to them unless they shall find
3 that it does not meet the conditions set forth ~~herein~~ in this compact and shall
4 detail in writing addressed to the governing bodies of the public library
5 agencies concerned the specific respects in which the proposed agreement fails
6 to meet the requirements of law. Failure to disapprove an agreement submitted
7 ~~hereunder~~ pursuant to this section within 90 days of its submission shall
8 constitute an approval thereof of the agreement.

9 (b) In the event that a library agreement made pursuant to this compact
10 shall deal in whole or in part with the provisions of services or facilities with
11 regard to which an officer or agency of the state government has constitutional
12 or statutory powers of control, the agreement shall, as a condition precedent to
13 its entry into force, be submitted to the state officer or agency having ~~such~~ the
14 power of control and shall be approved or disapproved by ~~him or her~~ the
15 officer or it agency as to all matters within ~~his or her~~ the officer or its the
16 agency's jurisdiction in the same manner and subject to the same requirements
17 governing the action of the attorneys general pursuant to paragraph (a) of this
18 article. This requirement of submission and approval shall be in addition to
19 and not in substitution for the requirement of submission to and approval by
20 the attorneys general.

1 § 28. OTHER LAWS APPLICABLE—ARTICLE VIII

2 Nothing in this compact or in any library agreement shall be construed to
3 supersede, alter, or otherwise impair any obligation imposed on any library by
4 otherwise applicable law, nor to authorize the transfer or disposition of any
5 property held in trust by a library agency in a manner contrary to the terms of
6 ~~such~~ the trust.

7 § 29. APPROPRIATION AND AID—ARTICLE IX

8 (a) Any public agency party to a library agreement may appropriate funds
9 to the interstate library district established ~~thereby~~ by the agreement in the
10 same manner and to the same extent as to a library wholly maintained by it
11 and, subject to the laws of the state in which ~~such~~ the public library agency is
12 situated, may pledge its credit in support of an interstate library district
13 established by the agreement.

14 (b) Subject to the provisions of the library agreement pursuant to which it
15 functions and the laws of the states in which ~~such~~ the district is situated, an
16 interstate library district may claim and receive any state and federal aid which
17 may be available to library agencies.

18 § 30. COMPACT ADMINISTRATOR—ARTICLE X

19 Each state shall designate a compact administrator with whom copies of all
20 library agreements to which ~~his or her~~ the state or any public library agency
21 ~~thereof~~ of the state is party shall be filed. The administrator shall have such

1 other powers as may be conferred upon ~~him or her~~ the administrator by the
2 laws of ~~his or her~~ the state and may consult and cooperate with the compact
3 administrators of other party states and take ~~such~~ the steps as may effectuate
4 the purposes of this compact. If the laws of a party state so provide, ~~such~~ the
5 state may designate one or more deputy compact administrators in addition to
6 its compact administrator.

7 § 31. ENTRY INTO FORCE AND WITHDRAWAL—ARTICLE XI

8 (a) This compact shall enter into force and effect immediately upon its
9 enactment into law by any two states. Thereafter, it shall enter into force and
10 effect as to any other state upon the enactment ~~thereof~~ of the compact by ~~such~~
11 that state.

12 (b) This compact shall continue in force with respect to a party state and
13 remain binding upon ~~such~~ the state until six months after ~~such~~ the state has
14 given notice to each other party state of the repeal ~~thereof~~ of the compact.
15 ~~Such~~ The withdrawal shall not be construed to relieve any party to a library
16 agreement entered into pursuant to this compact from any obligation of that
17 agreement prior to the end of its duration as provided ~~therein~~ in the agreement.

18 § 32. CONSTRUCTION AND SEVERABILITY—ARTICLE XII

19 This compact shall be liberally construed so as to effectuate the purposes
20 ~~thereof~~ of the compact. The provisions of this compact shall be severable and
21 if any phrase, clause, sentence, or provision of this compact is declared to be

1 contrary to the constitution of any party state or of the United States or the
2 applicability ~~thereof~~ of the compact to any government, agency, person, or
3 circumstance is held invalid, the validity of the remainder of this compact and
4 the applicability ~~thereof~~ of the compact to any government, agency, person, or
5 circumstance shall not be affected thereby. If this compact shall be held
6 contrary to the constitution of any party state ~~party thereto~~, the compact shall
7 remain in full force and effect as to the remaining states and in full force and
8 effect as to the state affected as to all severable matters.

9 * * *

10 § 41. TOWN PARTICIPATION RESTRICTED

11 No town of this State may be a party to a library agreement ~~which that~~
12 provides for the construction or maintenance of a library under Article III,
13 subdivision (c-7) [section 23(c)7(7). of this title] of the compact, nor pledge its
14 credit in support of ~~such a~~ the library, or contribute to the capital financing
15 ~~thereof~~ of the library, except after compliance with any laws applicable to
16 towns relating to or governing capital outlays and the pledging of credit.

17 § 42. STATE LIBRARY AGENCY DEFINED

18 As used in the compact, “state library agency₂” with reference to this State,
19 means, the ~~department~~ Department of Libraries Libraries and any department of
20 ~~state~~ State government providing library services.

21 * * *

1 Sec. 243. 22 V.S.A chapter 3 is amended to read:

2 CHAPTER 3. PUBLIC LIBRARIES

3 * * *

4 § 102. GENERAL AUTHORITY; PROCEDURE

5 * * *

6 (b) The trustees may make, sign and acknowledge, and file in the office of
7 the Secretary of State a statement in writing setting forth the intent of the
8 trustees to form a corporation, a copy of the will or instrument by which the
9 endowment of ~~such~~ the library is provided, the name adopted for the
10 corporation, which shall not be the name of a corporation already existing, and
11 the name of the municipality in which the library and the principal place of
12 business of the corporation will be located, the managers who may be
13 designated trustees, managers, or directors of ~~such~~ the corporation, and the
14 names of the trustees, managers, or directors who are to constitute the original
15 board and who shall hold office until their successors are elected and qualified
16 as provided in section 106 of this title.

17 * * *

18 § 103. POWERS GENERALLY

19 An organization formed under the provisions of section 102 of this title
20 shall be a body corporate and politic to be known by the name stated in its
21 certificate. It shall have and possess the ordinary rights and incidents of a

1 corporation, and shall be capable of taking, holding, and disposing of real and
2 personal estate for the purposes of its organization. The provisions of a will,
3 deed, or other instrument by which an endowment of a library is provided, and
4 accepted by the trustees, managers, or directors shall, as to ~~such~~ the
5 endowment, be a part of the organic and fundamental law of ~~such~~ the
6 corporation.

7 § 104. PUBLIC LIBRARIES; TRUSTEES, MANAGERS, OR DIRECTORS

8 The trustees, managers, or directors of ~~such~~ the corporation shall compose
9 its members and shall not be more than 15 nor less than five in number.

10 * * *

11 § 106. VACANCIES

12 (a) ~~They~~ The trustees, managers, or directors may fill by election vacancies
13 occurring in their number.

14 (b) When a trustee, manager, or director is elected to fill a vacancy, a
15 certificate under the seal of the corporation, giving the name of the person
16 elected, shall be recorded in the office of the county clerk where the articles of
17 incorporation are recorded.

18 § 107. BYLAWS

19 ~~They~~ The trustees, managers, or directors may make bylaws for the
20 management of ~~such~~ the corporation and library. The bylaws shall set forth the
21 officers of the corporation and define and prescribe their respective duties.

1 § 108. EMPLOYMENT OF AGENTS AND EMPLOYEES

2 ~~They~~ The trustees, managers, or directors may appoint and employ from
3 time to time agents and employees as they may deem necessary for the
4 efficient administration and conduct of the library and all the affairs of ~~such~~ the
5 corporation.

6 § 109. EXEMPTION FROM TAXATION

7 When the instrument providing the endowment declares that the institution
8 shall be a free public library, ~~such~~ the library and other property of the
9 corporation shall be forever exempt from taxation.

10 § 110. MERGER

11 Two or more library corporations in the same municipality or in different
12 municipalities may, by a majority vote of the members of all the corporations,
13 at meetings warned for that purpose, unite and assume the corporate name of
14 any one of the corporations. The plan of incorporation shall contain
15 ~~regulations~~ articles necessary to carry out the provisions of this chapter.

16 * * *

17 Sec. 244. 22 V.S.A. § 172 is amended to read:

18 § 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS

19 * * *

20 (b) Unless authorized by other provisions of law, the library's officers,
21 employees, and volunteers shall not disclose the records except:

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(4) to custodial parents or guardians of patrons under ~~age~~ 16 years of
age; or

* * *

Sec. 245. 22 V.S.A. chapter 5 is amended to read:

CHAPTER 5. VERMONT HISTORICAL SOCIETY

§ 281. MEMBERS AND TRUSTEES EX OFFICIO

The Secretary of State and the State Librarian, by virtue of their offices,
shall be members of the Vermont Historical Society and of the Board of
Trustees ~~thereof~~ of the Society.

§ 282. DIRECTOR

* * *

(b) The Director shall have charge of the collections of the Society and
~~such any~~ any historical objects, books, and documents of the State as shall be
placed ~~therewith~~ with the Society for use.

* * *

§ 284. DISPOSITION OF BOOKS, COLLECTIONS, AND PROPERTY

If the Society is ever dissolved, the Society's books, collections, and
property ~~thereof~~ shall become the property of the State. ~~Such~~ The Society
shall not sell or dispose of any part of its books or collections, except by way
of exchange or to further the objects of the Society and then only upon the vote

1 of the Board of Trustees of the Society. Any sale or disposal ~~thereof~~ of books
2 or collections contrary to the provisions of this section shall be void.

3 * * *

4 Sec. 246. 22 V.S.A. § 605 is amended to read:

5 § 605. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF
6 LIBRARIES

7 The duties and functions of the Department of Libraries shall be to provide,
8 administer, and maintain:

9 (1) A law library to serve the Supreme Court, the Attorney General,
10 other members of the Judiciary, the legal profession, members of the
11 ~~Legislature~~ General Assembly, officials of State government, and the general
12 public.

13 * * *

14 (4) A general library collection of a sufficient size and scope to
15 reinforce and supplement the resources of local and regional libraries. All
16 materials of the Department of Libraries shall be available for free circulation
17 to all citizens, institutions, and organizations under ~~regulations~~ of procedures
18 adopted by the State Librarian except that the State Librarian may restrict rare
19 or reference-type materials to one location. The Department shall arrange,
20 classify, and catalog all materials in its custody and provide for their
21 safekeeping and shall rebind books as needed. The Department shall provide

1 service to other libraries in the State, schools, and individuals and may provide
2 service by mail or book wagon or otherwise.

3 * * *

4 Sec. 247. 22 V.S.A. § 632 is amended to read:

5 § 632. REQUIREMENTS

6 A town, city, or incorporated village shall not be entitled to the benefits of
7 section 631 of this ~~title, subchapter~~ unless ~~such~~ the following conditions are
8 met:

9 (1) the town, city, or village has elected a Board of Library Trustees as
10 provided in chapter 3 of this title and;

11 (2) the town, city, or village has voted to instruct ~~such~~ its Trustees to
12 make application therefor apply to the State Librarian for the benefits set forth
13 in section 631 of this subchapter; and unless such

14 (3) the Trustees have provided, in a manner satisfactory to the Board of
15 Libraries, for the care, custody, and distribution of the books furnished under
16 this subchapter.

17 Sec. 248. 22 V.S.A. § 634 is amended to read:

18 § 634. AID TO FREE PUBLIC LIBRARIES

19 The State Librarian may assist free public or other nonprofit libraries ~~which~~
20 that formulate and implement plans for the systematic and effective
21 coordination of libraries and library services. Grants may be made in

1 accordance with standards of the service, consistent with ~~the Federal Library~~
2 ~~Services and Construction Act, chapter 16 of Title 20, U.S. Code as amended~~
3 20 U.S.C. chapter 72, subchapter II.

4 Sec. 249. 22 V.S.A. § 701(7) is amended to read:

5 (7) “Secretary” means the Secretary of ~~the Agency of Commerce and~~
6 Community Development.

7 Sec. 250. 22 V.S.A. § 723(c) is amended to read:

8 (c) The State Historic Preservation Officer and the Division shall adopt a
9 procedure for the efficient review in accordance with this chapter and the
10 National Historic Preservation Act, 16 U.S.C. chapter 1A, subchapter II, of
11 undertakings related to the provision of broadband services, and shall take all
12 feasible steps to effect such efficient review. Unless contrary to federal
13 requirements, any review of pole attachments shall be conducted using a
14 systemic approach. ~~As used in this subsection, “broadband” means high-speed~~
15 ~~Internet access that meets the minimum technical objectives adopted by the~~
16 ~~Department of Public Service pursuant to 30 V.S.A. § 8077(a).~~

17 Sec. 251. 22 V.S.A. § 724(c) is amended to read:

18 (c) Use for intended purposes. The Division for Historic Preservation shall
19 ensure that donations and gifts are used for the purposes intended.

1 Sec. 252. 22 V.S.A. § 741(a) is amended to read:

2 (a) There is established a the Vermont Advisory Council on Historic
3 Preservation. The Council shall consist of seven members, appointed by the
4 Governor, at least four of whom shall fulfill the professional requirements of
5 the National Historic Preservation Act.

6 Sec. 253. 22 V.S.A. § 743 is amended to read:

7 § 743. COOPERATION OF AGENCIES

8 An agency, department, division, or commission shall:

9 * * *

10 (2) Initiate measures and procedures to provide for the maintenance,
11 through preservation, rehabilitation, or restoration, of properties under its
12 ownership that are listed on the State or National Register; the measures and
13 procedures shall comply with applicable standards prescribed by the ~~State~~
14 Division for Historic Preservation ~~Division~~.

15 (3) Develop plans for the maintenance, through preservation,
16 rehabilitation, or restoration, of historic properties under their ownership in a
17 manner that is compatible with preservation objectives and ~~which that~~ does not
18 result in an unreasonable economic burden to public interest.

19 (4) Institute procedures to ~~assure~~ ensure that its plans, programs, codes,
20 and ~~regulations~~ rules contribute to the preservation and enhancement of sites,

1 structures, and objects of historical, architectural, archaeological, or cultural
2 significance.

3 Sec. 254. 22 V.S.A. § 764 is amended to read:

4 § 764. PERMITS FOR EXPLORATION

5 The State Historic Preservation Officer, with the advice of the State
6 Archaeologist, may issue permits for exploration and field investigations to be
7 undertaken on State lands or within the boundaries of designated State
8 archaeological landmarks to an amateur or professional whom the State
9 Historic Preservation Officer deems properly qualified to conduct the activity,
10 subject to such rules ~~and regulations~~ as the Division may prescribe, with a
11 view toward disseminating the knowledge gained through ~~his or her~~ the State
12 Historic Preservation Officer's activities; and, provided that a summary report
13 of the undertakings, containing relevant maps, documents, drawings, and
14 photographs be submitted to the Division; and, provided further, that all
15 specimens so collected under permit shall be the permanent property of the
16 State and that the State Archaeologist shall make prior arrangements for the
17 disposition of specimens derived from the activities in an appropriate
18 institution of the State or for the loan of the specimens to qualified institutions
19 in or out of the State.

1 Sec. 255. 22 V.S.A. § 767(3) is amended to read:

2 (3) The Division shall initiate actions within 60 days ~~of~~ following
3 notification under subdivision (1) of this subsection and within such time as
4 agreed upon in other cases. The responsible agency is authorized and directed
5 to expend agency funds for the purpose of recovering the data, including
6 analysis and publications, and the costs shall be included as part of the
7 contractor's costs if the adverse effect is caused by work being done under
8 contract to a State agency.

9 Sec. 256. 22 V.S.A. § 781 is amended to read:

10 § 781. ~~RULES AND REGULATIONS~~

11 The custodian of underwater historic properties shall be the Division, which
12 shall administer the preservation and protection of these properties in
13 accordance with this chapter. The Division may prescribe such rules ~~and~~
14 ~~regulations~~ as are necessary to preserve, protect, and recover any or all
15 underwater historic properties.

16 Sec. 257. 22 V.S.A. § 782 is amended to read:

17 § 782. ISSUANCE OF PERMITS

18 Any qualified person desiring to conduct any type of exploration or
19 recovery operations, in the course of which any underwater historic property or
20 part thereof may be removed, displaced, or destroyed, shall first make
21 application to the State Historic Preservation Officer for a permit to conduct

1 the operations. The State Historic Preservation Officer, with the advice of the
2 State Archaeologist, may grant the applicant a permit for such a period of time
3 and under such conditions as ~~he or she~~ the State Historic Preservation Officer
4 may deem to be in the best ~~interest~~ interests of the State. The permit may
5 provide for the fair compensation to the permittee in terms of a percentage of
6 the reasonable cash value of the objects recovered or a fair share of the objects
7 recovered, the fair compensation or share to be determined by the State
8 Archaeologist. Superior title to all objects recovered shall be retained by the
9 State unless or until they are released to the permittee by the State
10 Archaeologist. All exploration and recovery operations undertaken under a
11 permit issued under this section shall be carried out under the general
12 supervision of the State Archaeologist and in such manner that the maximum
13 amount of historic, scientific, archaeological, and educational information may
14 be recovered and preserved in addition to the physical recovery of items.
15 Permits may be renewed upon or prior to expiration. Holders of permits shall
16 be responsible for obtaining permission of any federal agencies having
17 jurisdiction prior to conducting any recovery operations.

1 Sec. 258. 22 V.S.A. § 952 is amended to read:

2 § 952. VERMONT WEB PORTAL; VERMONT WEB PORTAL BOARD;

3 MEMBERSHIP

4 (a) There is created the Vermont web portal that shall be governed by a

5 Board consisting of 12 members as follows:

6 * * *

7 (10) one member of the House of Representatives who is also a member
8 of the ~~Legislative Information Technology Committee~~ Joint Information
9 Technology Oversight Committee, appointed by the Speaker of the House, and
10 one member of the Vermont Senate who is also a member of the ~~Legislative~~
11 ~~Information Technology Committee~~ Joint Information Technology Oversight
12 Committee, appointed by the Committee on Committees.

13 * * *

14 Sec. 259. 22 V.S.A. § 953(c)(2) is amended to read:

15 (2) The Governor's approval shall be final unless within 30 days of
16 following receipt of the information a member of the Joint Fiscal Committee
17 requests the charge be placed on the agenda of the Joint Fiscal Committee or,
18 when the General Assembly is in session, be held for legislative approval. In
19 the event of such request, the charge shall not be accepted until approved by
20 the Joint Fiscal Committee or the ~~Legislature~~ General Assembly. During the
21 legislative session, the Joint Fiscal Committee shall file a notice with the

1 House Clerk and Senate Secretary for publication in the respective calendars of
2 any charge approval requests that are submitted by the Administration.
3 Beginning on July 1, 2012, and every three years thereafter, all web portal fees
4 shall be included in the annual consolidated Executive Branch fee report
5 pursuant to 32 V.S.A. § 605.

6 * * * Title 23 * * *

7 Sec. 260. 23 V.S.A. § 110(a) is amended to read:

8 (a) Whenever any check issued in payment of any fee or for any other
9 purpose is tendered to the Department of Motor Vehicles and payment is not
10 honored by the bank on which the check is drawn, the Commissioner shall
11 send a written notice of its nonpayment to the maker or person presenting the
12 check and if the check is not immediately made good ~~forthwith, he or she~~ the
13 Commissioner shall suspend the license or registration of the person or
14 persons. In no case shall the license or registration be reinstated until
15 settlement has been made in full. Settlement in full shall also include the
16 payment of any penalties assessed by the State Treasurer.

17 Sec. 261. 23 V.S.A. § 204 is amended to read:

18 § 204. SURRENDER OF LICENSE OR REGISTRATION

19 (a) A person whose license to operate a motor vehicle, nondriver
20 identification card, or motor vehicle registration has been issued in error shall
21 immediately surrender ~~forthwith his or her~~ the license or registration upon

1 demand of the Commissioner or ~~his or her~~ the Commissioner's authorized
2 inspector or agent. The demand shall be made in person or by notice in writing
3 sent by first-class mail to the last known address of the person.

4 (b) The Commissioner or ~~his or her~~ the Commissioner's authorized
5 inspector or agent and all enforcement officers are authorized to take
6 possession of any certificate of title, nondriver identification card, registration,
7 or license issued by this or any other jurisdiction that has been revoked,
8 canceled, or suspended, or that is fictitious, stolen, or altered.

9 * * *

10 Sec. 262. 23 V.S.A. § 301 is amended to read:

11 § 301. PERSONS REQUIRED TO REGISTER

12 Residents, except as provided in chapter 35 of this title, shall annually
13 register motor vehicles owned or leased for a period of more than 30 days and
14 operated by them, unless currently registered in Vermont. Notwithstanding
15 this section, a resident who has moved into the State from another jurisdiction
16 shall register ~~his or her~~ the resident's motor vehicle within 60 days ~~of~~ after
17 moving into the State. ~~A person~~ An individual shall not operate a motor
18 vehicle nor draw a trailer or semi-trailer on any highway unless ~~such~~ the
19 vehicle is registered as provided in this chapter. Vehicle owners who have
20 apportioned power units registered in this State under the International

1 Registration Plan are exempt from the requirement to register their trailers in
2 this State.

3 Sec. 263. 23 V.S.A. § 303(a) is amended to read:

4 (a) The Commissioner or ~~his or her~~ the Commissioner's duly authorized
5 agent shall register a motor vehicle, trailer, or semi-trailer ~~when~~ upon
6 application ~~therefor~~, on a form prescribed by the Commissioner that is filed
7 with the Commissioner, showing ~~such~~ the motor vehicle to be properly
8 equipped and in good mechanical condition, ~~is filed with him or her, and~~
9 accompanied by the required registration fee and evidence of the applicant's
10 ownership of the vehicle in ~~such~~ the form as the Commissioner may
11 reasonably require. Except for State or municipal vehicles, registrants and
12 titled owners shall be identical.

13 Sec. 264. 23 V.S.A. § 304(b)(2)(D) is amended to read:

14 (D) When an individual's membership in a qualifying organization
15 ceases or is terminated, the individual shall immediately surrender any special
16 registration plates issued under this subsection to the Commissioner ~~forthwith~~.
17 However, a retired member of the Vermont National Guard may renew or,
18 upon payment of a \$10.00 fee, acquire, the special guard plates after
19 notification of eligibility for retired pay has been received.

1 Sec. 265. 23 V.S.A. § 307(b) is amended to read:

2 (b) In case of the loss, mutilation, or destruction of a certificate, the owner
3 of the vehicle described in it shall ~~forthwith~~ immediately notify the
4 Commissioner and remit a fee of \$20.00, upon receipt of which the
5 Commissioner shall furnish the owner with a duplicate certificate.

6 Sec. 266. 23 V.S.A. § 381 is amended to read:

7 § 381. FEES TURNED OVER TO STATE TREASURER

8 (a) Except as otherwise provided, all fees for registering motor vehicles,
9 licensing operators, and all other motor vehicle fees shall be collected by the
10 Commissioner and ~~forthwith~~ immediately paid into the State Treasury or
11 deposited to ~~such a~~ a bank to the credit of the State Treasurer as ~~he or she~~ the
12 State Treasurer may direct.

13 * * *

14 Sec. 267. 23 V.S.A. § 415(a) is amended to read:

15 (a) In addition to any other provision of law relating to registration of
16 motor trucks with a gross weight of 18,000 pounds or over and powered by
17 gasoline or any other nondiesel fuel, or fees paid ~~therefor~~ for the registration of
18 motor trucks with a gross weight of 18,000 pounds or over and powered by
19 gasoline or any other nondiesel fuel, a person owning or operating a motor
20 truck upon the highways of the State, registered in this State, shall apply to the
21 Commissioner of Motor Vehicles for a nondiesel fuel user's license for each

1 ~~such~~ motor truck to be so operated. Application shall be made upon a form
2 prescribed by ~~such~~ the Commissioner and shall set forth ~~such~~ the information
3 as the Commissioner may require. The application shall be accompanied by a
4 license fee of \$6.50 for each motor truck listed in the application. However,
5 any license issued under this section prior to July 1, 1990 shall remain in effect
6 for the term of the issuance. The Commissioner shall issue a license and an
7 identification tag, plate, or sticker for each ~~such~~ motor truck, which tag, plate,
8 or sticker shall be of ~~such~~ the size and design and contain ~~such~~ the information
9 as the Commissioner shall prescribe. Except as otherwise provided, any such
10 license and tag, plate, or sticker shall become void on January 1 next following
11 the date of issue. Such licenses shall be carried in the motor truck, and the tag,
12 plate, or sticker shall be affixed to ~~said~~ the motor truck and visible and legible
13 at all times ~~be visible and legible~~. This section shall not apply to motor trucks
14 owned by federal, State, provincial, or municipal governments nor to motor
15 trucks, otherwise required to be licensed under this section, that are being
16 operated under the provisions of ~~sections~~ section 463 or 516 of this title.

17 Sec. 268. 23 V.S.A. § 462(a) is amended to read:

18 (a) The Commissioner may cancel, revoke, or suspend the registration of a
19 dealer under the provisions of this chapter or section 3204, 3305, or 3504 of
20 this title whenever, after the dealer has been afforded the opportunity of a
21 hearing before the Commissioner or upon conviction in any court in any

1 jurisdiction, it appears that the dealer has willfully violated any vehicle or
2 motorboat law of this State or any lawful ~~regulation~~ rule of the Commissioner
3 applying to dealers, or when it appears that the dealer has engaged in
4 fraudulent or unlawful practices related to the purchase, sale, or exchange of
5 vehicles or motorboats. A dealer whose registration has been canceled,
6 revoked, or suspended shall ~~forthwith~~ immediately return to the Commissioner
7 the registration certificate and any and all number plates ~~or~~ numbers, or decals
8 furnished ~~him or her~~ to the dealer by the Commissioner, and the privilege to
9 operate, purchase, sell, or exchange vehicles or motorboats under ~~his or her~~ the
10 dealer's number shall cease. An application for a new dealer's registration for
11 that dealer will not be considered until a revocation period has been served.

12 Sec. 269. 23 V.S.A. § 495 is amended to read:

13 § 495. SUSPENSION OF REGISTRATION

14 The Commissioner may cancel a registration certificate issued to a
15 transporter whenever, after hearing before the Commissioner or upon
16 conviction in any court in this State, the Commissioner finds that the
17 transporter has violated any motor vehicle law in this State or any lawful
18 ~~regulation~~ rule of the Commissioner applying to transporters. A transporter
19 whose certificate has been ~~cancelled~~ canceled shall ~~forthwith~~ immediately
20 return to the Commissioner the registration certificate and the number plates
21 furnished ~~him or her~~ to the transporter by the Commissioner.

1 Sec. 270. 23 V.S.A. § 601(a)(1) is amended to read:

2 (a)(1) Except as otherwise provided by law, a resident shall not operate a
3 motor vehicle on a highway in Vermont unless ~~he or she~~ the resident holds a
4 valid license issued by the State ~~of Vermont~~. A new resident who has moved
5 ~~into the State~~ to Vermont from another jurisdiction and who holds a valid
6 license to operate motor vehicles under section 208 of this title shall procure a
7 Vermont license within 60 days ~~of~~ after moving to ~~the State~~ Vermont. Except
8 as provided in subsection 603(d) of this title, licenses shall not be issued to
9 nonresidents.

10 Sec. 271. 23 V.S.A. § 606 is amended to read:

11 § 606. AGE LIMIT

12 An operator's license shall not be issued to ~~any person~~ an individual under
13 18 years of age. ~~Any person~~ An individual who has previously held a junior
14 operator's license in Vermont prior to application for a license under this
15 section shall have held that license for a minimum of six months or until 18
16 years of age ~~18~~ and maintained a record without any suspensions, revocations,
17 or recalls for the six-month period preceding licensure under this section.

18 Sec. 272. 23 V.S.A. § 611 is amended to read:

19 § 611. POSSESSION OF LICENSE CERTIFICATE

20 Every licensee shall have ~~his or her~~ the licensee's operator's license
21 certificate in ~~his or her~~ the licensee's immediate possession at all times when

1 operating a motor vehicle. However, ~~a person~~ a licensee cited with violating
2 this section or section 610 of this ~~title~~ subchapter shall not be convicted if ~~he or~~
3 ~~she~~ the licensee sends a copy of or produces to the issuing enforcement agency
4 within seven business days ~~of~~ after the traffic stop an operator's license
5 certificate that was valid or had expired within 14 days prior to the traffic stop.

6 Sec. 273. 23 V.S.A. § 613 is amended to read:

7 § 613. REPLACEMENT LICENSE

8 (a) In case of the loss, mutilation, or destruction of a license or error in a
9 license, the licensee shall ~~forthwith~~ immediately notify the Commissioner who
10 shall furnish ~~such~~ the licensee with a replacement on receipt of \$24.00.

11 (b) A replacement license shall not be issued to any ~~person~~ individual who
12 has surrendered ~~his or her~~ the individual's license to another jurisdiction in
13 connection with obtaining a license in that jurisdiction.

14 Sec. 274. 23 V.S.A. § 671(a) is amended to read:

15 (a) In ~~his or her~~ the Commissioner's discretion, the Commissioner may
16 suspend indefinitely or for a definite time the license of an operator, or the
17 right of an unlicensed individual to operate a motor vehicle, after opportunity
18 for a hearing upon not less than 15 days' notice, if the Commissioner has
19 reason to believe that the holder ~~thereof~~ of the license or right to operate is an
20 individual who is incompetent to operate a motor vehicle or is operating
21 improperly so as to endanger the public. If, upon receipt of such notice, the

1 individual requests a hearing, ~~such~~ the suspension shall not take effect unless
2 the Commissioner, after hearing, determines that the suspension is justified. If
3 the Commissioner imposes a suspension, ~~he or she~~ the Commissioner may
4 order the license delivered to ~~him or her~~ the Commissioner. Not less than six
5 months from the date of suspension and after each subsequent six months
6 ~~thereafter~~, an individual upon whom such suspension has been imposed may
7 apply for reinstatement of ~~his or her~~ the individual's license or right to operate
8 or for a new license. Upon receipt of such application, the Commissioner shall
9 ~~thereupon~~ cause an investigation to be made and, if so requested, conduct a
10 hearing to determine whether such suspension should be continued in effect.

11 Sec. 275. 23 V.S.A. § 672 is amended to read:

12 § 672. SUSPENDING OR REVOKING RIGHT OF NONRESIDENT
13 OPERATOR

14 (a) The Commissioner may suspend or revoke the right of any nonresident
15 operator to operate a motor vehicle in this State for the same causes and under
16 the same conditions and in the same manner that ~~he or she~~ the Commissioner
17 could suspend or revoke the license of any resident operator. ~~Thereupon~~ Upon
18 suspension or revocation, the right of ~~such~~ the nonresident operator to operate
19 any motor vehicle in this State shall terminate, and ~~he or she~~ the nonresident
20 operator shall be subject to the same penalties as a resident operator who

1 operates after the suspension or revocation of ~~his or her~~ the resident operator's
2 license.

3 (b) Whenever a nonresident operator has ~~his or her~~ the nonresident
4 operator's right to operate a motor vehicle in this State suspended or revoked,
5 the Commissioner shall mail a copy of the notice of suspension or revocation
6 as well as a copy of the court document resulting in the suspension or
7 revocation to the state or province of residence or licensing.

8 Sec. 276. 23 V.S.A. § 722 is amended to read:

9 § 722. RECOMMENDATION OF A COURT

10 When a motor vehicle operator is convicted of a violation of chapter 13,
11 subchapters 1 through 5 ~~of chapter 13~~ of this title involving the operation of a
12 motor vehicle in motion, the judge of the court in which the conviction was
13 obtained may recommend, in writing, to the Commissioner ~~of Motor Vehicles~~
14 that the operator be required to attend a driver retraining course. The judge
15 may delay sentencing the operator until ~~he or she has had~~ the judge receives an
16 answer to ~~his or her~~ the judge's recommendation from the Commissioner. If
17 advised by the Commissioner that the operator has been ordered to take a
18 driver retraining program, the judge may further delay sentencing the operator
19 for a period not to exceed 90 days. If the judge receives evidence that the
20 operator has satisfactorily completed a driver retraining course, ~~he or she~~ the
21 judge may then consider all the facts and circumstances of the case and either

1 impose a penalty and costs or waive all or any part of the penalty and costs,
2 making a note of the action on the original warrant. In such cases, the court
3 shall in no way be relieved of the duty of immediately filing ~~forthwith~~ upon
4 conviction the report required under section 1709 of this title.

5 Sec. 277. 23 V.S.A. § 731(b) is amended to read:

6 (b) It is the intent of the General Assembly that revenue from fee increases
7 specified in ~~this act~~ 1990 Acts and Resolves No. 286 shall be used for
8 administration of the motorcycle rider training program and expenses relating
9 to the program, including instructor training, licensing improvement, alcohol
10 and drug education, public awareness, a driver improvement program for
11 motorcyclists, technical assistance, program promotion, and other motorcycle
12 safety programs. Funds may also be used for reimbursement of persons with
13 course sites.

14 Sec. 278. 23 V.S.A. § 751(b)(1)(B) is amended to read:

15 (B) confirms that the individual is at least 18 years of age and, if the
16 individual is 18 years of age, that ~~he or she~~ the individual has at least one year
17 of driving experience or has been issued a commercial ~~driver~~ driver's license;
18 and

19 Sec. 279. 23 V.S.A. § 800(c) is amended to read:

20 (c) Every operator of a vehicle required to be registered shall have proof of
21 financial responsibility as required by subsection (a) of this section when

1 operating ~~such a~~ vehicle on the highways of this State. A person may prove
2 financial responsibility using a portable electronic device; however, use of a
3 device for this purpose does not in itself constitute consent for an enforcement
4 officer to access other contents of the device. An operator cited for violating
5 this subsection shall not be convicted if ~~he or she~~ the operator sends or
6 produces to the issuing enforcement agency within seven business days ~~of~~ after
7 the traffic stop proof of financial responsibility that was in effect at the time of
8 the traffic stop.

9 Sec. 280. 23 V.S.A. § 802(c) is amended to read:

10 (c) When a resident of Vermont, or ~~a person~~ an individual holding a
11 Vermont operator's license, as a result of a motor vehicle crash in any other
12 state has been required to furnish ~~such the~~ other state with evidence of future
13 financial responsibility and because of failure to do so ~~has had his or her~~ the
14 individual's operating privilege has been suspended or revoked ~~therefor~~, upon
15 being notified by the proper official of such other jurisdiction of ~~such the~~
16 suspension or revocation, the Commissioner ~~of Motor Vehicles~~ shall suspend
17 the Vermont operator's license or right of ~~such person~~ the individual to operate
18 motor vehicles, and ~~such the~~ suspension shall remain in effect until the ~~person~~
19 ~~suspended shall furnish~~ individual furnishes the Commissioner with
20 satisfactory evidence that ~~he or she~~ the individual has complied with the

1 requirement to furnish ~~such~~ the other state with evidence of future financial
2 responsibility.

3 Sec. 281. 23 V.S.A. § 806 is amended to read:

4 § 806. ADDITIONAL EVIDENCE

5 Additional evidence of financial responsibility shall be furnished to the
6 Commissioner, at any time, upon ~~his or her~~ the Commissioner's request
7 ~~therefor~~.

8 Sec. 282. 23 V.S.A. § 941(g) is amended to read:

9 (g) Within 30 days ~~of~~ after receipt of a written request by a person
10 reasonably claiming the right to recover damages after a crash involving
11 owners or operators of motor vehicles for bodily injury, sickness, or disease,
12 including death, or for property damages resulting from the ownership,
13 maintenance, or use of a motor vehicle, an insurer that may be liable to satisfy
14 part or all of the claim under a policy subject to this chapter shall provide a
15 statement, by a duly authorized agent of the insurer, setting forth the names of
16 the insurer and insured, and the limits of liability coverage.

17 Sec. 283. 23 V.S.A. § 1001(b) is amended to read:

18 (b) The Commissioner may adopt rules uniform with the regulations of the
19 federal agency having jurisdiction over motor vehicles subject to federal law so
20 far as the ~~regulations~~ rules are applicable to the vehicles or to vehicles of the
21 same type not subject to federal law, or to both.

1 Sec. 284. 23 V.S.A. § 1042(c) is amended to read:

2 (c) Any decision of the Secretary made under this section may be appealed,
3 in writing, to the Transportation Board within 30 days ~~of~~ after the Secretary's
4 decision. The Transportation Board shall decide the question within 45 days ~~of~~
5 after receipt of the appeal; and may take evidence or testimony.

6 Sec. 285. 23 V.S.A. § 1203(g) is amended to read:

7 (g) The Office of the Chief Medical Examiner shall report in writing to the
8 Department of Motor Vehicles the death of any ~~person~~ individual as the result
9 of a crash involving a vehicle and the circumstances of ~~such~~ the crash within
10 five days ~~of~~ after such death.

11 Sec. 286. 23 V.S.A. § 1205 is amended to read:

12 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

13 * * *

14 (b) Form of officer's affidavit. A law enforcement officer's affidavit in
15 support of a suspension under this section shall be in a standardized form for
16 use throughout the State and shall be sufficient if it contains the following
17 statements:

18 * * *

19 (6) The officer complied with the ~~Soldiers and Sailors~~ Servicemembers
20 Civil Relief Act, codified at 50 U.S.C. chapter 50 (~~50 U.S.C. § 501 et seq.~~).

21 * * *

1 (c) Notice of suspension. On behalf of the Commissioner of Motor
2 Vehicles, a law enforcement officer requesting or directing the administration
3 of an evidentiary test shall serve notice of intention to suspend and of
4 suspension on a person who refuses to submit to an evidentiary test or on a
5 person who submits to a test the results of which indicate that the person's
6 alcohol concentration was above a legal limit specified in subsection 1201(a)
7 or (d) of this title, at the time of operating, attempting to operate, or being in
8 actual physical control of a vehicle in violation of section 1201 of this title.
9 The notice shall be signed by the law enforcement officer requesting the test.
10 A copy of the notice shall be sent to the Commissioner of Motor Vehicles, and
11 a copy shall be mailed or given to the defendant within three business days ~~of~~
12 after the date the officer receives the results of the test. If mailed, the notice is
13 deemed received three days after mailing to the address provided by the
14 defendant to the law enforcement officer. A copy of the affidavit of the law
15 enforcement officer shall also be mailed by first-class mail or given to the
16 defendant within seven days ~~of~~ after the date of notice.

17 * * *

18 (g) Preliminary hearing. The preliminary hearing shall be held within
19 21 days ~~of~~ after the alleged offense. Unless impracticable or continued for
20 good cause shown, the date of the preliminary hearing shall be the same as the
21 date of the first appearance in any criminal case resulting from the same

1 incident for which the person received a citation to appear in court. The
2 preliminary hearing shall be held in accordance with procedures prescribed by
3 the Supreme Court.

4 (h) Final hearing.

5 (1) If the defendant requests a hearing on the merits, the court shall
6 schedule a final hearing on the merits to be held within 21 days ~~of~~ after the
7 date of the preliminary hearing. In no event may a final hearing occur more
8 than 42 days after the date of the alleged offense without the consent of the
9 defendant or for good cause shown. The final hearing may only be continued
10 by the consent of the defendant or for good cause shown. The issues at the
11 final hearing shall be limited to the following:

12 * * *

13 Sec. 287. 23 V.S.A. § 1206(a) is amended to read:

14 (a) First conviction—generally. Except as otherwise provided, upon
15 conviction of ~~a person~~ an individual for violating a provision of section 1201
16 of this ~~title~~ subchapter, or upon final determination of an appeal, the court shall
17 immediately forward the conviction report ~~forthwith~~ to the Commissioner of
18 Motor Vehicles. The Commissioner shall immediately suspend the ~~person's~~
19 operator's operating license or nonresident operating privilege or the privilege
20 of an unlicensed operator to operate a vehicle, as applicable, for a period of

1 90 days and until the ~~defendant~~ operator complies with section 1209a of this
2 title.

3 Sec. 288. 23 V.S.A. § 1208 is amended to read:

4 § 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

5 (a) Second conviction. Upon a second conviction of ~~a person~~ an individual
6 violating a provision of section 1201 of this title and upon final determination
7 of an appeal, the court shall immediately forward the conviction report
8 ~~forthwith~~ to the Commissioner of Motor Vehicles. The Commissioner shall
9 immediately suspend the ~~person's~~ operator's operating license or nonresident
10 operating privilege or the privilege of an unlicensed operator to operate a
11 vehicle, as applicable, for 18 months and until the ~~defendant~~ operator complies
12 with section 1209a of this title. However, during the suspension, an eligible
13 ~~person~~ operator may operate under the terms of an ignition interlock RDL or
14 ignition interlock certificate issued pursuant to section 1213 of this title.

15 (b) Third conviction. Upon a third or subsequent conviction of ~~a person~~ an
16 individual violating a provision of section 1201 of this title and upon final
17 determination of any appeal, the court shall immediately forward the
18 conviction report ~~forthwith~~ to the Commissioner of Motor Vehicles. The
19 Commissioner shall immediately revoke the ~~person's~~ operator's operating
20 license or nonresident operating privilege or the privilege of an unlicensed
21 operator to operate a motor vehicle, as applicable, for life. However, during

1 this lifetime revocation, an eligible ~~person~~ operator may operate under the
2 terms of an ignition interlock RDL or ignition interlock certificate issued under
3 section 1213 of this title.

4 Sec. 289. 23 V.S.A. § 1213c(n)(2) is amended to read:

5 (2) If the State has not commenced a prosecution for a second or
6 subsequent violation of section 1201 of this title within 90 days ~~of~~ after the
7 detention, arrest, lodging, or release upon citation, the person may sell,
8 transfer, or encumber the subject vehicle.

9 Sec. 290. 23 V.S.A. § 1227(d) is amended to read:

10 (d) To inspect a school bus, a certified inspection mechanic shall not be
11 required to have a commercial ~~driver~~ driver's license if ~~he or she~~ the mechanic:

12 * * *

13 Sec. 291. 23 V.S.A. § 1246 is amended to read:

14 § 1246. RESTRICTIONS

15 ~~A person shall not use on a vehicle of any kind operated~~ An individual shall
16 not operate a motor vehicle on the highway during the period stated in section
17 1243 of this ~~title~~ subchapter if the motor vehicle utilizes any lighting device of
18 over four candle power equipped with a reflector, unless ~~such~~ the device, ~~and~~
19 the lens used ~~therein~~ within the device, and ~~such~~ the candle power is approved
20 by the Commissioner of ~~Motor Vehicles~~, nor unless the ~~same~~ device shall be
21 ~~so designed, deflected, or arranged that~~ produce a beam of reflected light

1 ~~therefrom~~ that, when measured 75 feet or more ahead of the lamps, shall not
2 rise more than six inches above the height of the bulb in ~~such~~ the lamp and in
3 no event more than 42 inches from the level surface on which the vehicle
4 stands under all conditions of load. When vehicles are approaching each other
5 from opposite directions, spotlights shall not be used except when projecting
6 their rays directly on the ground and at a distance not exceeding 30 feet in front
7 of the vehicle.

8 Sec. 292. 23 V.S.A. § 1258 is amended to read:

9 § 1258. CHILD RESTRAINT SYSTEMS; ~~PERSONS~~ INDIVIDUALS
10 UNDER 18 YEARS OF AGE ~~48~~

11 (a) No ~~person~~ individual shall operate a motor vehicle, other than a type I
12 school bus, in this State upon a public highway unless every occupant under
13 18 years of age ~~48~~ is properly restrained in a federally approved child
14 passenger restraining system as defined in 49 C.F.R. § 571.213, as may be
15 amended, or a federally approved safety belt, as follows:

16 * * *

17 Sec. 293. 23 V.S.A. § 1281 is amended to read:

18 § 1281. ADDITIONAL EQUIPMENT

19 In addition to other equipment required by this title, any school bus as
20 ~~described~~ defined in section 4 of this title shall be equipped as follows:

21 * * *

1 Sec. 295. 23 V.S.A. § 1396(c) is amended to read:

2 (c) Any decision of the Secretary made under this section may be appealed,
3 in writing, to the Transportation Board within 30 days ~~of~~ after the Secretary's
4 decision. The Transportation Board shall decide the question within 45 days ~~of~~
5 after receipt of the appeal and may take evidence or testimony. Except as
6 otherwise provided, the designated legal load limit for the highway or bridge
7 shall not be less than 20,000 pounds for a single traction engine, tractor, trailer,
8 motor truck, or other motor vehicle for the State system or any class 1 or 2
9 town highway nor less than 16,000 pounds for any other town highway.

10 Sec. 296. 23 V.S.A. § 1400(a) is amended to read:

11 (a) A person ~~or corporation~~ owning or operating a traction engine, tractor,
12 trailer, motor truck, or other motor vehicle that desires to operate it over State
13 highways or class 1 town highways in excess of the weight and size limits
14 provided by this subchapter shall apply to the Commissioner for a permit. In
15 ~~his or her~~ the Commissioner's discretion, with or without hearing, the
16 Commissioner may issue to the person ~~or corporation~~ a permit authorizing the
17 person to operate the traction engine, tractor, trailer, motor truck, or other
18 motor vehicle upon State highways and class 1 town highways as ~~he or she~~ the
19 Commissioner may designate and containing the regulation subject to which
20 the traction engine, tractor, trailer, motor truck, or other motor vehicle is to be
21 operated. The permit shall not be granted until satisfactory proof is furnished

1 to the Commissioner that the traction engine, tractor, trailer, motor truck, or
2 other motor vehicle has been registered and the prescribed fee paid for a gross
3 weight equal to a maximum legal load limit for its class. No additional
4 registration fee shall be payable to authorize the use of the traction engine,
5 tractor, trailer, motor truck, or other motor vehicle in accordance with the
6 terms of the permit. The approval may be withdrawn for cause, and may be
7 withdrawn without cause any time after March 31 next following the date of
8 issuance. When approval is withdrawn for cause or on March 31, the
9 Commissioner shall ~~forthwith~~ immediately revoke the permit; when approval
10 is withdrawn otherwise, ~~he or she~~ the Commissioner shall revoke the permit
11 within one month after withdrawal.

12 Sec. 297. 23 V.S.A. § 1452(d) is amended to read:

13 (d) Any bindings used ~~hereunder~~ for securing loads of wood or wood
14 products as required under this section shall have a capacity of at least 2,750
15 pounds working load limit as rated by the manufacturer.

16 Sec. 298. 23 V.S.A. § 1749 is amended to read:

17 § 1749. PENALTY

18 (a) The penalty that may be voluntarily paid by any ~~person~~ individual
19 violating any ordinance regulating metered parking in the town shall be \$1.00.
20 For other violations involving parking, a penalty not to exceed \$5.00 for the
21 first violation and not to exceed \$15.00 for the second or subsequent ~~offense~~

1 violation within 30 days ~~of~~ after the penalty for a previous violation ~~shall be~~
2 ~~paid~~ is due. Other violations of the ordinances of the town shall be punished in
3 the manner prescribed by law.

4 (b) Notwithstanding subsection (a) of this section, ~~a person~~ an individual
5 violating a parking ordinance for ~~persons~~ individuals with disabilities may be
6 ~~fined~~ assessed a civil penalty of not more than \$25.00 for each ~~offense~~
7 violation.

8 Sec. 299. 23 V.S.A. § 2023(a) and (b) are amended to read:

9 (a) If an owner transfers ~~his or her~~ the owner's interest in a vehicle, other
10 than by the creation of a security interest, ~~he or she~~ the owner shall, at the time
11 of delivery of the vehicle, execute an assignment and warranty of title to the
12 transferee in the space provided ~~therefor~~ on the certificate or as the
13 Commissioner prescribes, and of the odometer reading or hubometer reading
14 or clock meter reading of the vehicle at the time of delivery in the space
15 provided ~~therefor~~ on the certificate, and cause the certificate and assignment to
16 be mailed or delivered to the transferee or to the Commissioner. Where title to
17 a vehicle is in the name of more than one person, the nature of the ownership
18 must be indicated by one of the following on the certificate of title:

19 * * *

20 (b) Upon request of the owner or transferee, a lienholder in possession of
21 the certificate of title shall, unless the transfer was a breach of ~~his or her~~ the

1 lienholder's security agreement, either deliver the certificate to the transferee
2 for delivery to the Commissioner or, upon receipt of notice from the transferee
3 of the owner's assignment, the transferee's application for a new certificate,
4 and the required fee, mail or deliver the certificate, application, and fee to the
5 Commissioner. The delivery of the certificate does not affect the rights of the
6 lienholder under ~~his or her~~ the lienholder's security agreement. If a dealer
7 accepts a vehicle with a preexisting security interest as part of the
8 consideration for a sale or trade from the dealer, the dealer shall mail or
9 otherwise tender payment to satisfy the security interest within five days ~~of~~
10 after the sale or trade.

11 Sec. 300. 23 V.S.A. § 2027(b) is amended to read:

12 (b) The Commissioner, upon receipt of an application for a new certificate
13 of title by a transferee other than by voluntary transfer, with proof of the
14 transfer, the required fee, and any other documents required by law, shall issue
15 a new certificate of title in the name of the transferee as owner. If the
16 outstanding certificate of title is not delivered to ~~him or her~~ the Commissioner,
17 the Commissioner shall ~~make demand therefor~~ the outstanding certificate of
18 title from the holder ~~thereof~~.

19 Sec. 301. 23 V.S.A. § 2043(1) is amended to read:

20 (1) The owner shall immediately execute the application, in the space
21 provided ~~therefor~~ on the certificate of title or on a separate form the

1 Commissioner prescribes, to name the lienholder on the certificate, showing
2 the name and address of the lienholder and the date of ~~his or her~~ the
3 lienholder's security agreement, and cause the certificate, the application, and
4 the required fee to be delivered to the lienholder.

5 Sec. 302. 23 V.S.A. § 2045(b) is amended to read:

6 (b) Upon satisfaction of the security interest of a subordinate lienholder
7 who does not possess the certificate of title, the subordinate lienholder shall,
8 within 12 business days after a request for release of the security interest, fully
9 execute a release in the form the Commissioner prescribes and deliver the
10 release to the owner or the owner's designee. The lienholder in possession of
11 the certificate of title shall either deliver the certificate to the owner or the
12 owner's designee for delivery to the Commissioner or, if the lienholder in
13 possession receives the release, mail or deliver it with the certificate to the
14 Commissioner, who shall release the subordinate lienholder's rights on the
15 certificate or issue a new certificate. A subordinate lienholder whose security
16 interest is fully satisfied but receives the certificate of title pursuant to
17 subsection (a) of this section shall, within three business days ~~of~~ after its
18 receipt, mail or deliver the title to the owner or the owner's designee.

19 Sec. 303. 23 V.S.A. § 2084(a) and (b) are amended to read:

20 (a) An enforcement officer, sheriff, or constable who learns of the theft of a
21 vehicle not since recovered, or of the recovery of a vehicle whose theft or

1 conversion ~~he or she~~ the enforcement officer, sheriff, or constable knows or
2 has reason to believe has been reported to the Commissioner, shall ~~forthwith~~
3 immediately report the theft or recovery to the Commissioner.

4 (b) An owner or a lienholder may report the theft of a vehicle, or its
5 conversion if a crime, to the Commissioner, but the Commissioner may
6 disregard the report of a conversion unless a warrant has been issued for the
7 arrest of ~~a person~~ an individual charged with the conversion. ~~A person~~ An
8 individual who has so reported the theft or conversion of a vehicle shall,
9 ~~forthwith~~ immediately after learning of its recovery, report the recovery to the
10 Commissioner.

11 Sec. 304. 23 V.S.A. § 2154(a)(1) and (2) are amended to read:

12 (1) If the abandoned motor vehicle is not identifiable by its registration
13 plates or public vehicle identification number, and if no owner can be
14 determined within 21 days ~~of~~ after the date of receipt of the abandoned motor
15 vehicle certification form, the Commissioner shall issue a certificate of
16 abandoned motor vehicle with an appropriate title or salvage title.

17 (2) If the abandoned motor vehicle is identifiable by its registration
18 plates or public vehicle identification number, the Department shall, within
19 three business days ~~of~~ after receipt of the form for certification of abandoned
20 motor vehicle, send notice to the last known registered owner and lienholder of
21 the vehicle. The notice shall be sent by certified mail, return receipt requested,

1 and shall advise the last known registered owner of the motor vehicle's
2 location and a telephone number where additional information about the motor
3 vehicle may be obtained. If the receipt is not returned to the Department
4 within seven business days, the Commissioner shall, by first-class mail, send a
5 second notice. Within 21 days ~~of~~ after sending the second notice, the last
6 known registered owner or lienholder may reclaim and retrieve the motor
7 vehicle by presenting to the Department satisfactory evidence of ownership
8 and paying or arranging to pay any fees or charges authorized by section 2155
9 of this title. If the last known registered owner or lienholder fails or refuses to
10 reclaim the motor vehicle within 21 days ~~of~~ after the second mailing, the
11 Commissioner shall issue a certificate of abandoned motor vehicle with
12 appropriate title or salvage title.

13 Sec. 305. 23 V.S.A. § 3007(a) is amended to read:

14 (a) In addition to any other provision of law relating to registration of
15 motor vehicles, or fees paid ~~therefor~~ for the registration of motor vehicles, a
16 person owning or operating upon the highways of the State a motor truck that
17 is registered in the State and uses fuel as defined in section 3002 of this title
18 shall, for each motor truck to be so operated, apply to the Commissioner for a
19 diesel fuel user's license, which shall be renewed at the time of renewal of the
20 truck's registration. Application shall be made upon a form prescribed by the
21 Commissioner and shall set forth ~~such~~ the information as the Commissioner

1 may require. Applications filed at the time of the initial registration or renewal
2 of a registration shall be accompanied by a \$6.50 annual license fee for each
3 motor truck listed in the application, except that no fee shall be required for
4 motor trucks with a gross weight of less than 26,001 pounds.

5 Sec. 306. 23 V.S.A. § 3011(c) and (d) are amended to read:

6 (c) If the liability upon a bond filed by a licensee with the Commissioner
7 becomes discharged or reduced, whether by judgment rendered, payment
8 made, or otherwise, or if in the opinion of the Commissioner any surety on a
9 bond has become unsatisfactory or unacceptable, the Commissioner shall
10 require the licensee to file a new bond with satisfactory sureties in the same
11 amount and, upon failure to do so, the Commissioner shall ~~forthwith~~
12 immediately revoke the license.

13 (d) If a licensee fails or refuses to increase the amount of a bond or file a
14 bond as required by the Commissioner within 15 days after notice is mailed to
15 ~~him or her, his or her~~ the licensee, then the licensee's license shall be revoked
16 ~~forthwith~~ immediately.

17 Sec. 307. 23 V.S.A. § 3013(c) is amended to read:

18 (c) The Commissioner or ~~his or her~~ the Commissioner's agents may
19 examine the books and records of any distributor, dealer, or user during the
20 usual business hours of the day to verify the truth and accuracy of any
21 statement, report, or return or to determine if the tax imposed by this chapter

1 has been paid. If the books and records of a nonresident licensee are not
2 available for examination in this State, the Commissioner may request ~~him or~~
3 ~~her to~~ that the nonresident licensee furnish at ~~his or her~~ the Commissioner's
4 office in Montpelier ~~such the~~ books and records ~~he or she~~ the Commissioner
5 reasonably requires. If ~~such the~~ licensee shall be unable or unwilling to
6 comply with the request, the Commissioner is authorized to charge ~~him or her~~
7 the licensee a reasonable per diem fee and expenses for the auditor making
8 ~~such the~~ examination out of state, which shall be payable within 30 days ~~of~~
9 after the mailing of a bill by the Commissioner.

10 Sec. 308. 23 V.S.A. § 3015(4) is amended to read:

11 (4) All taxes, interest, user license fees, and penalties collected by the
12 Department of Motor Vehicles under this chapter shall be ~~forthwith~~ paid
13 immediately to the State Treasurer and credited to the Transportation Fund.

14 Sec. 309. 23 V.S.A. § 3016(a) is amended to read:

15 (a) If the Commissioner is not satisfied that the report filed or the amount
16 of tax paid by a taxpayer is accurate, after investigating and finding such
17 inaccuracy, ~~he or she~~ the Commissioner may make an additional assessment of
18 taxes due from the taxpayer based upon ~~his or her~~ the Commissioner's
19 investigation. In estimating the tax due from a licensed user, fuel consumption
20 shall be computed at the rate of 10 miles per gallon for vehicles registered up
21 to and including 10,000 pounds and at four miles per gallon for all vehicles

1 registered over 10,000 pounds for any unreported Vermont mileage in excess
2 of four percent of the operator's total Vermont mileage. Any tax assessed for
3 mileage up to four percent of the operator's total Vermont mileage shall be
4 assessed based on the operator's fuel consumption average for ~~his or her~~ the
5 operator's entire fleet. A penalty equal to 10 percent and interest at the rate of
6 one and one-half percent per month shall be payable on the additional
7 assessment, with interest computed from the date the tax payment was due.
8 The Commissioner shall give notice by mail to the taxpayer of the additional
9 assessment, penalty, and interest and shall designate the error or reason for the
10 assessment. Payment shall be due within 30 days ~~of~~ after the date of mailing
11 the notice. The Commissioner may, in ~~his or her~~ the Commissioner's
12 discretion, waive all or any part of the penalty.

13 Sec. 310. 23 V.S.A. § 3017(b) is amended to read:

14 (b) In addition to the fee prescribed in subsection (a) of this section, any
15 person who fails to pay any tax when due, except a tax assessed pursuant to
16 sections 3016 and 3018 of this title, shall pay in addition to the tax interest
17 calculated at one and one-half percent per month on the tax from the due date,
18 until paid. In addition, if the taxpayer fails to pay the tax liability in full within
19 30 days, a penalty equal to five percent of the outstanding tax liability for each
20 month or portion ~~thereof~~ of a month shall be paid; provided, however, that in
21 no event shall the amount of the penalty imposed ~~hereunder~~ under this section

1 exceed 25 percent of the tax liability unpaid on the prescribed date of payment.

2 The Commissioner may remit all or any part of the penalty if ~~he or she~~ the

3 Commissioner is satisfied that the delay was excusable.

4 Sec. 311. 23 V.S.A. § 3018 is amended to read:

5 § 3018. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF

6 TAX BY COMMISSIONER; PENALTY AND INTEREST

7 If any person neglects or refuses to file any report required by this chapter,
8 the Commissioner shall make an estimate of the tax due, based upon
9 information available to the Commissioner, for the period for which that
10 person failed to make the report and shall assess the tax due from the licensee,
11 adding to the amount thus determined a penalty of 50 percent. In estimating
12 the tax due from a licensed user, fuel consumption shall be computed at the
13 rate of 10 miles per gallon for vehicles registered up to 10,000 pounds and four
14 miles per gallon for those vehicles registered over 10,000 pounds. The
15 assessment shall bear interest at the rate of one and one-half percent per month
16 from the date the tax payment was due until paid. The Commissioner shall
17 give the licensee notice by mail of the assessment and payment shall be due
18 within 15 days ~~of~~ after the date of the mailing of the notice.

19 Sec. 312. 23 V.S.A. § 3024(b)(2) is amended to read:

20 (2) to violate any regulation issued by the Commissioner pursuant to the
21 authority granted ~~hereunder~~ under this section; or

1 Sec. 313. 23 V.S.A. § 3105(b) is amended to read:

2 (b) The Commissioner or ~~his or her~~ the Commissioner's agents may
3 examine the books and records of any distributor or dealer during the usual
4 business hours of the day to verify the truth and accuracy of any statement,
5 record, report, or return or to determine if the tax imposed by this chapter has
6 been paid. If the books and records of a nonresident licensee are not available
7 for examination in this State, the Commissioner may request ~~him or her to~~ that
8 the nonresident licensee furnish at ~~his or her~~ the Commissioner's office in
9 Montpelier ~~such~~ the books and records ~~he or she~~ the Commissioner reasonably
10 requires. If the licensee is unable or unwilling to comply with the request, the
11 Commissioner is authorized to charge ~~him or her~~ the licensee a reasonable per
12 diem fee and expenses for the auditor making the examination out of state,
13 which shall be payable within 30 days ~~of~~ after the mailing of a bill by the
14 Commissioner.

15 Sec. 314. 23 V.S.A. § 3110(a) is amended to read:

16 (a) If the Commissioner is not satisfied that the report filed or the amount
17 of tax paid by a distributor is accurate, after investigating and finding such
18 inaccuracy, ~~he or she~~ the Commissioner may make an additional assessment of
19 taxes due from the distributor based upon ~~his or her~~ the Commissioner's
20 investigation. A penalty equal to 10 percent and interest at the rate of one and
21 one-half percent per month shall be payable on the additional assessment, with

1 interest computed from the date the tax payment was due. The Commissioner
2 shall give notice by mail to the distributor of the additional assessment.

3 Payment shall be due within 30 days ~~of~~ after the date of mailing the notice.

4 Sec. 315. 23 V.S.A. § 3111 is amended to read:

5 § 3111. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF
6 TAX BY COMMISSIONER; PENALTY AND INTEREST

7 If a distributor neglects or refuses to file any report required by this chapter,
8 the Commissioner shall make an estimate of the tax due, based upon
9 information available to the Commissioner, for the period for which the
10 distributor failed to make the report, and shall assess the tax due from the
11 licensee, adding to the amount thus determined a penalty of 50 percent. The
12 assessment shall bear interest at the rate of one and one-half percent per month
13 from the date the tax payment was due until paid. The Commissioner shall
14 give the licensee notice by mail of the assessment and payment shall be due
15 within 15 days ~~of~~ after the date of the mailing of the notice.

16 Sec. 316. 23 V.S.A. § 3117(c) and (d) are amended to read:

17 (c) If the liability upon a bond filed by a licensee with the Commissioner
18 becomes discharged or reduced, whether by judgment rendered, payment
19 made, or otherwise, or if in the opinion of the Commissioner any surety on a
20 bond has become unsatisfactory or unacceptable, the Commissioner shall
21 require the licensee to file a new bond with satisfactory sureties in the same

1 amount and, upon failure to do so, the Commissioner shall ~~forthwith~~
2 immediately revoke the license.

3 (d) If a licensee fails or refuses to increase the amount of a bond or file a
4 bond as required by the Commissioner within 15 days after notice mailed to
5 ~~him or her, such~~ the licensee, then the license shall be revoked ~~forthwith~~
6 immediately.

7 Sec. 317. 23 V.S.A. § 3219(a) is amended to read:

8 (a) The Commissioner may impose an administrative penalty of not more
9 than \$250.00 against VAST or its agent for each violation of this subchapter or
10 the rules adopted ~~thereunder~~ under this subchapter. A penalty arising from a
11 single violation may be assessed against VAST or its agent, as may be
12 appropriate, but not against both.

13 Sec. 318. 23 V.S.A. § 3305(g) is amended to read:

14 (g) The owner shall notify the Commissioner of the transfer of any part of
15 ~~his or her~~ the owner's interest other than the creation of a security interest in a
16 motorboat numbered in this State under subsections (a) and (b) of this section
17 or of the destruction or abandonment of the motorboat, within 15 days ~~of~~ after
18 the transfer, destruction, or abandonment. The transfer, destruction, or
19 abandonment shall end the certificate of number for the motorboat except that
20 in the case of a transfer of a part interest which does not affect the owner's

1 right to operate the motorboat, the transfer shall not end the certificate of
2 number.

3 Sec. 319. 23 V.S.A. § 3703 is amended to read:

4 § 3703. TEMPORARY AUTHORIZATION

5 Any International Registration Plan registrant based in this State may apply
6 by mail and be issued temporary authorization to operate a vehicle not in the
7 registrant's fleet for a period not to exceed 45 days for a fee of \$15.00. Any
8 person to whom temporary authorization is issued shall submit an application
9 by mail for permanent registration for the vehicle covered by the temporary
10 authorization within 10 days ~~of~~ after the date of its issuance. Failure to submit
11 an application within the 10-day period may result in the suspension of the
12 temporary authorization. The temporary authorization shall be kept with the
13 vehicle while being operated.

14 Sec. 320. 23 V.S.A. § 3705(b) is amended to read:

15 (b) The Commissioner shall mail notice of any fees due to the registrant,
16 and payment of these fees must be received within 15 days ~~of~~ after the date of
17 the notice.

18 Sec. 321. 23 V.S.A. § 3823(b) is amended to read:

19 (b) A security interest is perfected by the delivery to the Commissioner of
20 the existing certificate of title, if any, an application for a certificate of title
21 containing the name and address of the lienholder and the date of ~~his or her~~ the

1 lienholder's security agreement, and the required fee. It is perfected as of the
2 time of its creation if delivery is completed within 20 days ~~thereafter~~ after the
3 time of its creation, otherwise as of the time of the delivery.

4 Sec. 322. 23 V.S.A. § 3823(c)(1) is amended to read:

5 (1) If the parties understood at the time the security interest attached that
6 the vessel, snowmobile, or all-terrain vehicle would be kept in this State and it
7 was brought into this State within 30 days ~~thereafter~~ after the time the security
8 interest attached for purposes other than transportation through this State, the
9 validity of the security interest in this State is determined by the law of this
10 State.

11 Sec. 323. 23 V.S.A. § 3831 is amended to read:

12 § 3831. REPORT OF THEFT; RECOVERY OF UNCLAIMED VESSEL,
13 SNOWMOBILE, OR ALL-TERRAIN VEHICLE

14 (a) An enforcement officer, sheriff, or constable who learns of the theft of a
15 vessel, snowmobile, or all-terrain vehicle not since recovered, or of the
16 recovery of a vessel, snowmobile, or all-terrain vehicle whose theft or
17 conversion ~~he or she~~ the enforcement officer, sheriff, or constable knows or
18 has reason to believe has been reported to the Commissioner, shall ~~forthwith~~
19 immediately report the theft or recovery to the Commissioner.

20 (b) An owner or a lienholder may report the theft of a vessel, snowmobile,
21 or all-terrain vehicle, or its conversion if a crime, to the Commissioner, but the

1 Commissioner may disregard the report of a conversion unless a warrant has
2 been issued for the arrest of ~~a person~~ an individual charged with the
3 conversion. ~~A person~~ An individual who has reported the theft or conversion
4 of a vessel, snowmobile, or all-terrain vehicle shall, ~~forthwith~~ immediately
5 after learning of its recovery, report the recovery to the Commissioner.

6 (c) An operator of a place of business for garaging, repairing, parking, or
7 storing vessels, snowmobiles, or all-terrain vehicles for the public, in which a
8 vessel, snowmobile, or all-terrain vehicle remains unclaimed for a period of
9 30 days, shall, within five days after the expiration of that period, report the
10 vessel, snowmobile, or all-terrain vehicle as unclaimed, to the Commissioner.
11 A vessel, snowmobile, or all-terrain vehicle left by its owner whose name and
12 address are known to the operator or ~~his or her~~ the operator's employee is not
13 considered unclaimed. ~~A person~~ An individual who fails to report a vessel,
14 snowmobile, or all-terrain vehicle as unclaimed in accordance with this
15 subsection forfeits all claims and liens for its garaging, parking, or storing and
16 shall be fined not more than \$25.00 for each day ~~his or her~~ the individual's
17 failure to report continues.

18 Sec. 324. 23 V.S.A. § 4108(d)(2)(B) is amended to read:

19 (B) was exempted from the commercial ~~driver~~ driver's license
20 requirements in 49 C.F.R. § 383.3(c); and

1 Sec. 325. 23 V.S.A. § 4110(b) is amended to read:

2 (b) When a licensee or permittee changes the licensee's or permittee's
3 name, mailing address, or residence or in the case of the loss, mutilation, or
4 destruction of a license or permit, the licensee or permittee shall ~~forthwith~~
5 immediately notify the Commissioner and apply in person for a duplicate
6 license or permit in the same manner as set forth in subsection (a) of this
7 section. The fee for a duplicate license or permit shall be \$18.00.

8 * * * Title 24 * * *

9 Sec. 326. 24 V.S.A. § 2792 is amended to read:

10 § 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

11 * * *

12 (b) ~~[Repealed.]~~

13 (e) The State Board shall elect a chair and vice chair from among its
14 membership.

15 (d)(c) The Department shall provide staff and administrative support to the
16 State Board, shall produce guidelines to direct municipalities seeking to obtain
17 designation under this chapter, and shall pay per diem compensation for board
18 members pursuant to 32 V.S.A. § 1010(b).

19 (e) ~~[Repealed.]~~

20 (f) ~~[Repealed.]~~

1 Sec. 327. 24 V.S.A. § 2793e(d) is amended to read:

2 (d) Designation process. ~~Upon~~ At the first meeting of the State Board held
3 after 45 days ~~of~~ after receipt of a completed application, for designation of a
4 neighborhood development area, the State Board, after opportunity for public
5 comment, shall approve a neighborhood development area if the Board
6 determines that the applicant has met the requirements of this section.

7 Sec. 328. 24 V.S.A. § 4303(8)(F)(i) is amended to read:

8 (i) Any project or improvement of a structure to comply with
9 existing State or local health, sanitary, or safety code specifications that are
10 solely necessary to ~~assure~~ ensure safe living conditions.

11 Sec. 329. 24 V.S.A. § 4442(d) is amended to read:

12 (d) Petition for popular vote. Notwithstanding ~~subdivision~~ subsection
13 (c)(4) of this section, a vote by the legislative body on a bylaw, amendment, or
14 repeal shall not take effect if five percent of the voters of the municipality
15 petition for a meeting of the municipality to consider the bylaw, amendment,
16 or repeal, and the petition is filed within 20 days of the vote. In that case, a
17 meeting of the municipality shall be duly warned for the purpose of acting by
18 Australian ballot upon the bylaw, amendment, or repeal.

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* * * Title 26 * * *

Sec. 330. 26 V.S.A. § 376(c) is amended to read:

(c) After giving an opportunity for a hearing, the Board shall take disciplinary action described in subsection ~~1361(b)~~ 1374(b) of this title against a podiatrist or applicant found guilty of unprofessional conduct.

Sec. 331. 26 V.S.A. § 1836(b) is amended to read:

(b) The Director may adopt rules necessary for the protection of the public to ~~assure~~ ensure that an applicant whose license has lapsed or who has not worked for more than three years as an osteopathic physician is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

* * * Title 28 * * *

Sec. 332. 28 V.S.A. § 724(d)(3) is amended to read:

(3) The offender's violation is absconding from community supervision furlough. ~~As used in this subdivision, "absconding" means:~~

Sec. 333. REPEAL

28 V.S.A. § 808d (definitions for the already repealed 28 V.S.A. § 808c) is repealed.

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* * * Title 29 * * *

Sec. 334. 29 V.S.A. § 161 is amended to read:

§ 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

(a) ~~Bids; selection.~~

(1) When the construction cost of any State project exceeds the sum of \$50,000.00, the Commissioner of Buildings and General Services shall publicly advertise or invite three or more bids. The contract for any such State project or improvement shall be awarded to one of the three lowest responsible bidders, conforming to specification, with consideration being given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, and ~~his or her~~ the bidder's ability to render satisfactory service, but the Commissioner of Buildings and General Services with the approval of the Secretary of Administration, shall have the right to reject any and all bids and to invite other bids.

* * *

(b) Each contract awarded under this section for any State project with a construction cost exceeding \$100,000.00, a construction project with a construction cost exceeding \$200,000.00 that is authorized and at least 50 percent funded by a capital construction act pursuant to 32 V.S.A. § 701a, or a construction project with a construction cost exceeding \$200,000.00 that is at least 50 percent funded by the Cash Fund for Capital ~~Infrastructure~~ and

1 ~~Other~~ Essential Investments established in 32 V.S.A. § ~~1001~~ 1001b shall
2 provide that all construction employees working on the project shall be paid
3 not less than the mean prevailing wage published periodically by the Vermont
4 Department of Labor in its occupational employment and wage survey plus an
5 additional fringe benefit of 42 and one-half percent of wage, as calculated by
6 the current Vermont prevailing wage survey. As used in this section, “fringe
7 benefits” means benefits, including paid vacations and holidays, sick leave,
8 employer contributions and reimbursements to health insurance and retirement
9 benefits, and similar benefits that are incidents of employment.

10 * * *

11 Sec. 335. 29 V.S.A. § 182(4) is amended to read:

12 (4) “Plan” means ~~but shall not be limited to~~ all overall designs,
13 including blueprints of floor plans, site plans, elevation drawings, and front left
14 and right and detailed perspectives.

15 * * * Title 30 * * *

16 Sec. 336. 30 V.S.A. § 3 is amended to read:

17 § 3. PUBLIC UTILITY COMMISSION

18 * * *

19 (e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law,
20 members of the Commission may be removed only for cause. When a
21 Commission member who hears all or a substantial part of a case retires from

1 office before ~~such~~ the case is completed, ~~he or she~~ the member shall remain a
2 member of the Commission for the purpose of concluding and deciding ~~such~~
3 the case, and signing the findings, orders, decrees, and judgments ~~therein~~. A
4 retiring chair shall also remain a member for the purpose of certifying
5 questions of law if appeal is taken. For ~~such~~ this service, ~~he or she~~ the member
6 shall receive a reasonable compensation to be fixed by the remaining members
7 of the Commission and necessary expenses while on official business.

8 (f) A case shall be deemed completed when the Commission enters a final
9 order ~~therein~~ on it even though ~~such~~ the order is appealed to the Supreme
10 Court and the case remanded by that Court to the Commission. Upon remand
11 the Commission then in office may in its discretion consider relevant evidence
12 including any part of the transcript of testimony in the proceedings prior to
13 appeal.

14 * * *

15 Sec. 337. 30 V.S.A. § 8(f) is amended to read:

16 (f) Notwithstanding subsection (c) of this section, the Chair may appoint a
17 hearing officer to hear and finally determine any consumer complaint where
18 the amount in controversy does not exceed \$2,000.00. Upon petition of a
19 party, filed within 30 days ~~of~~ following the issuance of the hearing officer's
20 decision and order, or on its own motion, the Commission may determine that
21 the hearing officer's decision and order should be treated as a proposal for

1 decision and order as provided in subsection (c) of this section. The
2 Commission may grant ~~such~~ a request for good cause, including apparent error
3 of fact, or procedural or substantive law, and may conduct additional
4 evidentiary hearings or hear oral argument from the parties. If ~~such~~ the request
5 is not timely made, or is not granted by the Commission, the decision and
6 order of the hearing officer shall become the final decision and order of the
7 Commission.

8 Sec. 338. 30 V.S.A. § 11 is amended to read:

9 § 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF

10 FACT

11 (a)(1) The forms, pleadings, and rules of practice and procedure before
12 the Commission shall be prescribed by it.

13 * * *

14 (4) The rules, when initially prescribed or any amendments to them,
15 including any repeal, modification, or addition, shall take effect on the date
16 provided by the Commission in its order of promulgation unless objected to by
17 the Legislative Committee on Judicial Rules as provided in 12 V.S.A. chapter
18 1. If an objection is made by the Legislative Committee on Judicial Rules, the
19 initially prescribed rules in question shall not take effect until they have been
20 reported to the General Assembly by the Chair of the Commission at any
21 regular, adjourned, or special session thereof, and until after the expiration of

1 45 legislative days ~~of~~ following that session, including the date of the filing of
2 the report.

3 * * *

4 Sec. 339. 30 V.S.A. § 12 is amended to read:

5 § 12. REVIEW BY SUPREME COURT

6 A party to a cause who feels aggrieved by the final order, judgment, or
7 decree of the Commission may appeal to the Supreme Court. However, the
8 Commission, in its discretion and before final judgment, may permit an appeal
9 to be taken by any party to the Supreme Court for determination of questions
10 of law in ~~such~~ the manner as the Supreme Court may by rule provide for
11 appeals before final judgment from a Superior Court. Notwithstanding the
12 provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of
13 Appellate Procedure, neither the time for filing a notice of appeal nor the filing
14 of a notice of appeal, as provided ~~herein~~, shall operate as a stay of enforcement
15 of an order of the Commission unless the Commission or the Supreme Court
16 grants a stay under the provisions of section 14 of this ~~title~~ chapter.

17 Sec. 340. 30 V.S.A. § 17 is amended to read:

18 § 17. FEES OF WITNESSES; DUTIES OF CLERK

19 The fees of witnesses before the Commission shall be the same as in the
20 Superior Court. In all causes ~~in~~ on behalf of or for the convenience or safety of
21 the public, and in the investigation of accidents, the fees of witnesses and the

1 expense of summoning them shall be paid by the clerk of the Commission.
2 From time to time, the clerk shall make requisition on the Commissioner of
3 Finance and Management for money to pay ~~such~~ the fees and expenses, and
4 the Commissioner of Finance and Management shall issue warrants ~~therefor~~
5 for them. The clerk shall quarterly, on February, May, August, and November
6 1, render to the Commissioner of Finance and Management an account of ~~his~~
7 ~~or her~~ receipts and disbursements under this section, and pay any unexpended
8 balance into the State Treasury.

9 Sec. 341. 30 V.S.A. § 20(b) is amended to read:

10 (b) Proceedings, including appeals ~~therefrom~~, for which additional
11 personnel may be retained are:

12 * * *

13 Sec. 342. 30 V.S.A. § 21 is amended to read:

14 § 21. PARTICULAR PROCEEDINGS AND ACTIVITIES; ASSESSMENT
15 OF COSTS

16 (a) An agency may allocate the portion of the expense incurred or
17 authorized by it in retaining additional personnel pursuant to section 20 of this
18 ~~title chapter~~ to the applicant or the company or companies involved. As used
19 in this section, “agency” means an agency, board, commission, or department
20 of the State enabled to authorize or retain personnel under section 20 of this
21 ~~title chapter~~.

1 Sec. 343. 30 V.S.A. § 22(a) is amended to read:

2 (a) For the purpose of maintaining the Department of Public Service and
3 Public Utility Commission, including expenses related to maintaining an
4 adequate engineering, legal, and administrative force in the Department of
5 Public Service and paying all the incidental expenses ~~incident thereof~~,
6 including rents, each person, partnership, association, or private or municipal
7 corporation conducting a business subject to the supervision of the Department
8 of Public Service and Public Utility Commission, including electric
9 cooperatives, shall pay into the State Treasury on or before April 15 annually,
10 in addition to the taxes now required by law to be paid, a tax, at the rate
11 ~~hereinafter~~ named, according to the nature of the public service business
12 engaged in by such person, partnership, association, or private or municipal
13 corporation, based on the gross operating revenue received by such person,
14 partnership, association, or private or municipal corporation in the conduct of
15 such business in the State during the year next preceding, as shown by the
16 annual report filed on or before such date with the Department of Public
17 Service on the form prescribed by it and containing such information as may
18 be necessary to enable the Department to determine the amount of the tax
19 payable.

1 Sec. 344. 30 V.S.A. § 23 is amended to read:

2 § 23. PUBLIC SERVICE RESERVE FUND

3 There is ~~hereby~~ created a fund to be known as the Public Service Reserve
4 Fund for the purpose of providing the financial means for the Public Utility
5 Commission and the Department of Public Service to employ legal counsel,
6 official stenographers, and disinterested competent persons to examine into
7 and testify in any matter involved in a hearing under sections 218, 225, 226,
8 and 227 of this title other than the hearings referred to in sections 20 and 21 of
9 this ~~title~~ chapter. Payments into the Public Service Reserve Fund shall be
10 made as follows: All electric distribution companies, cooperative, municipal,
11 and privately owned, which have been allocated a share of St. Lawrence power
12 by the Department, shall pay into the State Treasury for such reserve on or
13 before September 15, 1961 and September 15, 1962, in addition to the taxes
14 now required by law to be paid, a tax to produce a total of \$37,500.00 in the
15 aggregate for each such payment to be paid by each such company in
16 proportion to its purchase of St. Lawrence power, during the calendar years
17 1959 and 1960. Thereafter, on June 30 of each year, there shall be deducted
18 from the balance in the special fund for the maintenance of the Department's
19 engineering and accounting force and personnel employed by the Commission
20 the tax revenues payable under section 22 of this ~~title~~ chapter in that year, and
21 the balance thus determined shall be transferred from the special fund for the

1 maintenance of the engineering and accounting force to the Public Service
2 Reserve Fund; provided, however, that, if at June 30 of any year the balance in
3 ~~such the~~ public service reserve fund shall be in excess of \$100,000.00, the
4 amount of ~~such~~ excess shall ~~forthwith~~ immediately be transferred to the
5 General Fund.

6 Sec. 345. 30 V.S.A. § 25 is amended to read:

7 § 25. ASSESSMENT

8 When the Department of Public Service discovers from the examination of
9 the return or otherwise that the revenue of any company, or any portion ~~thereof~~
10 of it, has not been assessed, it may at any time within two years after the time
11 when the return was due, assess the same and give notice to the company of
12 ~~such the~~ assessment, and within 30 days ~~such the~~ company shall ~~thereupon~~
13 have an opportunity to confer with the Department as to the proposed
14 assessment. The limitation of two years to the assessment of ~~such the~~ tax or
15 additional tax shall not apply to the assessment of additional taxes upon
16 fraudulent returns. After the expiration of 30 days ~~from such~~ following the
17 notification, the Department shall reassess the revenue of ~~such the~~ company or
18 any portion ~~thereof which~~ of it that it finds has not ~~theretofore~~ been assessed
19 and shall give notice to the company so reassessed, of the amount of the tax
20 and interest and penalties, if any, and the amount ~~thereof~~ shall be due and

1 payable within 10 days ~~from~~ following the date of ~~such~~ notice. No additional
2 tax amounting to less than \$1.00 shall be assessed.

3 Sec. 346. 30 V.S.A. § 27 is amended to read:

4 § 27. REVIEW

5 The assessment by the Commission or Department of Public Service of any
6 tax or penalty under the provisions of sections 20–25 of this ~~title~~ chapter may
7 be appealed to the Washington Superior Court. The appeal shall be filed
8 within 90 days after the receipt by the company or its agent of written notice
9 by the Commission or Department of its assessment. ~~Thereupon, appropriate~~
10 Appropriate proceedings shall be ~~had~~ held and the relief, if any, to which the
11 company may be found entitled may be granted and any taxes, interest, or
12 penalties paid; and found by the Court to be illegally assessed; shall be ordered
13 refunded to the company with interest at six percent per annum from the time
14 of payment, with costs; and judgment entered accordingly.

15 Sec. 347. 30 V.S.A. § 30(h) is amended to read:

16 (h) In accordance with the process set forth in this subsection, the
17 Department may issue an administrative citation to a person the Department
18 believes after investigation violated section 246, 248, 248a, or 8010 of this
19 title, any rule adopted pursuant to those sections, or any certificate of public
20 good issued pursuant to those sections.

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Sec. 348. 30 V.S.A. § 32 is amended to read:

§ 32. INJUNCTION PROCEEDINGS

Whenever the Department of Public Service is of the opinion that a company subject to its supervision is failing or omitting or is about to fail or omit to do anything required of it by law or by order of the Commission or is doing anything or permitting anything or is about to do anything or to permit anything to be done contrary to or in violation of law or of any order of the Commission, the Department of Public Service may commence an action or proceeding in the Superior Court for the purpose of having ~~such~~ the violations or threatened violations stopped and prevented by injunction. ~~Such~~ An action or proceeding shall begin by a petition alleging the violation complained of and praying for appropriate relief by way of injunction. It shall ~~thereupon~~ be the duty of the court to specify the time, not exceeding 21 days after service of a copy of the petition, within which the company complained of must answer the petition, and the court may grant a temporary injunction in accordance with the laws of the State and rules in ~~such~~ the case made and provided. The obtaining of a temporary injunction shall constitute a waiver by the State of its sovereign immunity to pay the person enjoined damages as ~~such~~ the person may sustain by reason for ~~such~~ the injunction if the court shall eventually decide that the State was not equitably entitled ~~thereto~~ to it and the State shall

1 be liable to pay to the person enjoined ~~such~~ the sums as would be payable by
2 any other person in the premises. In case of default in answer, or after answer,
3 the court shall immediately inquire into the facts and circumstances in ~~such~~ the
4 manner as the court directs without other or formal pleadings and without
5 respect to any technical requirement. ~~Such other~~ Other persons or corporations
6 as it shall seem to the court necessary or proper to join as parties in order to
7 make its order, judgment, or writs effective may be joined as parties upon
8 application of counsel to the Department. The final judgment in any ~~such~~
9 action or proceeding shall either dismiss the action or proceeding or direct that
10 an injunction be issued as prayed for in the petition or in such modified form as
11 the court may determine will afford appropriate relief.

12 Sec. 349. 30 V.S.A. § 51 is amended to read:

13 § 51. RESIDENTIAL BUILDING ENERGY STANDARDS; STRETCH
14 CODE

15 * * *

16 (f) Certification.

17 (1) Issuance; recording. A certification may be issued by a builder, a
18 licensed professional engineer, a licensed architect, or an accredited home
19 energy rating organization. If certification is not issued by a licensed
20 professional engineer, a licensed architect, or an accredited home energy rating
21 organization, it shall be issued by the builder. Any certification shall certify

1 that residential construction meets the RBES. The Department of Public
2 Service will develop and make available to the public a certificate that lists key
3 features of the RBES. Any person certifying shall use this certificate or one
4 substantially like it to certify compliance with the RBES. Certification shall be
5 issued by completing and signing a certificate and permanently affixing it to
6 the outside of the heating or cooling equipment, to the electrical service panel
7 located inside the building, or in a visible location in the vicinity of one of
8 these three areas. The certificate shall certify that the residential building has
9 been constructed in compliance with the requirements of the RBES. The
10 person certifying under this subsection shall provide a copy of each certificate
11 to the Department of Public Service and shall ~~assure~~ ensure that a certificate is
12 recorded and indexed in the town land records. A builder may contract with a
13 licensed professional engineer, a licensed architect, or an accredited home
14 energy rating organization to issue certification and to indemnify the builder
15 from any liability to the owner of the residential construction caused by
16 noncompliance with the RBES.

17 * * *

18 (g) Action for damages.

19 (1) Except as otherwise provided in this subsection, a person aggrieved
20 by noncompliance with this section may bring a civil action against a person
21 who has the obligation of certifying compliance under subsection (e) of this

1 section. ~~This action~~ The person may seek injunctive relief, damages, court
2 costs, and attorney's fees. As used in this subdivision, "damages" means:

3 * * *

4 Sec. 350. 30 V.S.A. § 53(e) is amended to read:

5 (e) Private right of action for damages against a certifier.

6 (1) Except as otherwise provided in this subsection, a person aggrieved
7 by another person's breach of that other person's representations contained in a
8 certification or supporting affidavit issued or received as provided under
9 subsection (d) of this section, within 10 years after the earlier of completion of
10 construction or occupancy of the affected commercial building or portion of
11 that building, may bring a civil action in Superior Court against a person who
12 has an obligation of certifying compliance under subsection (d) of this section
13 alleging breach of the representations contained in that person's certification.

14 ~~This action~~ The person may seek injunctive relief, damages arising from the
15 aggrieved party's reliance on the accuracy of those representations, court costs,
16 and reasonable attorney's fees in an amount to be determined by the court. As
17 used in this subdivision, "damages" includes costs incidental to increased
18 energy consumption.

19 * * *

1 Sec. 351. 30 V.S.A. § 102(c) is amended to read:

2 (c) For good cause, after an opportunity for hearing, the Commission may
3 amend or revoke any certificate awarded under the provisions of this section.

4 If any ~~such~~ certificate is revoked, the corporation shall no longer have
5 authority to conduct any business that is subject to the jurisdiction of the
6 Commission, whether or not regulation ~~thereunder~~ has been reduced or
7 suspended under section 226a or 227a of this title.

8 Sec. 352. 30 V.S.A. § 106 is amended to read:

9 § 106. OWNERSHIP OF STOCK IN OTHER CORPORATIONS

10 When a corporation subject to the regulation of the Public Service
11 Commission, prior to April 2, 1915, was authorized by its charter or otherwise
12 to hold stock in another corporation, ~~such~~ the public service corporation may
13 petition the Public Utility Commission for authority to increase the amount of
14 stock of ~~such~~ the other corporation ~~which~~ that may be owned by the petitioning
15 corporation. If the Commission finds and adjudges that ~~such~~ an increase will
16 promote the general good of the State, it may issue its certificate and order
17 authorizing the same, and ~~thereupon~~ the charter or articles of incorporation
18 shall be amended to conform to ~~such~~ the order.

19 Sec. 353. 30 V.S.A. § 107(e)(2) is amended to read:

20 (2) "Voting security" means any stock or security presently entitling the
21 owner or holder ~~thereof~~ to vote in the direction or management of the affairs of

1 a company or any security issued under or pursuant to any agreement, trust, or
2 arrangement ~~whereby~~ where a trustee or trustees or agent or agents for the
3 owner or holder of ~~such~~ a security are presently entitled to vote in the direction
4 or management of the affairs of a company.

5 Sec. 354. 30 V.S.A. § 108(c) is amended to read:

6 (c)(1) A municipality shall not issue bonds or notes or pledge its net
7 revenues under 24 V.S.A. chapter 53, respecting the ownership or operation of
8 a gas or electric utility, unless the Public Utility Commission first finds, upon
9 petition of the municipality and after notice and an opportunity for hearing,
10 that the proposed action will be consistent with the general good of the State.

11 (2) If the Public Utility Commission does not issue its ruling within
12 90 days ~~of~~ following the filing of the petition, as may be extended by consent
13 of the municipality, the issuance of the proposed bonds or notes or pledge of
14 net revenues shall be deemed to be consistent with the general good of the
15 State.

16 * * *

17 Sec. 355. 30 V.S.A. § 110 is amended to read:

18 § 110. EMINENT DOMAIN; COMPANIES AUTHORIZED

19 When it is necessary for a corporation formed under this chapter or a
20 foreign corporation under the jurisdiction of the Public Utility Commission to
21 acquire property within this State, or some easement or other limited right in

1 ~~such~~ property in order that it may render adequate service to the public in the
2 conduct of its business, it may condemn ~~such~~ property or right, as provided in
3 sections 111–124 of this ~~title~~ chapter. All other companies, as defined in
4 sections 201 and 501 of this title, which are within the scope of sections 203
5 and 501 of this title, shall have the same power of condemnation and be subject
6 to the same procedure as ~~hereinafter~~ provided for condemnation by
7 corporations subject to the jurisdiction of the Public Utility Commission.

8 Sec. 356. 30 V.S.A. § 112(a) is amended to read:

9 (a) When the Commission finds:

10 (1) ~~In~~ in the case of dams, that a certificate of public good authorizing
11 the project as ~~herein~~ required, or a license from the Federal Power Commission
12 has been granted; ~~and~~

13 (2) ~~That~~ that the condemnation of ~~such~~ property or right is necessary in
14 order that the petitioner may render adequate service to the public in the
15 conduct of the business which it is authorized to conduct, and in conducting
16 which it will, according to the laws of this State, be under an obligation to
17 serve the public on reasonable terms, and pursuant to the ~~regulations~~ rules of
18 the Commission;

19 (3) ~~That~~ that the condemnation of the property or right will not unduly
20 interfere with the orderly development of the region and scenic preservation;
21 and

1 (4) ~~That~~ that the condemnation of ~~such~~ property or right is sought in
2 order that the petitioner may render adequate service to the public in the
3 conduct of such business, the Commission shall adjudge the petitioner entitled
4 to condemn ~~such~~ property or right, shall assess the compensation to be paid
5 ~~therefor~~, and shall determine the time and manner of such payment.

6 Sec. 357. 30 V.S.A. § 113 is amended to read:

7 § 113. COMPENSATION; WHERE PARTY CANNOT BE FOUND

8 When a person to whom ~~such~~ compensation ~~or any part thereof~~ is due
9 cannot be found, ~~or~~ is under any legal disability, or is out of this State, the
10 Commission may order ~~such~~ the compensation ~~or part thereof~~ to be deposited
11 with the county clerk of the county ~~wherein~~ where the hearing was held. ~~Such~~
12 The money shall be invested and paid out according to orders made by a
13 Superior judge.

14 Sec. 358. 30 V.S.A. § 123 is amended to read:

15 § 123. EXPENSE

16 The entire expense of whatever land may be necessary for the reinterment
17 of ~~such~~ remains and the cost of removal and reerection of headstones or
18 monuments shall be paid by the corporation acquiring ~~such~~ the burial ground
19 and the easement ~~therein~~.

1 Sec. 359. 30 V.S.A. § 126 is amended to read:

2 § 126. SAVING CLAUSE; CORPORATIONS FORMED BEFORE APRIL 2,
3 1915

4 All corporations formed prior to April 2, 1915, by special act or under the
5 general laws of this State, that are conducting any business subject to
6 regulation by the Public Utility Commission, shall, with respect to acts done
7 after ~~such~~ that date, be deemed to be within the provisions of this chapter and
8 the provisions of the general corporation law in like manner as a corporation
9 formed under this chapter. However, a corporation ~~theretofore~~ formed shall
10 not do any act in violation of any restriction contained in its charter. ~~The~~
11 ~~foregoing provisions of this section shall be subject to the exceptions and~~
12 ~~qualifications contained in 11 V.S.A. §§ 2 and 3, so far as the same may be~~
13 ~~applicable to corporations formed under the provisions of this chapter.~~

14 Sec. 360. 30 V.S.A. § 127 is amended to read:

15 § 127. UTILITY POLES IN EASEMENTS ACROSS PRIVATE PROPERTY

16 (a) Utility easements and State rules regarding utility rights of way and
17 pole attachments shall include, as an authorized utility use, the installation of
18 fiber-optic cable for purposes of providing broadband service to the public or
19 for providing utility network management and monitoring, or both. ~~Such~~ The
20 use of the utility easement and right of way is generally of the type
21 contemplated in utility easements, does not materially burden the landowner

1 beyond what was intended in the conveyance or condemnation, serves the
2 public good, and facilitates the construction of broadband networks ~~as~~
3 ~~contemplated in this act.~~

4 (b) This section shall apply to all utility easements and State rules in effect
5 on or after ~~the effective date of this act~~ June 8, 2021. This section shall not
6 apply to an easement that contains an express prohibition on the installation
7 and operation of fiber-optic cable.

8 Sec. 361. 30 V.S.A. § 202(i) is amended to read:

9 (i) It shall be a goal of the Electrical Energy Plan to ~~assure~~ ensure, by 2028,
10 that at least 60 MW of power are generated within the State by combined heat
11 and power (CHP) facilities powered by renewable fuels as defined in section
12 8002 of this title. In order to meet this goal, the Plan shall include incentives
13 for development and strategies to identify locations in the State that would be
14 suitable for CHP. The Plan shall include strategies to ~~assure~~ ensure the
15 consideration of CHP potential during any process related to the expansion of
16 natural gas services in the State.

17 Sec. 362. 30 V.S.A. § 202e is amended to read:

18 § 202e. TELECOMMUNICATIONS AND CONNECTIVITY

19 * * *

20 (c)(1) The Director may request from telecommunications service
21 providers voluntary disclosure of information regarding deployment of

1 broadband, telecommunications facilities, or advanced metering infrastructure
2 that is not publicly funded. ~~Such~~ The information may include data identifying
3 projected coverage areas, projected average speed of service, service type, and
4 the anticipated date of completion in addition to identifying the location and
5 routes of proposed cables, wires, and telecommunications facilities.

6 (2) The Director may enter into a nondisclosure agreement with respect
7 to any voluntary disclosures under this subsection, and the information
8 disclosed ~~pursuant thereto~~ shall remain confidential. Alternatively, entities that
9 voluntarily provide information requested under this subsection may select a
10 third party to be the recipient of ~~such~~ the information. The third party may
11 aggregate information provided by the entities, but shall not disclose provider-
12 specific information it has received under this subsection to any person,
13 including the Director. The third party shall only disclose the aggregated
14 information to the Director. The Director may publicly disclose aggregated
15 information based upon the information provided under this subsection. The
16 confidentiality requirements of this subsection shall not affect whether
17 information provided to any agency of the State or a political subdivision of
18 the State pursuant to other laws is or is not subject to disclosure.

19 * * *

1 Sec. 363. 30 V.S.A. § 203 is amended to read:

2 § 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES

3 The Public Utility Commission and the Department of Public Service shall
4 have jurisdiction over the following described companies within the State, their
5 directors, receivers, trustees, lessees, or other persons or companies owning or
6 operating ~~such~~ the companies and of all plants, lines, exchanges, and
7 equipment of ~~such~~ the companies used in or about the business carried on by
8 them in this State as covered and included ~~herein~~ in this chapter. ~~Such~~ This
9 jurisdiction shall be exercised by the Commission and the Department so far as
10 may be necessary to enable them to perform the duties and exercise the powers
11 conferred upon them by law. The Commission and the Department may, when
12 they deem the public good requires, examine the plants, equipment, lines,
13 exchanges, stations, and property of the companies subject to their jurisdiction
14 under this chapter.

15 * * *

16 Sec. 364. 30 V.S.A. § 209 is amended to read:

17 § 209. JURISDICTION; GENERAL SCOPE

18 * * *

19 (b) Required rules. ~~The~~ Notwithstanding the provisions of section 218 of
20 this ~~title notwithstanding~~ chapter, the Public Utility Commission shall, under

1 ~~3 V.S.A. §§ 803-804~~ 3 V.S.A. chapter 25, adopt rules applicable to companies
2 subject to this chapter that:

3 * * *

4 (3) regulate and prescribe reasonable procedures used by companies
5 in disconnecting or reconnecting services and billing customers ~~in regard~~
6 ~~thereto~~.

7 * * *

8 (i) Pole attachments; broadband.

9 * * *

10 (2) The rules adopted pursuant to this subsection shall specify that:

11 * * *

12 (C) If the make-ready work is not completed within the applicable
13 make-ready completion period, the pole owner, within 30 days ~~of~~ following the
14 expiration of the make-ready completion period, shall refund the portion of the
15 payment received for make-ready work that is not yet completed, and the
16 attaching entity may hire a qualified contractor to complete the make-ready
17 work. All pole owners and attaching entities shall submit to the Commission a
18 list of contractors whom they allow to perform make-ready surveys, make-
19 ready installation or maintenance, or other specified tasks upon their
20 equipment. The Commission shall provide the appropriate list to an attaching
21 entity, upon request.

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Sec. 365. 30 V.S.A. § 209a(n) is amended to read:

(n) Report to ~~Legislature~~ General Assembly. Upon approval of a cost mitigation order, the Commission shall submit a report to the ~~Legislature~~ General Assembly containing the order and detailed information on the findings of the Commission, including the risks, savings, and costs likely to result from the buydowns and other appropriate modifications of purchase power arrangements contained in the order.

Sec. 366. 30 V.S.A. § 210 is amended to read:

§ 210. ELECTRIC COMPANIES; INTERCONNECTION FACILITIES

(a) The Public Utility Commission shall have jurisdiction to order electric companies subject to its supervision to build or rebuild electric transmission lines in order to provide adequate interconnection between the transmission systems of the State. The Commission shall have power to exercise ~~the~~ this jurisdiction ~~herein conferred~~ only after due notice to all interested parties and opportunity for hearing and after making findings based upon adequate evidence that the ordered construction:

(1) is necessary in the interests of consumers of electrical energy;

(2) is not detrimental to the interests of the investors of the company ordered to build or rebuild; and

(3) will serve the public good.

1 (b) The Commission may allocate the cost of building or rebuilding
2 between the companies whose facilities are to be interconnected, providing that
3 the findings ~~herein~~ referred to are made as to each company affected by ~~such~~
4 the allocation.

5 Sec. 367. 30 V.S.A. § 212c(b) is amended to read:

6 (b) The Commission shall make its final determination under this
7 subsection within six months after a filing by the Department. The
8 Department's rate filings and any adjustments or exceptions ~~thereto~~ to them
9 shall be consistent with the procedures set forth in sections 225, 226, 227, 228,
10 and 229 of this ~~title~~ chapter, where applicable.

11 Sec. 368. 30 V.S.A. § 212d is amended to read:

12 § 212d. ACCESS; NEGOTIATIONS; COMMISSION ORDER

13 (a) Upon a finding by the Commission that the retail sale will promote the
14 general good of the State under section 212c of this ~~title~~ subchapter, Vermont
15 electric utility companies shall enter into negotiations for contracts with the
16 Department that are necessary for sale and distribution, including lease of
17 facilities, provision of services to the Department to distribute electric energy,
18 and the assurance of adequate reliability. The rates, charges, terms, or other
19 conditions of such contracts shall be established by negotiations or pursuant to
20 subsection (b) of this section. No electric utility company with which the
21 Department shares a service territory may unreasonably deny replacement

1 power needed by the Department to ~~assure~~ ensure adequate reliability of
2 service.

3 (b) If, pursuant to subsection (a) of this section, the Department and a
4 company are unable to negotiate the rates, charges, terms, or other conditions
5 of ~~such~~ the contracts including the assurance of adequate reliability, either may
6 petition the Public Utility Commission to establish the rates, terms, charges, or
7 conditions ~~thereunder~~, or resolve any other related matter, as the Commission
8 determines to be just and reasonable. The Commission shall establish rates or
9 charges under this section to compensate or reimburse such company for all
10 costs reasonably and necessarily incurred by it to provide such arrangements.
11 The Commission shall offer an opportunity for commencing a hearing within
12 45 days ~~of~~ following filing of the petition and shall make either a final decision
13 or, if unable to do so, an interim decision within three months of filing of the
14 petition. If, within three months of filing, the Commission is unable to reach a
15 final decision on the petition, the Commission shall direct the company to
16 provide to the Department the necessary arrangements, including if necessary
17 or appropriate, backup reliability, and access to facilities to allow the
18 Department to distribute the electric energy involved in its proposal on an
19 interim basis under such interim terms and conditions as the Commission finds
20 to be reasonable pending a final Commission decision on the petition. The

1 Commission shall render a final decision on the petition within six months
2 ~~from~~ following the date it is filed.

3 Sec. 369. 30 V.S.A. § 218(a) is amended to read:

4 (a) When, after opportunity for hearing, the rates, tolls, charges, or
5 schedules are found unjust, unreasonable, insufficient, or unjustly
6 discriminatory, or are found to be preferential or otherwise in violation of a
7 provision of this chapter, the Commission may order and substitute ~~therefor~~
8 such rates, tolls, charges, or schedules, and make such changes in any
9 ~~regulations~~ rules, measurements, practices, or acts of such company relating to
10 its service, and may make such order as will compel the furnishing of such
11 adequate service as shall at such hearing be found by it to be just and
12 reasonable. This section shall not be construed to require the same rates, tolls,
13 or charges from any company subject to supervision under this chapter for like
14 service in different parts of the State, but the Commission in determining these
15 questions shall investigate local conditions and its final findings and judgment
16 shall take cognizance thereof. This section does not prohibit a
17 telecommunications company from filing tariffs that condition the availability
18 of an intrastate service upon subscription to an interstate or unregulated service
19 from the same or an affiliated company; provided that an incumbent local
20 exchange carrier shall provide a plan to allocate reasonably revenue between
21 the regulated intrastate service and other services. The Commission shall

1 retain the authority to review the tariff filing to determine whether it is just and
2 reasonable.

3 Sec. 370. 30 V.S.A. § 218d is amended to read:

4 § 218d. ALTERNATIVE REGULATION OF ELECTRIC AND NATURAL
5 GAS COMPANIES

6 * * *

7 (n)(1) Notwithstanding subsection (a) of this section and sections 218, 225,
8 226, 227, and 229 of this ~~title~~ chapter, a municipal company formed under
9 local charter or under chapter 79 of this title and an electric cooperative formed
10 under chapter 81 of this title shall be authorized to change its rates for service
11 to its customers if the rate change is:

12 (A) applied to all customers equally;

13 (B) not more than two percent during any twelve-month period;

14 (C) cumulatively not more than 10 percent from the rates last
15 approved by the Commission; and

16 (D) not going to take effect more than 10 years from the last approval
17 for a rate change from the Commission.

18 (2) The municipal company or electric cooperative shall provide written
19 notice of a rate change pursuant to this subsection to its customers, the
20 Department of Public Service, and the Commission at least 45 days prior to
21 implementing the rate change. Included with the submission shall be a rate

1 analysis describing the rationale for the rate change. Unless an objection to the
2 rate change is filed by the Department of Public Service with the Commission
3 within 45 days ~~of~~ following this notice or the Commission orders an
4 investigation on its own motion, the municipal company or electric cooperative
5 may implement the rate change.

6 * * *

7 (o)(1) Notwithstanding subsections (a) and (n) of this section and sections
8 218, 225, 226, 227, and 229 of this ~~title~~ chapter, a municipal company formed
9 under local charter or under chapter 79 of this title and an electric cooperative
10 formed under chapter 81 of this title shall be authorized to offer innovative
11 rates or services to their customers as pilot programs without obtaining prior
12 approval from the Commission if the rate or service:

13 * * *

14 (2) The municipal company or electric cooperative shall provide written
15 notice of an innovative rate or service to its customers, the Department of
16 Public Service, and the Commission at least 45 days prior to offering the
17 innovative rate or service to its customers. Included with the submission shall
18 be the terms and conditions of service. Unless an objection to the innovative
19 rate or service is filed with the Commission within 45 days ~~of~~ following this
20 notice or the Commission orders an investigation on its own motion, the

1 municipal company or electric cooperative may commence offering the
2 innovative rate or service to its customers.

3 (3) The municipal company or electric cooperative shall provide written
4 notice to the Department of Public Service and the Commission at least
5 45 days prior to the end of an innovative rate or service duration period with
6 any proposed modifications to the terms and conditions. Unless an objection
7 to the innovative rate or service is filed with the Commission within 45 days of
8 following this notice or the Commission orders an investigation on its own
9 motion, the municipal company or electric cooperative may continue offering
10 the innovative rate or service to its customers. The Commission may allow for
11 the innovative rate or service to remain in effect pending the outcome of an
12 investigation into the notice filing.

13 * * *

14 Sec. 371. 30 V.S.A. § 218e is amended to read:

15 § 218e. IMPLEMENTING STATE ENERGY POLICY;

16 MANUFACTURING

17 To give effect to the policies of section 202a of this ~~title~~ subchapter to
18 provide reliable and affordable energy and ~~assure~~ ensure the State's economic
19 vitality, it is critical to retain and recruit manufacturing and other businesses
20 and to consider the impact on manufacturing and other businesses when
21 issuing orders, adopting rules, and making other decisions affecting the cost

1 and reliability of electricity and other fuels. Implementation of the State's
2 energy policy should:

3 * * *

4 Sec. 372. 30 V.S.A. § 223 is amended to read:

5 § 223. APPEAL FROM MUNICIPAL AUTHORITIES

6 A person or corporation aggrieved by an order or decision of the municipal
7 authorities made under the provisions of any statute, relative to the granting of
8 a license or permit for location, may bring an appeal ~~therefrom~~ to the
9 Commission at any time within 30 days ~~from~~ following the date of ~~such~~ the
10 order or decision. After notice and public hearing of all parties interested, as
11 provided in section 208 of this ~~title~~ subchapter, the decision of the Commission
12 thereon shall be final, subject to a right to transfer such cause to the Supreme
13 Court as provided by section 12 of this title.

14 Sec. 373. 30 V.S.A. § 225 is amended to read:

15 § 225. RATE SCHEDULES

16 (a) Within a time to be fixed by the Commission, each company subject to
17 the provisions of this chapter shall file with the Department, with separate
18 filings to the Directors for Regulated Utility Planning and Public Advocacy,
19 schedules which shall be open to public inspection, showing all rates, including
20 joint rates, for any service performed or any product furnished by it within the
21 State, and as a part ~~thereof~~ of it shall file the rules ~~and regulations~~ that in any

1 manner affect the tolls or rates charged or to be charged for any such service or
2 product. Those schedules, or summaries of the schedules approved by the
3 Department, shall be published by the company in two newspapers with
4 general circulation in the State within 15 days after such filing. A change shall
5 not ~~thereafter~~ be made in any such schedules, including schedules of joint rates
6 or in any such of the rules and regulations, except upon 45 days' notice to the
7 Commission and to the Department of Public Service, and ~~such~~ notice to
8 parties affected by such the schedules as the Commission shall direct. The
9 Commission shall consider the Department's recommendation and take action
10 pursuant to sections 226 and 227 of this ~~title~~ subchapter before the date on
11 which the changed rate is to become effective. All ~~such~~ changes shall be
12 plainly indicated upon existing schedules, or by filing new schedules in lieu
13 thereof 45 days prior to the time the same are to take effect. Subject only to
14 temporary increases, rates may not ~~thereafter~~ be raised without strictly
15 complying with the notice and filing requirements set forth in this section. In
16 no event may a company amend, supplement, or alter an existing filing or
17 substantially revise the proof in support of such filing in order to increase,
18 decrease, or substantiate a pending rate request, unless, upon opportunity for
19 hearing, the company demonstrates that ~~such~~ a change in filing or proof is
20 necessary for the purpose of providing adequate and efficient service.
21 However, upon application of any company subject to the provisions of this

1 chapter, and with the consent of the Department of Public Service, the
2 Commission may for good cause shown prescribe a shorter time within which
3 such change may be made; but a change which in effect decreases such tolls or
4 rates may be made upon five days' notice to the Commission and the
5 Department of Public Service and ~~such~~ notice to parties affected as the
6 Commission shall direct.

7 (b) Immediately upon receipt of notice of a change in a rate schedule filed
8 by a company, the Department shall investigate the justness and
9 reasonableness of that change. Within 30 days ~~of~~ following receipt of this
10 notice, the Department shall either report to the Commission the results of its
11 investigations together with its recommendation for acceptance of the change,
12 or it shall notify the Commission and other parties that it opposes the change.
13 If the Department of Public Service reports its acceptance of the change in
14 rates, the Commission may accept the change, or it may on its own motion
15 conduct an investigation into the justness and reasonableness of the change, or
16 it may order the Department to appear before it to justify its recommendation
17 to accept the change. In no event shall a change go into effect without the
18 approval of the Commission, except when a rate change is suspended and
19 temporary or permanent rates are allowed to go into effect pursuant to
20 subsection 226(a) or 227(a) of this ~~title~~ subchapter. The Commission shall
21 consider the Department's recommendation and take action pursuant to

1 sections 226 and 227 of this ~~title~~ subchapter within 45 days of following
2 receipt of notice of a change in a rate schedule. In the event that the
3 Department opposes the change, the Commission shall hear evidence on the
4 matter and ~~make such~~ issue any orders as justice and law require. In any
5 hearing on a change in rates, whether or not opposed by the Department, the
6 Commission may request the appearance of the Attorney General or appoint a
7 member of the Vermont bar to represent the public or the State.

8 ~~(e) [Repealed.]~~

9 Sec. 374. 30 V.S.A. § 226a(e) is amended to read:

10 (e) If at any time, after notice and opportunity for hearing, the Commission
11 determines that changes in federal regulatory law, unforeseen and significant
12 economic shifts, or changes in technology have created either extremely severe
13 economic hardships for the company or a condition that is severely detrimental
14 and contrary to the public good, the Commission shall order the Department
15 and the company to renegotiate relevant portions of a contract negotiated under
16 this section, and any renegotiated provisions shall be subject to the
17 Commission's approval under the procedures of subsection (c) of this section.
18 If at any time the General Assembly is concerned that such conditions exist, it
19 may, by joint resolution, direct the Commission to conduct a hearing and make
20 a determination ~~thereon~~. If the Department and the company fail to reach a
21 negotiated agreement within four months of receipt of an order to negotiate

1 from the Commission, the Commission shall hold a hearing to determine the
2 appropriate content of the relevant portions of the contract. In ~~such~~
3 proceedings, the public contract advocate shall represent the interests of the
4 public and the State, and any interested party may intervene. The Commission
5 shall complete its hearings and render its decision within four months from the
6 date that the Department and the company failed to agree under an order to
7 negotiate. If the Department and the company agree within 14 days ~~of~~
8 following the Commission's decision to accept the Commission's
9 determination of the appropriate content of the contract, the contract shall
10 continue in effect as modified until its termination date. If the Department or
11 the company does not accept the Commission's determination, the contract
12 shall terminate under the terms specified in subsection (f) of this section
13 30 days after the date of the Commission's decision.

14 Sec. 375. 30 V.S.A. § 227a(a)(3) is amended to read:

15 (3) that adequate safeguards exist to ~~assure~~ ensure that any services
16 provided by a competitor which continue to be regulated are not supporting or
17 subsidizing any services offered in the competitive market, and that no
18 company shall allocate revenues from regulated activities to unregulated
19 activities nor allocate costs from unregulated activities to regulated activities
20 and, upon request, shall provide the Commission and the Department with

1 information, including cost studies indicating whether any regulated services
2 are supporting any services which are deregulated; and
3 Sec. 376. 30 V.S.A. § 227b(b) is amended to read:

4 (b) The Secretary of Administration shall develop a standard contract and a
5 standard contracting procedure for the use of State-owned buildings and land
6 for wireless telecommunications facilities. The contract and contracting
7 procedure shall provide for:

8 (1) criteria and procedures for making a wireless facility development
9 proposal;

10 (2) final consideration of each completed facility development proposal
11 within 60 days of following the proposal's submission in the manner
12 prescribed by the Secretary;

13 * * *

14 Sec. 377. 30 V.S.A. § 227c(c) is amended to read:

15 (c) In determining whether to modify, reduce, or suspend regulatory
16 requirements, the Commission shall consider whether competition in the
17 market combined with the remaining requirements under this title:

18 (1) will be sufficient to ensure that the charges, practices, classifications,
19 or ~~regulations~~ rules related to the service are just and reasonable, and are not
20 unjustly or unreasonably discriminatory; and

21 * * *

1 Sec. 378. 30 V.S.A. § 227d is amended to read:

2 § 227d. SMALL ELIGIBLE TELECOMMUNICATIONS CARRIERS

3 * * *

4 (b) For any carrier that elects exemption under subsection (a) of this
5 section:

6 (1) The carrier shall provide notice of its election to its existing
7 customers within 30 days ~~of~~ following its election and to any new customer at
8 the time the new customer requests service from the carrier.

9 * * *

10 (7) If the carrier responds to an exogenous event with a price increase
11 that exceeds the maximum prices defined in subdivision (5) of this subsection,
12 the carrier shall provide notice of such change to the Public Utility
13 Commission and to the Department of Public Service. The Commission, upon
14 its own motion or upon the recommendation of the Department, may initiate an
15 investigation. If the Commission does not initiate an investigation within a 30-
16 day period, the price increase shall take effect. If the Commission determines
17 to initiate an investigation, it shall give notice of that decision to the carrier and
18 to the Department and may suspend the portion of the price that exceeds the
19 cap. The Commission shall conclude its investigation within 120 days ~~of~~
20 following issuance of its notice of investigation or within such shorter period
21 as it deems appropriate. If the Commission fails to issue a decision within that

1 120-day period, the price increase shall become effective upon the 121st day
2 without retroactive rate adjustments.

3 * * *

4 Sec. 379. 30 V.S.A. § 229 is amended to read:

5 § 229. REBATES; EXCEPTIONS

6 A public service company shall not directly or indirectly or by any special
7 rate, rebate, drawback, or other device or method make any deviation from the
8 rates, fares, charges, or prices for any service rendered by it or in services
9 rendered or to be rendered in connection therewith, as specified in its schedules
10 of charges in effect at the time such service was rendered. No public service
11 company may enter into any contract, agreement, or arrangement relating to
12 the furnishing or rendering of any special product or special service not
13 provided for or covered in the schedule without the prior approval of the
14 Commission. However, nothing ~~herein~~ in this section shall prohibit the giving
15 by any ~~such~~ public service company of free or reduced rate service to its
16 employees, or in case of public emergency, or to the classes defined and
17 provided for in the act of Congress entitled “An act to regulate commerce,”
18 ~~and acts amendatory thereof~~ as codified in 49 U.S.C. § 10101 et seq., as
19 amended. Subject to the approval of the Commission, it shall be lawful for any
20 public utility to make a contract for a definite term for its product or service.

1 Sec. 380. 30 V.S.A. § 230 is amended to read:

2 § 230. SPECIAL RATE OR REBATE; PENALTY

3 Except as provided in section 229 of this ~~title~~ subchapter, an officer or
4 employee of ~~such~~ a public service company who grants a special rate or rebate
5 or knowingly consents ~~thereto~~ to one shall be subject to a civil penalty imposed
6 by the Commission, after notice and an opportunity for hearing, of not less
7 than \$100.00 nor more than \$1,000.00. In addition, ~~such~~ a company granting a
8 special rate or rebate shall be subject to a civil penalty imposed by the
9 Commission, after notice and opportunity for hearing, of not more than the
10 larger of \$10,000.00 or five times the amount of the benefit or rebate.

11 Sec. 381. 30 V.S.A. § 231(a) is amended to read:

12 (a) A person, partnership, unincorporated association, or previously
13 incorporated association that desires to own or operate a business over which
14 the Public Utility Commission has jurisdiction under the provisions of this
15 chapter shall first petition the Commission to determine whether the operation
16 of such business will promote the general good of the State, and shall at that
17 time file a copy of any such petition with the Department. The Department,
18 within 12 days, shall review the petition and file a recommendation regarding
19 the petition in the same manner as is set forth in subsection 225(b) of this ~~title~~
20 subchapter. ~~Such~~ The recommendation shall set forth reasons why the petition
21 shall be accepted without hearing or shall request that a hearing on the petition

1 be scheduled. If the Department requests a hearing on the petition, or, if the
2 Commission deems a hearing necessary, it shall appoint a time and place in the
3 county where the proposed corporation is to have its principal office for
4 hearing the petition. At least 12 days before this hearing, notice of the hearing
5 shall be published on the Commission's website and once in a newspaper of
6 general circulation in the county in which the hearing will occur. The website
7 notice shall be maintained through the date of the hearing. The newspaper
8 notice shall include an Internet address where more information regarding the
9 petition may be viewed. The Director for Public Advocacy shall represent the
10 public at the hearing. If the Commission finds that the operation of ~~such~~ the
11 business will promote the general good of the State, it shall give ~~such~~ the
12 person, partnership, unincorporated association, or previously incorporated
13 association a certificate of public good specifying the business and territory to
14 be served by such petitioners. For good cause, after opportunity for hearing,
15 the Commission may amend or revoke any certificate awarded under the
16 provisions of this section. If any ~~such~~ certificate is revoked, the person,
17 partnership, unincorporated association, or previously incorporated association
18 shall no longer have authority to conduct any business which is subject to the
19 jurisdiction of the Commission whether or not regulation ~~thereunder~~ has been
20 reduced or suspended, under section 226a or 227a of this ~~title~~ subchapter.

1 Sec. 382. [Deleted.]

2 Sec. 383. 30 V.S.A. § 246(c) is amended to read:

3 (c) In developing rules or orders, the Commission:

4 (1) Shall develop a simple application form and shall require that the
5 applicant first file the application with the Commission and that, within two
6 business days ~~of~~ following notification from the Commission that the
7 application is complete, the applicant serve copies of the complete application
8 on the Department of Public Service, the Agency of Natural Resources, the
9 Agency of Transportation, and the municipality in which the meteorological
10 station is proposed to be located.

11 (2) Shall require that if no objections are filed within 30 days ~~of~~
12 following the date of service of the complete application under subdivision (1)
13 of this subsection, and the Commission determines that the applicant has met
14 all of the requirements of section 248 of this ~~title~~ subchapter, the certificate of
15 public good shall be issued for a period that the Commission finds reasonable,
16 but in no event for more than five years. Upon request of an applicant, the
17 Commission may renew a certificate of public good. Upon expiration of the
18 certificate, the meteorological station and all associated structures and material
19 shall be removed, and the site shall be restored substantially to its
20 preconstruction condition.

21

* * *

1 Sec. 384. 30 V.S.A. § 248 is amended to read:

2 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
3 FACILITIES; CERTIFICATE OF PUBLIC GOOD

4 (a)(1) No company, as defined in section 201 of this ~~title~~ subchapter, may:

5 * * *

6 (4)(A) With respect to a facility located in the State, in response to a
7 request from one or more members of the public or a party, the Public Utility
8 Commission shall hold a nonevidentiary public hearing on a petition for such
9 finding and certificate. The public hearing shall either be remotely accessible
10 or held in at least one county in which any portion of the construction of the
11 facility is proposed to be located, or both. The Commission in its discretion
12 may hold a nonevidentiary public hearing in the absence of any request from a
13 member of the public or a party. From the comments made at a public hearing,
14 the Commission shall derive areas of inquiry that are relevant to the findings to
15 be made under this section and shall address each such area in its decision.

16 Prior to making findings, if the record does not contain evidence on such an
17 area, the Commission shall direct the parties to provide evidence on the area.

18 This subdivision does not require the Commission to respond to each
19 individual comment.

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(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days ~~of~~ following the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * *

(i)(1) No company, as defined in sections 201 and 203 of this ~~title~~ chapter, without approval by the Commission, after giving notice of such investment or filing a copy of that contract with the Commission and the Department at least 30 days prior to the proposed effective date of that contract or investment:

* * *

(3) The Commission, upon its own motion or upon the recommendation of the Department, may determine to initiate an investigation. If the Commission does not initiate an investigation within such 30-day period, the contract or investment shall be deemed to be approved. If the Commission determines to initiate an investigation, it shall give notice of that decision to the company proposing the investment or contract, the Department, and such other persons as the Commission determines are appropriate. The Commission shall conclude its investigation within 120 days ~~of~~ following issuance of its notice of investigation, or within such shorter period as it deems appropriate,

1 unless the company consents to waive the 120-day requirement. Except when
2 the company consents to waive the 120-day requirement, if the Commission
3 fails to issue a decision within that 120-day period, the contract or investment
4 shall be deemed to be approved. The Commission may hold informal, public,
5 or evidentiary hearings on the proposed investment or contract.

6 * * *

7 (j)(1) The Commission may, subject to such conditions as it may otherwise
8 lawfully impose, issue a certificate of public good in accordance with the
9 provisions of this subsection and without the notice and hearings otherwise
10 required by this chapter if the Commission finds that:

11 * * *

12 (2) Any party seeking to proceed under the procedures authorized by
13 this subsection shall file a proposed certificate of public good and proposed
14 findings of fact with its petition. Within two business days ~~of~~ following
15 notification by the Commission that the filing is complete, the party shall serve
16 copies of the complete filing on the parties specified in subdivision (a)(4)(C) of
17 this section and the party shall give written notice of the proposed certificate
18 and of the Commission's determination that the filing is complete to those
19 parties, to any public interest organization that has in writing requested notice
20 of applications to proceed under this subsection, and to any other person found
21 by the Commission to have a substantial interest in the matter. The notice shall

1 request comment within 30 days ~~of~~ following the date of service of the
2 complete filing on the question of whether the petition raises a significant issue
3 with respect to the substantive criteria of this section. If the Commission finds
4 that the petition raises a significant issue with respect to the substantive criteria
5 of this section, the Commission shall hear evidence on any such issue.

6 * * *

7 (n)(1) No company as defined in section 201 of this ~~title~~ chapter and no
8 person as defined in 10 V.S.A. § 6001(14) may place or allow the placement of
9 wireless communications facilities on an electric transmission or generation
10 facility located in this State, including a net metering system, without receiving
11 a certificate of public good from the Public Utility Commission pursuant to
12 this subsection. The Public Utility Commission may issue a certificate of
13 public good for the placement of wireless communications facilities on electric
14 transmission and generation facilities if such placement is in compliance with
15 the criteria of this section and Commission rules or orders implementing this
16 section. In developing such rules and orders, the Commission:

17 * * *

18 (2) Notwithstanding subdivision (1)(B) of this subsection, if the
19 Commission finds that a petition filed pursuant to this subsection does not raise
20 a significant issue with respect to the criteria enumerated in subdivisions
21 (b)(1), (3), (4), (5), and (8) of this section, the Commission shall issue a

1 certificate of public good without a hearing. If the Commission fails to issue a
2 final decision or identify a significant issue with regard to a completed petition
3 made under this section within 60 days of following its filing with the Clerk of
4 the Commission and service to the Director of Public Advocacy for the
5 Department of Public Service, the petition is deemed approved by operation of
6 law. The rules required by this subsection shall be adopted within six months
7 of the effective date of this section, and rules under this section may be
8 adopted on an emergency basis to comply with the dates required by this
9 section. As used in this subsection, “wireless communication facilities”
10 include antennae, related equipment, and equipment shelter, but do not include
11 equipment used by utilities exclusively for intra- and inter-utility
12 communications.

13 * * *

14 Sec. 385. 30 V.S.A. § 248a is amended to read:

15 § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS

16 FACILITIES

17 * * *

18 (e) Notice. No less than 60 days prior to filing an application for a
19 certificate of public good under this section, the applicant shall serve written
20 notice of an application to be filed with the Commission pursuant to this
21 section to the legislative bodies and municipal and regional planning

1 commissions in the communities in which the applicant proposes to construct
2 or install facilities; the Secretary of Natural Resources; the Secretary of
3 Transportation; the Division for Historic Preservation; the Commissioner of
4 Public Service and its Director for Public Advocacy; the Natural Resources
5 Board if the application concerns a telecommunications facility for which a
6 permit previously has been issued under 10 V.S.A. chapter 151; and the
7 landowners of record of property adjoining the project sites. In addition, at
8 least one copy of each application shall be filed with each of these municipal
9 and regional planning commissions. The notices to the legislative body and
10 planning commission of the municipality shall attach a statement that itemizes
11 the rights and opportunities available to those bodies under subdivisions (c)(2)
12 and (e)(2) of this section and under subsections (m), (n), and (o) of this section
13 and informs them of the guide published under subsection (p) of this section
14 and how to obtain a copy of that guide.

15 * * *

16 (3) With the notice required under this subsection, the applicant
17 shall include a written assessment of the colocation requirements of
18 subdivision (c)(3) of this section, as they pertain to the applicant's proposed
19 telecommunications facility. On the request of the municipal legislative body
20 or the planning commission, the Department of Public Service, pursuant to its
21 authority under subsection (o) of this section, shall retain an expert to review

1 the applicant's colocation assessment and to conduct further independent
2 analysis, as necessary. Within 45 days of following receiving the applicant's
3 notice and colocation assessment, the Department shall report its own
4 preliminary findings and recommendations regarding colocation to the
5 applicant and to all persons required to receive notice of an application for a
6 certificate of public good under this subsection (e).

7 (f) Review period. If the Public Utility Commission determines that an
8 application does not raise a significant issue, the Commission shall issue a final
9 determination on an application filed pursuant to this section within 60 days of
10 following its filing or, if the original filing did not substantially comply with
11 the Public Utility Commission's rules, within 60 days of following the date on
12 which the Clerk of the Commission notifies the applicant that the filing is
13 complete. If the Commission rules that an application raises a significant
14 issue, it shall issue a final determination on an application filed pursuant to this
15 section within 180 days of following its filing or, if the original filing did not
16 substantially comply with the Public Utility Commission's rules, within
17 180 days of following the date on which the Clerk of the Commission notifies
18 the applicant that the filing is complete.

19 * * *

20 (j) Telecommunications facilities of limited size and scope.

21 * * *

1 (2)(A) Any person seeking to proceed under the procedures authorized
2 by this subsection shall file a proposed certificate of public good and proposed
3 findings of fact with its application. Within two business days ~~of~~ following
4 notification from the Commission that the filing is complete, the applicant
5 shall serve notice and a copy of the application, proposed certificate of public
6 good, and proposed findings of fact on the Commissioner of Public Service
7 and its Director for Public Advocacy, the Secretary of Natural Resources, the
8 Division for Historic Preservation, the Natural Resources Board if the
9 application concerns a telecommunications facility for which a permit
10 previously has been issued under 10 V.S.A. chapter 151, and each of the
11 legislative bodies and municipal and regional planning commissions in the
12 communities in which the applicant proposes to construct or install facilities.
13 Within two business days ~~of~~ following notification from the Commission that
14 the filing is complete, the applicant also shall serve written notice of the
15 proposed certificate on the landowners of record of property adjoining the
16 project site or sites unless the Commission has previously determined on
17 request of the applicant that good cause exists to waive or modify the notice
18 requirement with respect to such landowners. Such notice shall request
19 comment to the Commission within 30 days ~~of~~ following the date of service on
20 the question of whether the application raises a significant issue with respect to
21 the substantive criteria of this section. If the Commission finds that an

1 application raises a significant issue with respect to the substantive criteria of
2 this section, the Commission shall hear evidence on any such issue.

3 (B) An applicant seeking a waiver or modification of notice to adjoining
4 landowners under this subsection shall file a request for such a waiver or
5 modification with the Public Utility Commission not later than 30 days prior to
6 serving written notice under subsection (e) of this section, together with a
7 description of the project and its location, the applicant's reasons for seeking a
8 waiver or modification, and the applicant's demonstration that the standard for
9 granting a waiver or modification is met. Any granting of such a waiver or
10 modification shall be based on a determination that the landowners subject to
11 the waiver or modification could not reasonably be affected by one or more of
12 the proposed facilities, and that notice to such landowners would constitute a
13 significant administrative burden without corresponding public benefit. The
14 Commission shall rule on a waiver or modification request under this
15 subsection within 21 days ~~of~~ following the filing of the request.

16 (C) If the Commission accepts a request to consider an application under
17 the procedures of this subsection, then unless the Public Utility Commission
18 subsequently determines that an application raises a significant issue, the
19 Commission shall issue a final determination on an application within 60 days
20 ~~of~~ following the date on which the Clerk of the Commission notifies the
21 applicant that the filing is complete. If, subsequent to acceptance of an

1 application under this subsection, the Commission rules that an application
2 raises a significant issue, it shall issue a final determination on an application
3 filed pursuant to this subsection within 90 days ~~of~~ following the date on which
4 the Clerk of the Commission notifies the applicant that the filing is complete.

5 * * *

6 (k) De minimis modifications. An applicant intending to make a de
7 minimis modification of a telecommunications facility shall provide written
8 notice of its intent, including a description of the de minimis modification, its
9 plans for the de minimis modification, and its certification that the project
10 constitutes a de minimis modification under this section, to the following: the
11 landowner of record of the property on which the facility is located; the
12 legislative body of the municipality in which the applicant proposes to
13 undertake such limited modifications to the facility; and the Commissioner of
14 Public Service and his or her Director for Public Advocacy. Unless an
15 objection to the classification of a proposed project as a de minimis
16 modification is filed with the Commission within 30 days ~~of~~ following this
17 notice, a certificate of public good shall be issued. Objections may be filed
18 only by persons entitled to notice of this proposed project pursuant to this
19 subsection. If an objection of the classification of the proposed project as a de
20 minimis modification is timely filed with the Commission, the Commission

1 may determine whether the intended project meets the definition of de minimis
2 modification established in subdivision (b)(2) of this section.

3 * * *

4 Sec. 386. 30 V.S.A. § 248d is amended to read:

5 § 248d. FEE REFUND

6 If an applicant withdraws an application and seeks a fee refund, then a
7 written request for an application fee refund shall be submitted to the Public
8 Utility Commission (Commission) within 90 days of following the withdrawal
9 of the application.

10 * * *

11 Sec. 387. 30 V.S.A. § 509 is amended to read:

12 § 509. AMENDMENT AND REVOCATION; FINES; ASSURANCE OF
13 DISCONTINUANCE

14 * * *

15 (c) In any case in which the Commission may revoke a certificate, in lieu
16 thereof, the Commission may accept an assurance of discontinuance of any
17 method, act, or practice from any company. ~~Such~~ The assurance may include a
18 stipulation for affirmative action by such company, payment of the costs of
19 investigation, or of an amount to be held in escrow pending the outcome of an
20 action or as restitution to aggrieved consumers, or any combination of the
21 ~~above~~ those options. Any ~~such~~ assurance of discontinuance shall be in writing

1 and may be sought and negotiated by the Department of Public Service, subject
2 to the approval of the Commission. Proof of a violation of ~~such~~ an assurance
3 shall be prima facie evidence of violation of this chapter, or of the terms and
4 conditions of a certificate granted under this chapter.

5 Sec. 388. 30 V.S.A. § 515(b) is amended to read:

6 (b) For the purposes of this section, voting security means any stock or
7 security presently entitling the owner or holder ~~thereof~~ to vote in the direction
8 or management of the affairs of a company or any security issued under or
9 pursuant to any trust, agreement, or arrangement ~~whereby~~ where a trustee or
10 trustees or agent or agents for the owner or holder of such a security are
11 presently entitled to vote in the direction or management of the affairs of a
12 company.

13 Sec. 389. 30 V.S.A. § 601(b)(1) is amended to read:

14 (b)(1) “New England power pool agreement,” a contractual agreement
15 between electric utilities that is open to all electric utilities, whether private or
16 governmental, operating in New England, that provides for cooperation and
17 joint participation in developing and implementing a regional bulk power
18 supply of electricity, that constitutes the central dispatching and primary
19 pooling arrangement for electric utilities in the New England states, and that
20 has been permitted to become effective under the Federal Power Act by the
21 Federal Power Commission or the Federal Energy Regulatory Commission.

1 Sec. 390. 30 V.S.A. § 604 is amended to read:

2 § 604. ADDITIONAL AUTHORITY

3 (a) Notwithstanding any contrary provision of any general or special law
4 relating to the powers and authorities of electric utilities or any limitation
5 imposed by their charters, the City of Burlington, the Village of Lyndonville
6 acting through its board of trustees, and all other Vermont municipal electric
7 utilities shall each have the following additional powers:

8 (1) jointly or separately to plan, finance, construct, purchase, operate,
9 maintain, use, share costs of, own, mortgage, lease, sell, dispose of, or
10 otherwise participate in electric power generating and transmission facilities or
11 portions ~~thereof~~ of it within or outside the State or the product or service
12 ~~therefrom~~ of it or securities issued in connection with the financing of such
13 facilities or portions ~~thereof~~ of it;

14 (2) to enter into and perform contracts for such joint or separate
15 planning, financing, construction, purchase, operation, maintenance, use,
16 sharing costs of, ownership, mortgaging, leasing, sale, disposal of, or other
17 participation in electric power generating and transmission facilities, or
18 portions ~~thereof~~ of it, within or outside the State of the product or service
19 ~~therefrom~~ of it, or securities issued in connection with the financing of electric
20 power facilities or portions ~~thereof~~ of it, including, contracts for the payment
21 of obligations imposed without regard to the operational status of a facility or

1 facilities and contracts for the sale or purchase of electricity from an electric
2 power facility or facilities for long or short periods of time or for the life of a
3 specific electric generating unit or units.

4 * * *

5 Sec. 391. 30 V.S.A. § 605 is amended to read:

6 § 605. CONTRACTS

7 Contracts under section 604 of this ~~title~~ chapter may be for a term or for an
8 indefinite period; may provide for the sale or other disposition of byproducts of
9 electric power facilities; and may contain provisions for arbitration, delegation,
10 and other matters deemed necessary or desirable to carry out their purposes.

11 Any party, public or private, desiring to purchase or use byproducts of electric
12 power facilities financed, constructed, or operated under this chapter may enter
13 into contracts ~~therefor~~ for short or long terms. The obligation of the city,
14 village, and town under contracts referred to in this section shall not be
15 included in the debt of the city, village, and town for the purpose of
16 ascertaining its borrowing capacity.

17 Sec. 392. 30 V.S.A. § 608 is amended to read:

18 § 608. BONDING AUTHORITY—CITY OF BURLINGTON

19 (a) The City of Burlington, when authorized by a two-thirds vote of all
20 voters present and voting at a meeting called for that purpose, may pledge its
21 credit by issuing the negotiable orders, warrants, notes, or bonds for project

1 costs, or its share of project costs, of electric power facilities authorized
2 pursuant to section 604 of this ~~title~~ chapter. Such project costs may include all
3 costs, whether incurred prior to or after the issue of bonds or notes ~~hereunder~~,
4 of acquisition, site development, construction, improvement, enlargement,
5 reconstruction, alteration, machinery, equipment, furnishings, nuclear fuel,
6 demolition or removal of existing buildings or structures, including the cost of
7 acquiring any lands to which such buildings or structures may be moved,
8 financing charges, interest prior to and during the carrying out of any project
9 and for a reasonable period thereafter, planning, engineering, financial
10 advisory and legal services, administrative expenses, prepayments under
11 contracts made pursuant to section 604 of this ~~title~~ chapter, the funding of
12 notes issued for project costs as ~~hereinafter~~ provided, and all other expenses
13 incidental to the determination of the feasibility of any project or to carrying
14 out the project or to placing the project in operation.

15 (b) The obligations shall be issued in accordance with the charter of the
16 City of Burlington ~~relating thereto~~. The amount of obligations issued for such
17 purpose shall not be considered in computing any debt limit applicable to the
18 City.

19 (c) The March 6, 1973 vote of the voters of the City of Burlington
20 authorizing and empowering the Burlington City Council to pledge the credit
21 of the City by issuing general obligation bonds or notes in an amount not to

1 exceed \$6,000,000.00 for the purpose of acquiring joint ownership interests in
2 four nuclear power plants presently designated as the Connecticut 1979
3 Nuclear Unit, Pilgrim No. 2, and Seabrook Units No. 1 and No. 2, to be
4 constructed and located in the states of Connecticut, Massachusetts, and New
5 Hampshire is hereby ratified, adopted, and validated in all respects. In
6 addition, any authorized action ~~authorized hereunder~~ taken during the calendar
7 year that commenced January 1, 1974 shall be valid and effective as if this
8 chapter were in effect on January 1, 1974.

9 Sec. 393. 30 V.S.A. § 609 is amended to read:

10 § 609. VILLAGE OF LYNDONVILLE

11 (a) The Village of Lyndonville, when authorized as provided in 24 V.S.A.
12 chapter 53, may pledge its credit by issuing its negotiable orders, warrants,
13 notes, or bonds for project costs, or its share of project costs, of electric power
14 facilities authorized pursuant to section 604 of this title. ~~Such~~ The project
15 costs may include all costs, whether incurred prior to or after the issue of bonds
16 or notes ~~hereunder~~, of acquisition, site development, construction,
17 improvement, enlargement, reconstruction, alteration, machinery, equipment,
18 furnishings, nuclear fuel, demolition or removal of existing buildings or
19 structures, including the cost of acquiring any lands to which such buildings or
20 structures may be moved, financing charges, interest prior to and during the
21 carrying out of any project and for a reasonable period thereafter, planning,

1 engineering, financial advisory and legal services, administrative expenses,
2 prepayments under contracts made pursuant to section 604 of this title, the
3 funding of notes issued for project costs as ~~hereinafter~~ provided in this section,
4 and all other expenses incidental to the determination of the feasibility of any
5 project or to carrying out the project or to placing the project in operation.

6 * * *

7 (c) The May 3, 1977 vote of the voters of the Village of Lyndonville
8 authorizing and empowering the Village of Lyndonville Board of Trustees to
9 pledge the credit of the Village by issuing general obligation bonds or notes in
10 an amount not to exceed \$3,800,000.00 for the purpose of acquiring joint
11 ownership interests in four power plants presently designated as the
12 Connecticut 1979 Nuclear Unit, Pilgrim No. 2, and Wyman Unit No. 4 and
13 MMWEC Phase I Intermediate Units and located in the states of Connecticut,
14 Maine, and Massachusetts is hereby ratified, adopted, and validated in all
15 respects. In addition, any action authorized ~~hereunder~~ and taken during the
16 calendar year that commenced January 1, 1977 shall be valid and effective as if
17 this chapter were in effect on January 1, 1977.

18 Sec. 394. 30 V.S.A. § 2512 is amended to read:

19 § 2512. APPEAL; PROCEEDINGS

20 When either party is dissatisfied with such appraisal of damages, ~~he or she~~
21 the party may apply to the Superior Court by petition in the same manner as is

1 provided for a person dissatisfied with the compensation for damages for the
2 laying out or altering of highway, and ~~thereupon~~ similar proceedings shall be
3 had. The line shall not be erected until such cause is finally decided, unless the
4 party erecting the same files with the clerk of the court to which such
5 application is made, before the line is erected, a bond to the other party, with
6 sureties approved by such clerk, conditioned for the payment of such damages
7 and costs as may finally be awarded.

8 Sec. 395. 30 V.S.A. § 2529 is amended to read:

9 § 2529. LOITERING UPON TELEPHONE PROPERTY; PENALTY

10 A person who without right loiters or remains in a telephone central office,
11 a public telephone pay station, or the approaches thereto to it, after being
12 requested to leave by a railroad police officer, sheriff, deputy sheriff,
13 constable, or police officer shall be fined not more than \$20.00 nor less than
14 \$2.00.

15 Sec. 396. 30 V.S.A. § 2530 is amended to read:

16 § 2530. TELEPHONES IN PUBLIC AREAS

17 The selectboard of a town ~~or~~, or the Agency of Transportation in the case of
18 State highways~~),~~ may, upon written application and after notice to adjacent
19 landowners, permit the construction, erection, and maintenance of public
20 telephones, telephone booths, and appurtenances ~~thereto~~ to them within the
21 limits of public highways, sidewalks, parks, and parking areas when consistent

1 with the public interest under ~~such~~ reasonable rules, regulations, and
2 arrangements as it may prescribe.

3 Sec. 397. 30 V.S.A. § 2701 is amended to read:

4 § 2701. TRANSFER OF MESSAGES AND INTERCHANGE OF SERVICE

5 Whenever the Commission, after a hearing had upon its own motion or
6 upon complaint, finds that a physical connection can reasonably be made
7 between the lines of two or more telephone companies or two or more
8 telegraph companies whose lines can be made to form a continuous line of
9 communication, by the construction and maintenance of suitable connections,
10 for the transfer of messages or conversations, and that public convenience and
11 necessity will be subserved thereby, or finds that two or more telegraph or
12 telephone companies have failed to establish joint rates, tolls, or charges for
13 service by or over their lines, and that joint rates, tolls, or charges ought to be
14 established, the Commission may, by its order, (a) require that the connection
15 be made, except where the purpose of the connection is primarily to secure the
16 transmission of local messages or conversations between points within the
17 same city or town, and that conversations be transmitted and messages
18 transferred over the connection under ~~such~~ the rules ~~and regulations~~ as the
19 Commission may establish, and (b) may prescribe through lines and joint rates,
20 tolls, and charges to be made and to be used, observed, and enforced in the
21 future. If the telephone or telegraph companies do not agree upon the division

1 of the joint rates, tolls, or charges established by the Commission over the
2 through lines, the Commission may, after further hearing, establish the division
3 by supplemental order.

4 Sec. 398. 30 V.S.A. § 2703 is amended to read:

5 § 2703. TELEPHONE SERVICE

6 On application of a telegraph or telephone company and upon reasonable
7 terms, a person or corporation owning, controlling, or operating a telephone
8 exchange or service in this State shall furnish such applicant with the use of a
9 telephone or telephones, and telephonic service and connection with the
10 respective exchanges and the subscribers ~~thereto~~, without discriminating
11 between telegraph or telephone companies as to the connection, service, or use
12 of instruments furnished or charges made.

13 Sec. 399. 30 V.S.A. § 2704 is amended to read:

14 § 2704. DISCRIMINATION PROHIBITED

15 On application of a person or corporation and tender of the charges or rental
16 sum usual or customary for the class of service required, without
17 discrimination for the same class of service rendered, a person or corporation
18 owning, controlling, or operating a telephone exchange or service in this State
19 shall furnish the applicant with the use of a telephone and telephonic service
20 and connection with their respective exchanges and subscribers ~~thereto~~.

1 Sec. 400. 30 V.S.A. § 2802 is amended to read:

2 § 2802. SALE AND DISTRIBUTION; REGULATION

3 A person, association, company, or corporation, its successors, grantees,
4 lessees, trustees, or receivers by whatever court appointed, that generates
5 electric energy within the State by means of water power, or transmits in this
6 State electric energy generated from outside the State, and which, in the
7 location, construction, or maintenance of its generating plant, including the
8 acquiring of water rights, flowing or ponding rights, within the State or rights-
9 of-way, or in the establishment or maintenance of its lines for transmission of
10 electric energy, confiscates by the exercise of the right of eminent domain,
11 either under the general law, or if a corporation, under the provisions of its
12 charter or general law, or has by the provisions of its charter or general law
13 power so to do, the property of any person or any right, title, interest,
14 easement, or estate ~~therein~~, or uses a public highway for carrying its
15 transmission lines over or along the same or beneath the surface thereof, at all
16 reasonable times when requested so to do, shall sell and furnish at a reasonable
17 price so much or such an amount of such electric energy as the public
18 convenience or necessity may require to any and all persons, companies,
19 cooperatives, and corporations, municipal, public or private, in this State,
20 desiring to use the same in the State for heating, lighting, or power purposes or
21 for any other public use or purpose. Such sale and distribution shall be subject

1 to such reasonable conditions and limitations in each case as the Public Utility
2 Commission may prescribe upon petition brought and after due notice to all
3 parties.

4 Sec. 401. 30 V.S.A. § 2804 is amended to read:

5 § 2804. CITATION; SERVICE; HEARING

6 The petition, with a citation attached, signed by the Chair or one of the
7 other members of the Commission, or its clerk, shall require the petitionee to
8 appear at a certain time and place within not less than 10 days after the date of
9 ~~such~~ the citation. The citation, with the petition, shall be served on the
10 petitionee like a summons, not less than six days before the date ~~he or she~~ the
11 petitionee is required to appear. At the required time and place, the
12 Commission shall hear the parties and their witnesses and ~~such~~ any other
13 evidence as they may offer; and determine the facts and ~~thereupon~~ make ~~such~~
14 an order and decree as the law and justice require, which ~~order~~ shall be final
15 unless appealed from. The Commission may adjourn ~~such~~ the hearing from
16 time to time and to another place in the county; and may adjourn it elsewhere if
17 the parties consent.

18 Sec. 402. 30 V.S.A. § 2805 is amended to read:

19 § 2805. APPEAL; COMMISSIONERS; HEARING ON REPORT

20 A party to the cause who feels ~~himself or herself~~ aggrieved by the final
21 order or decree of the Commission shall have the right to take the cause to the

1 Supreme Court. Such appeal shall be taken and the cause entered in the
2 Supreme Court ~~for the county where the petition and citation were returnable,~~
3 in the manner and under the law and rules of procedure that govern such
4 appeals from the Superior Court, and the Supreme Court shall have the same
5 power ~~therein~~ that it has over appeals from ~~such~~ the Superior Court. The
6 Supreme Court, if cause is not shown to the contrary, on motion of either party,
7 shall appoint three disinterested freeholders, residents of the county where the
8 appeal is taken, unless otherwise agreed upon by the parties, to be
9 commissioners, who shall appoint a time and place of hearing the matter set
10 forth in the petition and give at least six days' notice ~~thereof~~ to the parties; and,
11 after hearing the parties, the commissioners shall report in writing the facts
12 found by them and such other findings as the Court may direct. Upon the
13 return of the report, either party may object to its acceptance for good cause
14 shown and the Court may set aside the report and order a rehearing; but if the
15 Court accepts and establishes the same, the Court may reverse or affirm the
16 orders or decrees made by the Public Utility Commission, and may remand the
17 cause to the Commission with such mandate as law and equity require; and the
18 Commission shall enter an order or decree in accordance with such mandate.

19 Sec. 403. 30 V.S.A. § 2902(a) is amended to read:

20 (a) In accordance with this chapter, a municipality may buy and sell electric
21 current for domestic use and for commercial purposes and construct, purchase

1 or lease, and maintain and operate one or more plants for the manufacture,
2 distribution, purchase, and sale of gas or electricity for the use of ~~such~~ the
3 municipality and for the use of the residents of ~~such~~ the municipality and for
4 ~~such~~ the other customers outside ~~such~~ the municipality as the Commission may
5 approve unless otherwise provided for in this chapter. For ~~such~~ those purposes
6 a municipality may purchase and hold in fee simple or otherwise any real or
7 personal estate and any rights therein, including water rights and may do all
8 other things necessary for carrying into effect the purposes of this chapter and
9 may excavate and dig conduits and ditches in any highway or other land or
10 place, and erect poles, place wires, and lay pipes for the transmission and
11 distribution of electricity and gas, in such places as may be deemed necessary
12 and proper and in all ~~such~~ respects such municipality shall have the same
13 privileges and be subject to the same restrictions as are provided for public
14 service corporations in chapters 71, 73, and 75 of this title. ~~Such~~ The
15 municipality may change, enlarge, and extend the same from time to time and
16 maintain the same, having due regard for the safety and welfare of its citizens
17 and security of the public travel.

18 Sec. 404. 30 V.S.A. § 2905 is amended to read:

19 § 2905. INDEBTEDNESS

20 A municipality that has voted according to the provisions of this chapter to
21 acquire or construct a municipal plant may incur debt for the purpose of

1 establishing, purchasing, constructing, extending, or enlarging it, but subject to
2 the provisions of law limiting municipal indebtedness. Nothing ~~herein~~ in this
3 section shall be construed to affect the rights of any municipality now or
4 ~~hereafter~~ later incurring debt under 24 V.S.A. § 1822.

5 Sec. 405. 30 V.S.A. § 2906 is amended to read:

6 § 2906. EXISTING PLANTS

7 Within 30 days after the passage of the ratifying vote provided for in section
8 2903 of this ~~title~~ chapter or the vote provided for in section 2904 of this ~~title~~
9 chapter, the mayor of the city, the selectboard of the town, or the trustees of the
10 village shall notify in writing any utility engaged, at the time of the vote
11 required by such sections, in generating or distributing gas or electricity for
12 sale in ~~such~~ the municipality, of ~~such~~ the vote and request ~~such~~ the utility
13 whether it elects to sell and at what price, in the manner ~~hereinafter~~ provided,
14 that portion of its plant and property located within ~~such~~ the municipality
15 ~~which~~ that is suitable for and used in connection with the business of ~~such~~ the
16 utility, and that portion, if any, lying outside such municipality, which ~~such~~ the
17 municipality proposes to purchase.

18 Sec. 406. 30 V.S.A. § 2907 is amended to read:

19 § 2907. UTILITY TO ACCEPT OR REJECT OFFER TO PURCHASE

20 The utility shall reply to such request by delivering its answer in writing to
21 the mayor of the city, the selectboard of the town, or the trustees of the village,

1 within 90 days ~~of~~ following the receipt of ~~such~~ the request. If the reply is in
2 the negative or if the reply is not made within ~~such~~ a period of 90 days ~~as~~
3 ~~aforesaid~~, the utility ~~thereby~~ waives any right it may have had to require the
4 purchase of its plant and property by the municipality. If the reply is in the
5 affirmative, it shall, within 90 days, submit the price and terms ~~which~~ that it is
6 willing to accept for all such plant and property, together with a detailed
7 schedule of all the plant and property it proposes to sell to ~~such~~ the
8 municipality. ~~Such~~ Any plant and property shall at all reasonable times
9 ~~thereafter~~ be open to the examination of the authorities and experts of the
10 municipality or any other persons or boards charged with the duty of
11 determining the fair value of ~~such~~ the property.

12 Sec. 407. 30 V.S.A. § 2910 is amended to read:

13 § 2910. TAKING UTILITY PROPERTY BY EMINENT DOMAIN

14 If the utility shall have replied in the negative or if it shall have failed to
15 reply within the time prescribed in section 2907 of this ~~title~~ chapter, the
16 municipality, in the event that it shall have passed the votes required in
17 sections 2903 and 2904 of this ~~title~~ chapter, may take such private plant and
18 property by the exercise of the right of eminent domain, paying ~~therefor~~ just
19 compensation determined in the manner provided in section 2909 of this ~~title~~
20 chapter, or, after the Commission upon proper notice and hearing has

1 determined that it will promote the general good of the State ~~so~~ to do so, may
2 construct a municipal plant.

3 Sec. 408. 30 V.S.A. § 2911 is amended to read:

4 § 2911. EFFECT OF NEGATIVE VOTE FOR ACQUISITION OF UTILITY
5 PROPERTY

6 Within 90 days ~~of~~ following the final determination of the price to be paid
7 for the plant and property, as well as the amount of the plant and property to be
8 taken or acquired under the provisions of section 2909 or 2910 of this ~~title~~
9 chapter, the municipality shall decide whether or not to take the plant or
10 property at that price by a vote taken pursuant to procedures similar to those
11 used in obtaining a ratifying vote as provided in section 2908 of this ~~title~~
12 chapter. If that vote is in the negative, no other action under this chapter shall
13 be had during the ensuing period of one year.

14 Sec. 409. 30 V.S.A. § 2912 is amended to read:

15 § 2912. OPERATION IN OTHER MUNICIPALITIES

16 A municipality, which has acquired the plant, property, or facilities of a
17 utility in any other municipality in accordance with the provisions of sections
18 2906–2911 of this ~~title~~ chapter, may ~~thereafter~~ operate ~~therein~~ as a public
19 utility with the same rights and franchises that the owners of such outlying
20 plant had prior to acquisition under the terms of this chapter. ~~Such~~ The
21 operation shall be subject to the same jurisdiction, control, and regulation by

1 the Commission as would any other public utility so operating. If the outlying
2 municipality shall itself vote to establish a municipal plant, all the provisions
3 of this chapter shall be applicable.

4 Sec. 410. 30 V.S.A. § 2913 is amended to read:

5 § 2913. EXTENSION INTO OTHER MUNICIPALITIES

6 After notice and public hearing, the Commission may authorize a
7 municipality that has acquired or constructed and is operating a municipal
8 plant to extend its mains or lines into an adjoining municipality in order to
9 distribute and sell gas or electricity ~~therein~~, provided that ~~such~~ the outlying
10 municipality is not then being supplied with gas or electricity by a municipal
11 plant or by a utility or provided that the Commission finds that it will promote
12 the general good of the State so to do. Such authorization shall be upon ~~such~~
13 the terms and conditions and with ~~such~~ the limitations and restrictions as the
14 Commission finds will promote the general good of the State.

15 Sec. 411. 30 V.S.A. § 2922 is amended to read:

16 § 2922. OTHER MUNICIPALITIES

17 Notwithstanding any other provisions of this chapter, after any part of this
18 chapter takes effect, no municipality operating an electric plant or distribution
19 system, whether under authorization of this chapter or any other general law or
20 special act, shall extend its service lines into any area outside its borders where
21 electric service is otherwise then available, except with the consent of the

1 municipality in which such outside area is located. Such consent shall be
2 given only after application ~~therefor~~ to the legislative body of the town or city
3 in which it is sought to extend the lines. Such body shall fix a time and place
4 for hearing on such application and post a notice thereof in the office of the
5 clerk of the town or city, as the case may be, at least 30 days before ~~such~~ the
6 time fixed for hearing. At such hearing or some adjourned session ~~thereof~~
7 ~~such~~ of the legislative body shall determine whether ~~such~~ consent is in the
8 public interest, and shall issue or withhold its certificate accordingly.

9 However, ~~such~~ the legislative body shall not act with reference to the issuance
10 of ~~such~~ the certificate contrary to the action, if any, of the legal voters of ~~such~~
11 the municipality, taken at any annual or special meeting ~~thereof~~ duly warned.

12 Sec. 412. 30 V.S.A. § 2923(a) is amended to read:

13 (a) In determining rates charged by a municipal plant, the Public Utility
14 Commission shall allow, in addition to all other factors, a reasonable rate of
15 return on capital investments. The return shall be commensurate with that
16 permitted private utilities having corresponding risks and equivalent to that
17 necessary for private utilities to ~~assure~~ ensure confidence in the financial
18 integrity of the enterprise so as to maintain its credit and attract new capital.

1 Sec. 413. 30 V.S.A. § 3001(3) is amended to read:

2 (3) “Cooperative” means a corporation organized under this chapter or
3 ~~which~~ that becomes subject to this chapter in the manner ~~hereinafter~~ provided
4 for in this chapter.

5 Sec. 414. 30 V.S.A. § 3002 is amended to read:

6 § 3002. POWERS

7 A cooperative shall have power:

8 * * *

9 (4) To generate, manufacture, purchase, acquire, accumulate, and
10 transmit electric energy; and to distribute, sell, supply, and dispose of energy,
11 cable television, telecommunications, interactive media, and ~~Internet~~ internet
12 access to its members, to governmental agencies and political subdivisions;
13 provided, however, that in the generation of electric energy by water power, a
14 cooperative shall comply with the provisions of 10 V.S.A. §§ 1081–1099,
15 relating to the construction and maintenance of dams and, provided further,
16 that a cooperative doing any activity governed by this title shall be regulated
17 ~~hereunder~~ for that activity.

18 * * *

19 (15) For purposes of providing electric power, to condemn property
20 within the State, or easements or other limited rights ~~therein~~, in the manner

1 provided for public service corporations by sections 111–124 of this title, when
2 it is necessary in order that it may render adequate electric service.

3 Sec. 415. 30 V.S.A. § 3003 is amended to read:

4 § 3003. NAME

5 The name of a cooperative governed by this chapter shall include the words
6 “energy” or a word designating any specific form of energy such as “electric,”
7 “propane,” or “natural gas” and “cooperative” and the abbreviation “inc.”
8 unless, in an affidavit made by its president or vice president and filed with the
9 Secretary of State, or in an affidavit made by a person signing articles of
10 incorporation, consolidation, merger, or conversion, which relate to ~~such~~ the
11 cooperative and filed, together with ~~such~~ the articles, with the Secretary of
12 State, it shall appear that the cooperative desires to do business in another state
13 and is or would be precluded ~~therefrom~~ by reason of the inclusion of ~~such~~ the
14 words ~~or either thereof~~ in its name. The name of a cooperative shall be distinct
15 from the name of any other cooperative or corporation organized under the
16 laws of, or authorized to do business in, this State.

17 Sec. 416. 30 V.S.A. § 3004 is amended to read:

18 § 3004. ORGANIZATION; MEMBERS

19 Five or more natural persons, a majority of whom are residents of this State,
20 or two or more cooperatives, may organize a cooperative in the manner
21 ~~hereinafter~~ provided in this chapter.

1 Sec. 417. 30 V.S.A. § 3012 is amended to read:

2 § 3012. NOTICE; WAIVER

3 A person entitled to notice of a meeting may waive ~~such~~ the notice in
4 writing either before or after ~~such~~ the meeting. If ~~such~~ the person shall attend
5 ~~such~~ the meeting, ~~such~~ attendance shall constitute a waiver of notice of ~~such~~
6 the meeting, unless ~~such~~ the person participates ~~therein~~ solely to object to the
7 transaction of any business because the meeting has not been legally called or
8 convened.

9 Sec. 418. 30 V.S.A. § 3018 is amended to read:

10 § 3018. AMENDMENT OF ARTICLES

11 A cooperative may amend its articles of incorporation by complying with
12 the following requirements: The proposed amendment shall be presented to a
13 meeting of the members, the notice of which shall set forth or have attached
14 ~~thereto~~ to it the proposed amendment. If the proposed amendment, with
15 changes, is approved by the affirmative vote of not less than two-thirds of
16 those members voting ~~thereon~~ at ~~such~~ the meeting, a certificate of amendment
17 shall be executed and acknowledged on behalf of the cooperative by its
18 president or vice president and its seal shall be affixed ~~thereto~~ to it and attested
19 by its secretary. The certificate of amendment shall recite that it is executed
20 pursuant to this chapter and shall state: (1) the name of the cooperative; (2) the
21 address of its principal office; and (3) the amendment to its articles of

1 incorporation. The president or vice president executing ~~such~~ the certificate of
2 amendment shall make and ~~annex thereto~~ attach to it an affidavit stating that
3 the provisions of this section in respect of the amendment set forth in ~~such~~ the
4 articles were duly complied with.

5 Sec. 419. 30 V.S.A. § 3020 is amended to read:

6 § 3020. CONSOLIDATION

7 Two or more cooperatives licensed in this State under this law, each of
8 which is ~~hereinafter~~ designated a “consolidating cooperative,” may consolidate
9 into a new cooperative, ~~hereinafter~~ designated the “new cooperative,” by
10 complying with the following requirements:

11 (1) The proposition for the consolidation of the consolidating
12 cooperatives into the new cooperative and proposed articles of consolidation to
13 effect the same shall be submitted to a meeting of the members of each
14 consolidating cooperative, the notice of which shall have been attached ~~thereto~~
15 to a copy of the proposed articles of consolidation.

16 (2) If the proposed consolidation and the proposed articles of
17 consolidation, with amendments, are approved by the affirmative vote of not
18 less than two-thirds of the members of each consolidating cooperative voting
19 ~~thereon~~ at each ~~such~~ meeting, articles of consolidation in the form approved
20 shall be executed and acknowledged on behalf of each consolidating
21 cooperative by its president or vice president and its seal shall be affixed

1 ~~thereto~~ and attested by its secretary. The articles of consolidation shall recite
2 that they are executed pursuant to this chapter and shall state: (A) the name of
3 each consolidating cooperative and the address of its principal office; (B) the
4 name of the new cooperative and the address of its principal office; (C) a
5 statement that each consolidating cooperative agrees to the consolidation; (D)
6 the names and addresses of the directors of the new cooperative; and (E) the
7 terms and conditions of the consolidation and the mode of carrying the same
8 into effect, including the manner in which members of the consolidating
9 cooperative may or shall become members of the new cooperative; and may
10 contain provisions not inconsistent with law or this chapter deemed necessary
11 or advisable for the conduct of the business of the new cooperative. The
12 president or vice president of each consolidating cooperative executing ~~such~~
13 articles of consolidation shall make and ~~annex thereto~~ attach an affidavit
14 stating that the provisions of this section in respect of such articles were duly
15 complied with by ~~such~~ the cooperative.

16 Sec. 420. 30 V.S.A. § 3021 is amended to read:

17 § 3021. MERGER; REQUIREMENTS

18 One or more cooperatives, each of which is ~~hereinafter~~ designated a
19 “merging cooperative,” may merge into another cooperative, ~~hereinafter~~
20 designated the “surviving cooperative,” by complying with the following
21 requirements:

1 (1) The proposition for the merger of the merging cooperatives into the
2 surviving cooperative and proposed articles of merger to give effect ~~thereto~~ to
3 shall be submitted to a meeting of the members of each merging cooperative
4 and of the surviving cooperative, the notice of which shall have attached
5 ~~thereto~~ to it a copy of the proposed articles of merger.

6 (2) If the proposed merger and the proposed articles of merger, with
7 amendments, are approved by the affirmative vote of not less than two-thirds
8 of those members of each cooperative voting ~~thereon~~ at each ~~such~~ meeting,
9 articles of merger in the form approved shall be executed and acknowledged
10 on behalf of each ~~such~~ cooperative by its president or vice president and its
11 seal shall be affixed ~~thereto~~ to it and attested by its secretary. The articles of
12 merger shall recite that they are executed pursuant to this chapter and shall
13 state: (A) the name of each merging cooperative and the address of its
14 principal office; (B) the name of the surviving cooperative and the address of
15 its principal office; (C) a statement that each merging cooperative and the
16 surviving cooperative agree to the merger; (D) the names and addresses of the
17 directors of the surviving cooperative; and (E) the terms and conditions of the
18 merger and the mode of carrying the same into effect, including the manner in
19 which members of the merging cooperatives may become members of the
20 surviving cooperative. ~~Such~~ The articles may contain provisions not
21 inconsistent with law or this chapter deemed necessary or advisable for the

1 conduct of the business of the surviving cooperative. The president or vice
2 president of each cooperative executing ~~such~~ articles of merger shall make and
3 ~~annex thereto~~ attach to an affidavit stating that the provisions of this section in
4 respect to ~~such~~ the articles were duly complied with by ~~such~~ the cooperative.

5 Sec. 421. 30 V.S.A. § 3022 is amended to read:

6 § 3022. EFFECT

7 In the case of a consolidation, the separate existence of the consolidating
8 cooperatives shall cease and the articles of consolidation shall be deemed to be
9 the articles of incorporation of the new cooperative. In the case of a merger,
10 the separate existence of the merging cooperatives shall cease and the articles
11 of incorporation of the surviving cooperative shall be deemed to be amended to
12 the extent that changes ~~therein~~ are provided for in the articles of the merger.

13 Sec. 422. 30 V.S.A. § 3026 is amended to read:

14 § 3026. PRIVATE CORPORATION; CHANGE

15 A corporation organized under the laws of this State and supplying or
16 authorized to supply energy may be converted into a cooperative by complying
17 with the following requirements and shall ~~thereupon~~ become subject to this
18 chapter with the same effect as if originally organized under this chapter:

19 (1) The proposition for the conversion of ~~such~~ a corporation into a
20 cooperative and proposed articles of conversion to give effect ~~thereto~~ to shall
21 be submitted to a meeting of the members or stockholders of ~~such~~ a

1 corporation, the notice of which shall have attached ~~thereto~~ a copy of the
2 proposed articles of conversion.

3 (2) If the proposition for the conversion of ~~such~~ a corporation into a
4 cooperative and the proposed articles of conversion, with amendments, are
5 approved by the affirmative vote of not less than two-thirds of those members
6 of such corporation voting ~~thereon~~ at ~~such~~ the meeting, or, if such corporation
7 is a stock corporation, by the affirmative vote of the holders of not less than
8 two-thirds of the shares of the capital stock of ~~such~~ the corporation represented
9 at ~~such~~ the meeting and voting ~~thereon~~, articles of conversion in the form
10 approved shall be executed and acknowledged on behalf of ~~such~~ the
11 corporation by its president or vice president and its seal shall be affixed
12 ~~thereto~~ to it and attested by its secretary.

13 (3) The articles of conversion shall recite that they are executed pursuant
14 to this chapter and shall state: (A) the name of the corporation and the address
15 of its principal office prior to its conversion into a cooperative; (B) the statute
16 or statutes under which it was organized; (C) a statement that ~~such~~ the
17 corporation elects to become a cooperative subject to this chapter; (D) its name
18 as a cooperative; (E) the address of the principal office of the cooperative; (F)
19 the names and addresses of the directors of the cooperative; and (G) the
20 manner in which members or stockholders of ~~such~~ the corporation may
21 become members of the cooperative; and may contain any provisions not

1 inconsistent with law or this chapter deemed necessary or advisable for the
2 conduct of the business of the cooperative. The president or vice president
3 executing ~~such~~ articles of conversion shall make and ~~annex thereto~~ attach to an
4 affidavit stating that the provisions of this section were duly complied with in
5 respect of such articles. The articles of conversion shall be deemed to be the
6 articles of incorporation of the cooperative.

7 Sec. 423. 30 V.S.A. § 3027(4) is amended to read:

8 (4) that any sums received by the cooperative, less any part thereof
9 disbursed for expenses of the cooperative, have been returned or paid to those
10 entitled ~~thereto~~ to them;

11 Sec. 424. 30 V.S.A. § 3028 is amended to read:

12 § 3028. DISSOLUTION OF COOPERATIVES

13 A cooperative that has commenced business may be dissolved in the
14 following manner: The members at a meeting shall approve, by the affirmative
15 vote of not less than two-thirds of the members voting ~~thereon~~ at ~~such a~~
16 meeting, a proposal that the cooperative be dissolved. Upon ~~such~~ approval, a
17 certificate of election to dissolve, ~~hereinafter~~ designated the “certificate,”
18 executed under oath and acknowledged on behalf of the cooperative by its
19 president or vice president under its seal, attested by its secretary, and stating:
20 (1) the name of the cooperative; (2) the address of its principal office; and (3)
21 that the members of the cooperative have duly voted that the cooperative be

1 dissolved, shall be filed with the Secretary of State. Upon filing of ~~such a~~
2 certificate by the Secretary of State, the cooperative shall cease to carry on its
3 business except to the extent necessary for the winding up ~~thereof~~, but its
4 corporate existence shall continue until a certificate of dissolution has been
5 filed by the Secretary of State. The board of directors shall immediately cause
6 notice of the dissolution proceedings to be mailed to each known creditor of
7 and claimant against the cooperative and to be published once a week for two
8 successive weeks in a newspaper of general circulation in the county in which
9 the principal office of the cooperative is located. The board of directors shall
10 wind up and settle the affairs of the cooperative; collect sums owing to it;
11 liquidate its property and assets; pay and discharge its debts, obligations, and
12 liabilities; and do all other things required to wind up its business. After
13 paying or discharging or adequately providing for the payment or discharge of
14 all its debts, obligations, and liabilities, the board shall distribute any
15 remaining sums among its members and former members in proportion to the
16 patronage of the respective members or former members during the seven
17 years next preceding the date of the filing of the certificate by the Secretary of
18 State, or if the cooperative has not been in existence for such period, then
19 during the period of its existence prior to ~~such~~ the filing. The board of
20 directors shall ~~thereupon~~ authorize the execution of a certificate of dissolution,
21 which shall be executed and acknowledged on behalf of the cooperative by its

1 president or vice president, and its seal shall be affixed ~~thereto~~ to it and attested
2 by its secretary. The certificate of dissolution shall recite that it is executed
3 pursuant to this chapter and shall state: (1) the name of the cooperative; (2) the
4 address of its principal office; (3) the date on which the certificate of election
5 to dissolve was filed by the Secretary of State; (4) that there are no actions or
6 suits pending against the cooperative; (5) that all debts, obligations, and
7 liabilities of the cooperative have been paid and discharged or that adequate
8 provision has been made ~~therefor~~; and (6) that the provisions of this chapter
9 relative to dissolution have been duly complied with. The president or vice
10 president executing the certificate of dissolution shall make and ~~annex thereto~~
11 attach to an affidavit stating that the statements made ~~therein~~ in it are true.

12 Sec. 425. 30 V.S.A. § 3029 is amended to read:

13 § 3029. PAPERS FILED

14 Articles of incorporation, amendment, consolidation, merger, conversion, or
15 dissolution, when executed and acknowledged and accompanied by ~~such~~
16 affidavits as may be required by applicable provisions of this chapter, shall be
17 filed with the Secretary of State. If the Secretary of State ~~shall find~~ finds that
18 the articles presented conform to the requirements of this chapter, ~~he or she~~ the
19 Secretary shall, upon the payment of the fees as in this chapter provided,
20 record ~~such~~ the articles and upon ~~such~~ the recording the incorporation,
21 amendment, consolidation, merger, conversion, or dissolution provided for

1 ~~therein~~ shall be in effect. The provisions of this section shall also apply to
2 certificates of election to dissolve pursuant to section 3028 of this ~~title~~ chapter.

3 Sec. 426. 30 V.S.A. § 3030 is amended to read:

4 § 3030. REVENUES; USE OF

5 Revenues of a cooperative for a fiscal year in excess of the amount thereof
6 necessary:

7 * * *

8 (6) To provide a fund, ~~hereinafter~~ designated as the “cooperative
9 education fund,” for education in cooperation and for the dissemination of
10 information concerning the effective use of energy and other services, goods,
11 or products made available by the cooperative, shall, unless otherwise
12 determined by a vote of the members, be distributed by the cooperative to its
13 members and to other persons to whom the cooperative supplies energy or
14 other services, goods, or products made available through its electric
15 distribution facilities, as patronage refunds prorated in accordance with the
16 patronage of the cooperative by the respective members and ~~such~~ other
17 persons, paid for during such fiscal year; provided, however, ~~such a~~
18 distribution shall not be made to ~~such other~~ a person until ~~he or she has become~~
19 that person becomes a member of the cooperative. If ~~such other~~ that person
20 does not become a member of the cooperative within one year after the amount
21 of ~~his or her~~ that person’s distributive share or accumulated distributive shares

1 equals the membership fee required by the bylaws of the cooperative, or, if no
2 membership fee is required, within two years after the declaration of ~~such~~ the
3 patronage refund, ~~he or she~~ that person shall cease to be entitled to ~~such~~ a share
4 or shares, which shall, in such case, be paid into the cooperative education
5 fund. The cooperative shall make such additional provision, in the bylaws or
6 otherwise, relative to the disposition of the revenues of the cooperative as may
7 be necessary and appropriate to establish and maintain the nonprofit character
8 of the cooperative. Nothing ~~herein~~ contained in this section shall be construed
9 to prohibit the payment by a cooperative of all or any part of its indebtedness
10 prior to the date when the same shall become due.

11 Sec. 427. 30 V.S.A. § 3031 is amended to read:

12 § 3031. MORTGAGE AND INVESTMENT

13 (a) The board of directors of a cooperative shall have full power and
14 authority, without authorization by the members ~~thereof~~, to authorize the
15 execution and delivery of a mortgage or mortgages or a deed or deeds of trust
16 of, or the pledging or encumbering of, any or all of the property, assets, rights,
17 privileges, licenses, franchises, and permits of the cooperative, whether
18 acquired or to be acquired, and wherever situated, as well as the revenues and
19 income ~~therefrom~~, all upon such terms and conditions as the board of directors
20 shall determine, to secure indebtedness of the cooperative in the ordinary
21 course of the cooperative's electric business.

1 such property is located or is to be located, shall have the same force and effect
2 as if the mortgage, deed of trust, or other instrument were also recorded, filed,
3 or indexed as provided by law in the proper office in such town as a mortgage
4 of personal property. All after-acquired property of such cooperative or
5 foreign corporation described or referred to as being mortgaged or pledged in
6 such mortgage, deed of trust, or other instrument, shall become subject to the
7 lien thereof immediately upon the acquisition of such property by such
8 cooperative or foreign corporation, whether or not such property was in
9 existence at the time of the execution of such mortgage, deed of trust, or other
10 instrument. Recordation of ~~such~~ the mortgage, deed of trust, or other
11 instrument shall constitute notice and otherwise have the same effect with
12 respect to ~~such~~ the after-acquired property as it has under the laws relating to
13 recordation, with respect to property owned by ~~such~~ the cooperative or foreign
14 corporation at the time of the execution of ~~such~~ the mortgage, deed of trust, or
15 other instrument and ~~therein~~ described or referred to as being mortgaged or
16 pledged ~~thereby~~.

17 Sec. 430. 30 V.S.A. § 3037 is amended to read:

18 § 3037. FOREIGN COMPANIES; SERVICE OF PROCESS

19 A foreign nonprofit or cooperative corporation supplying or authorized to
20 supply electric energy and owning or operating electric transmission or
21 distribution lines in an adjacent state, prior to March 26, 1943, may construct

1 or acquire extensions of ~~such~~ lines in this State within an area no point of
2 which is more than 25 miles from the boundary line of this State and may
3 operate ~~such~~ those extensions without qualifying as a foreign corporation to do
4 business in this State. Before constructing or operating such extensions, by an
5 instrument executed and acknowledged on its behalf by its president or vice
6 president, under its seal attested by its clerk or secretary, and filed with the
7 Secretary of State, ~~which instrument shall be in form and substance like that~~
8 ~~prescribed by 11 V.S.A. § 692,~~ such a corporation shall designate the Secretary
9 of State its agent to accept service of process on its behalf. Thereafter, ~~such~~
10 the corporation shall have all the rights, powers, privileges, and immunities of
11 a cooperative. Service of process shall be made upon the Secretary of State in
12 accordance with the provisions of 12 V.S.A. §§ 851 and 852 and ~~he or she~~
13 shall ~~forthwith~~ forward one copy of the same by registered mail to such
14 corporation at the address of its principal office.

15 Sec. 431. 30 V.S.A. § 3043(b) is amended to read:

16 (b) Members of a cooperative organized pursuant to subsection (a) of this
17 section shall be the cooperative or cooperatives organizing it and may include
18 any individual, partnership, association, corporation, municipality, or
19 cooperative engaged in the generation, transmission, or distribution of energy
20 within or ~~without~~ outside the State of Vermont. The bylaws of a cooperative
21 organized pursuant to subsection (a) of this section may provide for more than

1 one class of membership, including a class or classes with no rights or with
2 limited rights to vote on matters requiring the vote of members under this
3 chapter, and including a class or classes with no rights or limited rights to
4 receive distributions of patronage refunds.

5 Sec. 432. 30 V.S.A. § 3051(d)(1) is amended to read:

6 (1) “Communications plant” means any and all parts of any
7 communications system owned by the district, whether using wires, cables,
8 fiber optics, wireless, other technologies, or a combination ~~thereof~~ of, and used
9 for the purpose of transporting or storing information, in whatever forms,
10 directions, and media, together with any improvements ~~thereto hereafter~~
11 constructed or acquired later, and all other facilities, equipment, and
12 appurtenances necessary or appropriate to such system. However, the term
13 “communications plant” and any regulatory implications or any restrictions
14 under this chapter regarding a “communications plant” shall not apply to
15 facilities or portions of any communications facilities intended for use by, and
16 solely used by, a district member and its own officers and employees in the
17 operation of municipal departments or systems of which such communications
18 are merely an ancillary component.

19 Sec. 433. 30 V.S.A. § 3053(c) is amended to read:

20 (c) An action shall not be brought directly or indirectly challenging,
21 questioning, or in any manner contesting the legality of the formation, or the

1 existence as a body corporate and politic of any communications union district
2 created under this chapter after six months from the date of the recording in the
3 office of the Secretary of State of the certificate required by subsection (a) of
4 this section. An action shall not be brought directly or indirectly challenging,
5 questioning, or in any manner contesting the legality or validity of any bonds
6 issued to defray costs of communications plant improvements approved by the
7 board, after six months from the date upon which the board voted affirmatively
8 to issue such bonds. This section shall be liberally construed to ~~effect~~ affect
9 the legislative purpose to validate and make certain the legal existence of all
10 communications union districts in this State and the validity of bonds issued or
11 authorized for communications plant improvements, and to bar every remedy
12 ~~therefor~~ notwithstanding any defects or irregularities, jurisdictional or
13 otherwise, after expiration of the six-month period. The provisions of this
14 subsection shall also pertain to financial contracts directly related to the
15 district's bonding authority.

16 Sec. 434. 30 V.S.A. § 3054 is amended to read:

17 § 3054. DISTRICT POWERS

18 (a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject
19 to the limitations and restrictions set forth in section 3056 of this chapter, a
20 district created under this chapter shall have the power to:

1 Sec. 435. 30 V.S.A. § 3059 is amended to read:

2 § 3059. APPOINTMENT

3 Annually on or before the last Monday in April, the legislative body of each
4 member shall appoint a representative and one or more alternates to the
5 governing board for one-year terms. Appointments of representatives and
6 alternates shall be in writing, signed by the chair of the legislative body of the
7 appointing member, and presented to the clerk of the district. The legislative
8 body of a member, by majority vote, may replace its appointed representative
9 or alternate at any time and shall promptly notify the district clerk of ~~such~~ the
10 replacement. Initial appointments shall be made within 60 days ~~of~~ following
11 the vote to form a district under subsection 3051(b) of this ~~title~~ chapter and
12 initial terms may be for less than one year.

13 Sec. 436. 30 V.S.A. § 3060 is amended to read:

14 § 3060. ORGANIZATIONAL MEETING

15 Annually, on the second Tuesday in May following the appointments
16 contemplated in section 3059 of this chapter, the board shall hold its
17 organizational meeting. At ~~such~~ the meeting, the board shall elect from among
18 its appointed representatives a chair and a vice chair, each of whom shall hold
19 office for one year and until ~~his or her~~ a successor is duly elected. The board's
20 initial organizational meeting shall be held within 90 days ~~of~~ following the
21 vote to form a district under subsection 3051(b) of this title.

1 Sec. 437. 30 V.S.A. § 3067(e) is amended to read:

2 (e) Upon the death, disability, resignation, or removal of the chair or vice
3 chair, the board shall ~~forthwith~~ immediately elect a successor to ~~such the~~
4 vacant office until the next annual meeting.

5 Sec. 438. 30 V.S.A. § 3068 is amended to read:

6 § 3068. CLERK

7 The clerk of the district shall be appointed by the board, and shall serve at
8 its pleasure. The clerk is not required to be a member of the governing board.
9 The clerk shall have the exclusive charge and custody of the records of the
10 district and the seal of the district. The clerk shall record all votes and
11 proceedings of the district, including district and board meetings, and shall
12 prepare and cause to be posted and published all warnings of meetings ~~of such~~
13 ~~meetings~~. Following approval by the board, the clerk shall cause the annual
14 report to be distributed to the legislative bodies of the district members. The
15 clerk shall prepare and distribute any other reports required by State law and
16 resolutions or ~~regulations~~ rules of the board. The clerk shall perform all duties
17 and functions incident to the office of secretary or clerk of a body corporate.

18 Sec. 439. 30 V.S.A. § 3069 is amended to read:

19 § 3069. TREASURER

20 The treasurer of the district shall be appointed by the board, and shall serve
21 at its pleasure. The treasurer shall not be a member of the governing board.

1 The treasurer shall have the exclusive charge and custody of the funds of the
2 district and shall be the disbursing officer of the district. When authorized by
3 the board, the treasurer may sign, make, or endorse in the name of the district
4 all checks and orders for the payment of money and pay out and disburse the
5 same and receipt ~~therefor~~. The treasurer shall keep a record of every
6 obligation issued and contract entered into by the district and of every payment
7 thereon. The treasurer shall keep correct books of account of all the business
8 and transactions of the district and such other books and accounts as the board
9 may require. The treasurer shall render a statement of the condition of the
10 finances of the district at each regular meeting of the board and at such other
11 times as shall be required of the treasurer. The treasurer shall prepare the
12 annual financial statement and the budget of the district for distribution, upon
13 approval of the board, to the legislative bodies of district members. The
14 treasurer shall do and perform all of the duties appertaining to the office of
15 treasurer of a body politic and corporate. Upon removal or the treasurer's
16 termination from office by virtue of removal or resignation, the treasurer shall
17 immediately pay over to the successor all of the funds belonging to the district
18 and at the same time deliver to the successor all official books and papers.

1 Sec. 440. 30 V.S.A. § 3073 is amended to read:

2 § 3073. RECALL OF OFFICERS

3 An officer may be removed by a two-thirds² vote of the board whenever, in
4 its judgment, the best ~~interest~~ interests of the district shall be served.

5 Sec. 441. 30 V.S.A. § 3075 is amended to read:

6 § 3075. BUDGET

7 * * *

8 (d) Actions or resolutions of the board for the annual appropriations of any
9 year shall not cease to be operative at the end of the fiscal year for which they
10 were adopted. Appropriations made by the board for the various estimates of
11 the budget shall be expended only for such estimates, but by majority vote of
12 the board the budget may be amended from time to time to transfer funds
13 between or among such estimates. Any balance left or unencumbered in any
14 ~~such~~ budget estimate, or the amount of any deficit at the end of the fiscal year,
15 shall be included in and paid out of the operating budget and appropriations in
16 the next fiscal year. All ~~such~~ budget amendments shall be reported by the
17 district treasurer to the legislative bodies of each district member within
18 14 days ~~of~~ following the end of the fiscal year.

19 (e) Financial statements and audit results shall be delivered to the
20 legislative bodies of each district member within 10 days ~~of~~ following delivery
21 to the board.

1 Sec. 442. 30 V.S.A. § 3080(i) is amended to read:

2 (i) At all special meetings, the provisions of 17 V.S.A. chapter 51 regarding
3 election officials, voting machines, polling places, absentee voting, process of
4 voting, count and return of votes, validation, recounts and contest of elections,
5 reconsideration or rescission of vote, and jurisdiction of courts shall apply
6 except where clearly inapplicable. The clerk shall perform the functions
7 assigned to the Secretary of State under that chapter. The Washington
8 Superior Court shall have jurisdiction over petitions for recounts. Election
9 expenses shall be borne by the district, unless within 30 days ~~of~~ following the
10 date of such resolution there is filed with the clerk of the district a request to
11 call a special district meeting under this section to consider a proposition to
12 rescind such resolution.

13 Sec. 443. 30 V.S.A. § 3081 is amended to read:

14 § 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

15 A district member may withdraw from the district upon the terms and
16 conditions ~~herein~~ specified in this section:

17 (1) Prior to the district pledging communications plant net revenues, or
18 entering into a long-term contract, or contract subject to annual appropriation,
19 a district member may vote to withdraw in the same manner as the vote for
20 admission to the district. If a majority of the voters of a district member
21 present and voting at a meeting duly warned for ~~such~~ this purpose votes to

1 withdraw from the district, the vote shall be certified by the clerk of that
2 municipality and presented to the board. Thereafter, the board shall give
3 notice to the remaining district members of the vote to withdraw and shall hold
4 a meeting to determine if it is in the best ~~interest~~ interests of the district to
5 continue to exist. Representatives of the district members shall be given an
6 opportunity to be heard at such meeting together with any other interested
7 persons. After ~~such a~~ the meeting, the board may declare the district dissolved
8 or it may declare that the district shall continue to exist despite the withdrawal
9 of such member. The membership of the withdrawing municipality shall
10 terminate after the vote to withdraw.

11 * * *

12 Sec. 444. 30 V.S.A. § 4001 is amended to read:

13 § 4001. DEFINITIONS

14 ~~In~~ As used in this chapter, unless the context otherwise requires, ~~the~~
15 ~~following words shall have the following meanings:~~

16 * * *

17 (4) “Utility;” ~~except as otherwise required by the context in which used~~
18 ~~herein~~, is intended to refer to cooperatives, municipal utilities, as ~~herein~~
19 defined, and private electric utilities.

1 Sec. 445. 30 V.S.A. § 4002a is amended to read:

2 § 4002a. ALL REQUIREMENTS CONTRACTS

3 * * *

4 (b) Prior to entering into such a contract, the municipal or cooperative
5 utility must obtain:

6 (1) Approval, upon petition of the utility or of the Authority, by the
7 Public Utility Commission of the proposed arrangement, which shall be given
8 upon findings that the proposed arrangement will promote the general good of
9 the ratepayers of the utility or utilities; and is consistent with least-cost
10 integrated planning principles. The proposed contract reflecting the
11 arrangement shall be filed with the Commission and the Department at least
12 45 days prior to its intended execution, and the Department shall make its
13 recommendation as to whether it accepts or does not accept the contract within
14 30 days of following the date on which the proposed contract was filed.
15 Should the Department oppose the contract, or the Commission on its own
16 motion determine that investigation into the contract is appropriate, the
17 Commission shall hear evidence on the matter and shall determine, within
18 seven months of the intended execution date, whether the contract promotes
19 the general good as described in this subdivision. Failure of the Commission
20 to act within seven months shall be deemed to constitute approval of the
21 contract.

1 Sec. 446. 30 V.S.A. § 4003 is amended to read:

2 § 4003. IMPLEMENTING POWERS

3 Without limiting the general scope and application of section 4002 of this
4 chapter, each participating utility shall have the right and power:

5 * * *

6 (3) To acquire, for the use and benefit of all participating utilities, by
7 purchase or through the exercise of the power of eminent domain, lands,
8 easements, and properties for the purpose of jointly owned electric facilities,
9 and transfer or convey ~~such~~ lands, easements, and properties or interests
10 ~~therein~~, or otherwise to cause ~~such~~ those lands, easements, and properties, or
11 interests ~~therein~~, to be vested in other participating utilities to the extent and in
12 the manner agreed between the participating utilities. In all cases in which a
13 participating utility exercises the right and power of eminent domain conferred
14 by statute, it shall be controlled by the law governing condemnation by
15 corporate public utilities in this State, and the right and power of eminent
16 domain ~~hereby~~ conferred shall include the right and power to take fee title in
17 land so condemned, except that no participating utility has the right or power
18 to take by the exercise of the power of eminent domain any electric facilities,
19 or interests ~~therein~~, belonging to any other municipal electric utility, electric
20 cooperative, or private utility, except as provided by chapter 79 of this title.

21 * * *

1 Sec. 447. 30 V.S.A. § 4006 is amended to read:

2 § 4006. CONSTRUCTION OF CHAPTER

3 Notwithstanding any other provision of this chapter, nothing ~~herein~~ in this
4 chapter shall have the effect of, or be construed as, altering, amending, or
5 repealing the statutory purposes provided for by any statute enacted by the
6 ~~Legislature~~ General Assembly of Vermont pertaining to the creation,
7 establishment, or operation of municipal electric utilities or electric
8 cooperatives.

9 Sec. 448. 30 V.S.A. § 5011 is amended to read:

10 § 5011. CREATION OF VERMONT PUBLIC POWER SUPPLY

11 AUTHORITY

12 * * *

13 (b) The Authority shall consist of those municipalities and cooperatives
14 ~~which~~ that by January 31, 1979 elected to become a member of Vermont
15 Public Power Supply System, Inc., in accordance with the terms of its bylaws,
16 and those Vermont municipalities and cooperatives that shall ~~thereafter~~ later
17 elect to become members of the Authority in accordance with the rules and
18 regulations of the Authority established by it. These rules ~~and regulations~~ shall
19 be calculated to permit membership without an undue burden on new
20 members, but with regard to the benefits contributed to the Authority by its
21 original members.

1 (c) The powers of the Authority shall be exercised by a board of directors.
2 The Board of Directors shall consist of one director from each member
3 municipality or member cooperative, who shall be elected by the legislative
4 body of each member municipality or the board of trustees of each member
5 cooperative. Each municipality or cooperative may also elect an alternate
6 director to serve in the absence or disability of its director. The term of office
7 of a director shall be for one year coincident with the fiscal year of the
8 Authority or until a successor director has been duly elected and qualified.
9 Any director may be removed at the pleasure of the legislative body of the
10 municipality or cooperative ~~which~~ that elected that director, upon notice to the
11 authority and the election of a successor director. The Board of Directors of
12 the Authority shall adopt bylaws or other rules ~~and regulations~~ for the
13 management of the affairs of the Authority and carrying out the purpose of this
14 chapter. The Board of Directors shall also elect one of its member directors as
15 chair of the Authority and shall also elect a treasurer and secretary who may
16 be, ~~but need not be,~~ directors. It may elect other officers and agents as
17 necessary to perform those acts commonly delegated to the officers and agents
18 of a business corporation and shall set their compensation.

19 (d) ~~Despite~~ Notwithstanding any law or charter provision to the contrary, a
20 director or officer of the Authority who is also an officer, employee, or
21 member of a legislative body of a municipality or other public body or the

1 State shall not ~~thereby~~ be precluded from voting or acting on behalf of the
2 Authority on a matter involving the municipality or public body or the State.
3 Neither shall service as a director or officer of the Authority constitute a
4 conflict of interest for an officer, employee, or member of a municipality or
5 public body or the State.

6 * * *

7 Sec. 449. 30 V.S.A. § 5012 is amended to read:

8 § 5012. GENERAL POWERS AND DUTIES

9 The Authority shall have all of the powers necessary and convenient to
10 carry out this chapter, including those general powers provided a business
11 corporation by ~~11 V.S.A. § 1852~~ 11A V.S.A. § 3.02, and including the power:

12 * * *

13 Sec. 450. 30 V.S.A. § 5015 is amended to read:

14 § 5015. TAX EXEMPTION

15 * * *

16 (c) Real and personal property, situated within the State and owned by the
17 Authority shall be exempt from property taxation. The Authority shall, in lieu
18 of property taxes, pay to any governmental body authorized to levy local
19 property taxes the amount ~~which~~ that would be assessable as local property
20 taxes on the real and tangible personal property if that property were the
21 property of a utility. These payments shall be due, and bear interest if unpaid,

1 as in the case of taxes on the property of a utility. For purposes of these
2 payments in lieu of taxes, the assessors of the taxing authority shall make a
3 valuation and assessment of the property and determine the tax that would be
4 assessable if the property were owned by a utility. Payments in lieu of taxes
5 made under this chapter shall be treated in the same manner as taxes for the
6 purposes of all procedural and substantive provisions of law, including
7 appeals, ~~now and hereinafter in effect~~ applicable to assessment and taxation of
8 real and personal property, collection, and abatement of these taxes and the
9 raising of public revenues.

10 Sec. 451. 30 V.S.A. § 5016 is amended to read:

11 § 5016. RULES AND RATES

12 (a) The Authority may make and enforce rules ~~and regulations which~~ that it
13 deems necessary or desirable. It may establish, levy, and collect or may
14 authorize by contract, franchise, lease, or otherwise, the establishment, levying,
15 and collection of rents, rates, and other charges:

16 * * *

17 Sec. 452. 30 V.S.A. § 5034 is amended to read:

18 § 5034. REMEDIES OF BONDHOLDERS AND NOTEHOLDERS

19 (a) In the event that the Authority defaults in the payment of principal or of
20 interest on any bonds or notes issued under this chapter after they become due,
21 whether at maturity or upon call for redemption, and the default continues for a

1 period of 30 days, or in the event that the Authority fails or refuses to comply
2 with the provisions of this chapter, or defaults in any agreement made with the
3 holders of an issue of bonds or notes of the Authority, the holders of 25 percent
4 in aggregate principal amount of the bonds or notes of such issue then
5 outstanding, by instrument or instruments filed in the office of the Secretary of
6 State and proved or acknowledged in the same manner as a deed to be
7 recorded, may appoint a trustee to represent the holders of those bonds or notes
8 for the purposes ~~herein~~ provided.

9 * * *

10 Sec. 453. 30 V.S.A. § 7004(e)(1) is amended to read:

11 (1) the excavation is not completed within 30 days ~~of~~ following the
12 notification;

13 Sec. 454. 30 V.S.A. § 7525(c) is amended to read:

14 (c) The Public Utility Commission may hear appeals from any
15 determinations of delinquency made by the fiscal agent. Any such
16 determination shall become final if not so appealed within 60 days ~~of~~
17 following its issuance.

18 Sec. 455. 30 V.S.A. § 8005a(k) is amended to read:

19 (k) Executed standard offer contracts; transferability; allocation of benefits
20 and costs. With respect to executed contracts for standard offers under this
21 section:

1 Sec. 459. 30 V.S.A. § 8101(b)(6) is amended to read:

2 (6) The Vermont village green renewable project will comply with all
3 applicable national ambient air quality standards and air pollution control
4 ~~regulations~~ rules of the Agency of Natural Resources. If, during 2009, the U.S.
5 Environmental Protection Agency proposes updated emissions standards
6 applicable to wood-fueled boilers to be used in connection with the project, the
7 project shall comply with ~~such~~ the proposed standards.

8 * * * Title 31 * * *

9 Sec. 460. 31 V.S.A. chapter 5 is amended to read:

10 CHAPTER 5. MUNICIPAL RECREATION

11 § 201. AUTHORITY TO APPROPRIATE FOR RECREATION

12 A city by its council or an incorporated village, at an annual meeting, may
13 appropriate such sums of money as it deems best, not exceeding four percent
14 of its grand list, for the purchase of public playgrounds and lands, and for the
15 construction and maintenance of buildings and equipment ~~thereon~~ on public
16 playgrounds or lands, for public recreational purposes. This section shall not
17 apply to a city or incorporated village whose charter or bylaws authorize ~~such~~
18 the appropriation.

1 § 202. AUTHORITY TO ESTABLISH AND FINANCE RECREATION
2 SYSTEM

3 Municipalities, singly or jointly, may establish, maintain, and conduct a
4 system of public recreation, including playgrounds; may set apart for ~~such~~ that
5 use any land or buildings owned or leased by it; may acquire land, buildings,
6 and other recreational facilities by gift or purchase, and may issue bonds
7 ~~therefor~~ for these purposes as provided in 24 V.S.A. §§ 1751–1788 and equip
8 and conduct the same; may employ a director of recreation and assistant; and
9 may expend funds for the ~~aforsaid~~ these purposes.

10 § 203. CONTROL AND SUPERVISION OF SYSTEM

11 The legislative body may conduct the same through a department or bureau
12 of recreation or may delegate the conduct ~~thereof~~ of the system to a
13 recreational board created by them, or to a school board or to any other
14 appropriate existing board or commission. The members of ~~such~~ the body first
15 appointed shall be appointed for such terms that the term of one member shall
16 expire annually ~~thereafter~~.

17 § 204. FREE MUSICAL ENTERTAINMENTS

18 A municipality may appropriate ~~such~~ sums of money not exceeding five
19 percent of its grand list, when the grand list of ~~such~~ the municipality does not
20 exceed \$20,000.00, and a sum not to exceed three percent of the grand list of
21 ~~such~~ the municipality, when the grand list exceeds \$20,000.00, to pay the

1 expenses of free musical entertainments, to be held within its limits, at such
2 times and places as is directed by ~~such~~ the vote.

3 Sec. 461. 31 V.S.A. chapter 9 is amended to read:

4 CHAPTER 9. MUNICIPAL REGULATION OF ENTERTAINMENT

5 * * *

6 § 401. PERMITS AND FEES

7 A selectboard may permit the exhibition in its town of any show mentioned
8 in 32 V.S.A. §§ 9905 and 9906, on payment by the owners or operators
9 thereof, for the use of the town, of not more than \$100.00 nor less than \$10.00
10 for every day on which exhibitions are given in ~~such~~ the town.

11 § 402. REVOCATION OF PERMIT

12 If, during the exhibition of a show under ~~such~~ the license, the selectboard is
13 satisfied that ~~such~~ the exhibition disturbs the public peace, it may give notice
14 in writing to the owner or operator ~~thereof~~ of the exhibition that the license is
15 revoked. If, after ~~such~~ notice, ~~such~~ the exhibition is not immediately
16 suspended, the owner or operator shall be subject to the same penalty as if ~~he~~
17 ~~or she~~ the owner had exhibited without a license.

18 * * *

19 § 404. EXHIBITING WITHOUT STATE AND TOWN LICENSES

20 A person who gives or attempts to give an exhibition in a town of a show
21 mentioned in 32 V.S.A. §§ 9901–9910 without first having obtained

1 permission of the selectboard of ~~such~~ the town ~~therefor~~ and without having
2 received from the Secretary of State the license as provided in 32 V.S.A.
3 §§ 9901–9910, shall be fined not more than \$3,000.00 nor less than \$1,000.00.

4 § 405. PERMITS TO EXHIBIT NATURAL CURIOSITIES

5 A selectboard may permit a person to exhibit living animals and other
6 natural curiosities for not more than two days at one time on payment of not
7 more than \$50.00 nor less than \$10.00 by ~~such~~ the person to the selectboard for
8 the use of the town.

9 § 406. EXHIBITION WITHOUT LICENSE

10 A person who for reward or gain or under color of a gratuity suffers
11 premises under ~~his or her~~ the person's control to be used for the exhibition of a
12 circus, living animals, and natural curiosities or exhibits a living animal or
13 natural curiosity without having previously obtained ~~such~~ permission shall be
14 fined not more than \$200.00.

15 * * *

16 § 441. REGULATION OF SHOWS AND GAMES OF CHANCE

17 The officers of a town fair association may regulate and prevent theatrical,
18 circus, or mountebank exhibitions and shows, or traffic in fruits, goods, wares,
19 and merchandise of whatever description, the trading of horses, and games of
20 chance, on fair days, within a distance of 200 yards ~~in~~ of any highway leading
21 to or passing a fairground, if in the opinion of ~~such~~ the officers the same would

1 obstruct or interfere with the free and uninterrupted use of ~~such~~ the highways.

2 The police employed by ~~such~~ the association shall have the same power in
3 respect to ~~such~~ matters on ~~such~~ the highways as they have within ~~such~~ the
4 grounds.

5 § 442. LICENSES FOR THEATRES AND SIMILAR ENTERTAINMENT

6 The selectboard of a town, trustees of an incorporated village, and the
7 aldermen of a city may grant licenses and fix a license fee ~~therefor~~, for
8 theatres, shows, moving picture shows, or concert halls operated and
9 maintained for profit, may revoke the same, and may also, after hearing, refuse
10 to grant ~~such~~ a license when, in their judgment, the public good requires.

11 § 443. OPERATING WITHOUT LICENSE

12 A person who installs, operates, or maintains a theatre, show, moving
13 picture show, or concert hall without first obtaining a license ~~therefor~~, if
14 required by the selectboard of a town, the trustees of an incorporated village, or
15 the aldermen of a city, as provided in section 442 of this ~~title~~ chapter, shall be
16 fined not more than \$100.00 for each day on which ~~he or she so~~ the person
17 operates or maintains the ~~same~~ theatre, show, moving picture show, or concert
18 hall. ~~Such~~ The fine shall be paid to the town treasurer for the benefit of the
19 town.

20 * * *

1 Sec. 462. 31 V.S.A. chapter 11 is amended to read:

2 CHAPTER 11. MUNICIPAL REGULATION OF DANCE HALLS,
3 BOWLING ALLEYS, POOL HALLS, AND COASTING

4 § 501. DANCE HALL DEFINED

5 A room, hall, eating place, building, structure, or place shall be deemed to
6 be a dance hall for the purposes of this chapter at all times and occasions when
7 dancing, for which admission is charged and which is open to the general
8 public, is conducted or permitted ~~therein~~.

9 § 502. SUPERVISION

10 A person, partnership, association, or corporation shall not operate a dance
11 hall unless, at the hours when dancing is conducted or permitted ~~therein~~, there
12 is in attendance one or more police or other officers empowered to make
13 arrests. With the approval of the selectboard, city council, or trustees of the
14 town, city, or incorporated village where the dance hall is operated, licensed
15 security guards may be employed in place of officers. The officers or security
16 guards shall be paid for their services by the operator of the dance hall. The
17 number of officers or security guards and the individuals so acting shall be
18 approved by the selectboard, mayor, or trustees of the town, city, or
19 incorporated village.

1 § 503. LICENSE REQUIRED

2 A person, partnership, association, or corporation shall not operate a dance
3 hall, bowling alley, or pool hall unless a license ~~se~~ to do so has been obtained
4 from the selectboard, city council, or trustees of the town, city, or incorporated
5 village in which it is proposed to operate ~~such~~ the dance hall, bowling alley, or
6 pool hall. Any ~~such~~ dance hall, bowling alley, or pool hall license may, after
7 hearing and for cause, be revoked by the municipal officers granting the same
8 when in their judgment the public good requires.

9 * * *

10 Sec. 463. 31 V.S.A chapter 15 is amended to read:

11 CHAPTER 15. SKI TRAMWAYS

12 * * *

13 § 704. RULES

14 The Board may, in accordance with 3 V.S.A. chapter 25, adopt reasonable
15 rules relating to public safety in the construction, operation, maintenance, and
16 inspection of passenger tramways. The rules authorized ~~hereunder~~ under this
17 section shall conform as nearly as practicable to established standards, if any,
18 and shall not be discriminatory in their application to operators of passenger
19 tramways. Rules adopted by the Board shall in no way reduce or diminish the
20 standard of care imposed upon passenger tramway operators under existing
21 law.

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§ 707. REGISTRATION AND FEES

(a) A passenger tramway shall not be operated in this State unless the operator ~~thereof~~ of the passenger tramway has been registered by the Department. On or before the first day of November in each year, every operator of a passenger tramway shall apply to the Department on forms prepared by ~~it~~ the Department for registration ~~hereunder~~ under this chapter. The application shall contain ~~such~~ information as that the Department may require and shall be accompanied by a registration fee, according to the formula stated in this section, unless an alternate payment plan is approved by the Commissioner pursuant to subsection (f) of this section. The Department shall assess total registration fees in the sum of the amount approved in the appropriations process for the program for that fiscal year, adjusted by any balance in the Passenger Tramway Special Fund from the prior fiscal year.

* * *

(f) The Commissioner has discretion to authorize a tramway operator to enter a payment plan to pay some or all of the ~~fee due State~~ fee due to the State after November 1 upon a showing of financial need. The authorization and terms of any payment plan shall be in writing and set a date or dates for payment, provided that the total amount of the ~~fee due State~~ fee due to the State shall be paid ~~no~~ not later than January 15. Failure to pay on November 1

1 or pursuant to an authorized plan may subject the operator to the penalties
2 established in section 712 of this ~~title~~ chapter.

3 § 708. ORDERS

4 If, after investigation, the Department finds that a violation of any of the
5 rules exists, or that there is a condition in passenger tramway construction,
6 operation, or maintenance endangering the safety of the public, it shall
7 ~~forthwith~~ immediately issue its written order setting forth its findings, the
8 corrective action to be taken, and fixing a reasonable time for compliance
9 ~~therewith~~ with the written order. The order shall be served upon the operator
10 involved by registered mail and shall become final unless the operator applies
11 to the Board for a hearing in the manner provided in section 709 of this ~~title~~
12 chapter.

13 * * *

14 Sec. 464. 31 V.S.A. § 1001 is amended to read:

15 § 1001. DEFINITIONS

16 ~~For the purpose of~~ As used in this chapter:

17 * * *

18 (2) “Passport” means a “Green Mountain Passport” as provided by
19 section 1002 of this ~~title~~ chapter.

20 (3) “State-sponsored public event” means all events, exhibits, concerts,
21 or museums fully supported by State funds to which the public is invited and

1 all State parks, historical sites, and State lands normally open to the public.
2 Overnight camping is excluded subject to ~~regulations granted~~ rules adopted by
3 the Department of Forests, Parks and Recreation.

4 * * *

5 * * * Title 32 * * *

6 Sec. 465. 32 V.S.A. § 701a(a)(2) is amended to read:

7 (2) recommendations for capital projects that may be paid for from the
8 Cash Fund for Capital ~~Infrastructure~~ and ~~Other~~ Essential Investments,
9 established in section 1001b of this title.

10 Sec. 466. 32 V.S.A. § 3752(1)(A) is amended to read:

11 (A) it is owned by a farmer and is part of the overall farm unit; ~~or~~

12 Sec. 467. 32 V.S.A. § 5811(18)(A)(i)(I) and (II) are amended to read:

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

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

1 Sec. 468. 32 V.S.A. § 5811(21)(C)(ii)(II) is amended to read:

2 (II) for taxpayers whose filing status under section 5822 of this
3 chapter is head of household, \$9,000.00; and

4 Sec. 469. 32 V.S.A. § 5822(c)(1)(B) is amended to read:

5 (B) recapture of the federal investment tax credit attributable to the
6 Vermont portion of the investment; and

7 Sec. 470. 32 V.S.A. § 5859(b)(2) is amended to read:

8 (2)(A) The period of the underpayment for which interest and penalties
9 shall apply shall commence on the date the installment was required to be paid
10 and shall terminate on the earlier of the following dates:

11 (~~A~~)(i) the date a U.S. income tax return is required to be filed for that
12 year by that corporation under the laws of the United States; or

13 (~~B~~)(ii) with respect to any portion of the underpayment, the date on
14 which such portion is paid.

15 (B) For purposes of this subdivision (2), a payment of estimated tax
16 on any installment date shall be considered a payment of any previous
17 underpayment only to the extent such payment exceeds the amount of the
18 installment determined under subdivision (1)(A) of this subsection (b) for such
19 installment date.

1 assigned to the whole family and shall not increase if more than one eligible
2 child is enrolled in child care. Families with an annual gross income of less
3 than or equal to 175 percent of the current federal poverty guidelines shall not
4 have a family co-payment. Families with an annual gross income up to and
5 including 575 percent of current federal poverty guidelines, adjusted for family
6 size, shall be eligible for a subsidy authorized by ~~the~~ this subsection. The scale
7 shall be structured so that it encourages employment. If the federal poverty
8 guidelines decrease in a given year, the Division shall maintain the previous
9 year's federal poverty guidelines for the purpose of determining eligibility and
10 benefit amount under this subsection.

11 Sec. 473. 33 V.S.A. § 3518(a) is amended to read:

12 (a) Definitions. As used in this section:

13 * * *

14 Sec. 474. 33 V.S.A. § 6902(1)(C) is amended to read:

15 (C) Confinement, seclusion, restraint, or interference with the
16 freedom of movement of a vulnerable adult, unless necessary to ensure the
17 health and safety of the vulnerable adults or others.

18 Sec. 475. 33 V.S.A. § 6902(13)(F) is amended to read:

19 (F) knowingly failing to use a vulnerable adult's income and assets
20 for the necessities required for that vulnerable adult's support and
21 maintenance; or

1 Sec. 476. 33 V.S.A. § 6907(b)(2)(B) is amended to read:

2 (B) In the event that the vulnerable adult's agent under power of
3 attorney is the person responsible for the abuse, neglect, or exploitation, and
4 the agent refuses to consent to the investigation or the alleged victim's
5 protective services, the investigator may seek review of the agent's refusal by
6 filing a petition in Superior Court pursuant to 14 V.S.A. § ~~3510(b)~~ 4016.

7 Sec. 477. 33 V.S.A. § 6911 is amended to read:

8 § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

9 * * *

10 (c) Registry. The Department shall maintain a registry of substantiated
11 caregivers that shall contain the following information:

12 * * *

13 (e) Disclosure of Registry records. An employer providing transportation
14 services to children or vulnerable adults may disclose Registry records
15 obtained pursuant to subdivision (d)(1)(C) of this section to the Agency of
16 Human Services or its designee for the sole purpose of auditing the records to
17 ensure compliance with this chapter. An employer shall provide such records
18 at the request of the Agency or its designee. Only Registry records regarding
19 individuals who provide direct transportation services or otherwise have direct
20 contact with children or vulnerable adults may be disclosed.

1 (f) Application for relief. A person may, at any time, apply to the Human
2 Services Board for relief if the person has reasonable cause to believe that the
3 contents of the Registry or investigative records are being misused.

4 (g) Expungement. A person may at any time apply to the Department for
5 expungement of the person's name from the Registry. The person shall have
6 the burden of showing why the person's name should be expunged from the
7 Registry. The Department shall consider the person's completion of reparation
8 and rehabilitation in determining whether the person's name should be
9 expunged from the Registry.

10 Sec. 478. 33 V.S.A. § 6915(e) is amended to read:

11 (e) If an agent under a power of attorney refuses to consent to the release of
12 the alleged victim's financial information, the investigator may file a petition
13 in Superior Court pursuant to 14 V.S.A. § ~~3510(b)~~ 4016 to compel the agent to
14 consent to the release of the alleged victim's financial information.

15 * * * Interpretation; Effective Dates * * *

16 Sec. 479. INTERPRETATION

17 It is the intent of the General Assembly that the technical amendments in
18 this act shall not supersede substantive changes contained in other bills enacted
19 by the General Assembly during the current biennium. Where possible, the
20 amendments in this act shall be interpreted to be supplemental to other
21 amendments to the same sections of statute; to the extent the provisions

1 conflict, the substantive changes in other acts shall take precedence over the
2 technical changes in this act.

3 Sec. 480. EFFECTIVE DATES

4 (a) Sec. 472 (33 V.S.A. § 3512(a)(2)) shall take effect on October 1, 2024.

5 (b) All other sections shall take effect on July 1, 2024.