

**No. 157. An act relating to miscellaneous economic development provisions.**

(H.868)

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

\* \* \* Vermont Economic Development Authority \* \* \*

Sec. A.1. [Deleted.]

Sec. A.2. 10 V.S.A. § 216 is amended to read:

§ 216. AUTHORITY; GENERAL POWERS

The Authority is hereby authorized:

\* \* \*

(15) To delegate to loan officers the power to review, approve, and make loans under this chapter, subject to the approval of the manager, and to disburse funds on such loans, subject to the approval of the manager, ~~provided that such loans do not exceed \$350,000.00 in aggregate amount for any industrial loan for any three year period for any particular individual, partnership, corporation, or other entity or related entity, or do not exceed \$350,000.00 in aggregate amount if the loan is guaranteed by the Farm Services Agency, or its successor agency, or \$300,000.00 in aggregate amount if the loan is not guaranteed by the Farm Services Agency, or its successor agency, for any agricultural loan for any three year period for any particular individual, partnership, corporation, or other entity or related entity. No funds may be disbursed for any loan approved under this provision, except for any agricultural loan referenced above in an amount not to exceed \$50,000.00, and~~

~~no rejection of a loan by a loan officer pursuant to this subdivision shall become final, until three working days after the members of the Authority are notified by facsimile, electronic mail, or overnight delivery mailed or sent on the day of approval or rejection, of the intention to approve or reject such loan. If any member objects within that three day period, the approval or rejection will be held for reconsideration by the members of the Authority at its next duly scheduled meeting.~~

\* \* \*

Sec. A.3. 10 V.S.A. § 219 is amended to read:

§ 219. RESERVE FUNDS

\* \* \*

(d) In order to ensure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the Authority, there may be appropriated annually and paid to the Authority for deposit in each such fund, such sum as shall be certified by the Chair of the Authority, to the Governor, the President of the Senate, and the Speaker of the House, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The Chair shall annually, on or about February 1, make, execute, and deliver to the Governor, the President of the Senate, and the Speaker of the House, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated,

shall be paid to the Authority during the then current State fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which State funds may be appropriated pursuant to this subsection shall not exceed ~~\$130,000,000.00~~ \$155,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the Authority in contravention of the Constitution of the United States.

Sec. A.4. 10 V.S.A. § 220 is added to read:

§ 220. TRANSFER FROM INDEMNIFICATION FUND

The State Treasurer shall transfer from the Indemnification Fund created in former section 222a of this title to the Authority all current and future amounts deposited to that Fund.

Sec. A.5. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

\* \* \*

(c) Monies in the Fund may be loaned to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the Authority to establish a line of credit in an amount not to exceed ~~\$60,000,000.00~~ \$100,000,000.00 to be advanced to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title.

\* \* \*

Sec. A.6. 10 V.S.A. chapter 16A is amended to read:

CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT  
PROGRAM

(a) There is created the Vermont Agricultural Credit Program, which will provide an alternative source of sound and constructive credit to farmers and forest products businesses who are not having their credit needs fully met by conventional agricultural credit sources at reasonable rates and terms. The Program is intended to meet, either in whole or in part, the credit needs of eligible agricultural facilities and farm operations in fulfillment of one or more of the purposes listed in this subsection by making direct loans and participating in loans made by other agricultural credit providers:

\* \* \*

(b) No borrower shall be approved for a loan from the corporation that would result in the aggregate principal balances outstanding of all loans to that borrower exceeding the then-current maximum Farm Service Agency loan guarantee limits, or ~~\$2,000,000.00~~ \$5,000,000.00, whichever is greater.

§ 374b. DEFINITIONS

As used in this chapter:

(1) "Agricultural facility" means land and rights in land, buildings, structures, machinery, and equipment which is used for, or will be used for producing, processing, preparing, packaging, storing, distributing, marketing,

or transporting agricultural or forest products which have been primarily produced in this State, and working capital reasonably required to operate an agricultural facility.

(2) “Agricultural land” means real estate capable of supporting commercial farming or forestry, or both.

(3) “Agricultural products” mean crops, livestock, forest products, and other farm or forest commodities produced as a result of farming or forestry activities.

(4) “Farm ownership loan” means a loan to acquire or enlarge a farm or agricultural facility, to make capital improvements including construction, purchase, and improvement of farm and agricultural facility buildings that can be made fixtures to the real estate, to promote soil and water conservation and protection, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

(5) “Authority” means the Vermont Economic Development Authority.

(6) “Cash flow” means, on an annual basis, all income, receipts, and revenues of the applicant or borrower from all sources and all expenses of the applicant or borrower, including all debt service and other expenses.

(7) “Farmer” means an individual directly engaged in the management or operation of an agricultural facility or farm operation for whom the agricultural facility or farm operation constitutes two or more of the following:

(A) is or is expected to become a significant source of the farmer's income;

(B) the majority of the farmer's assets; and

(C) an occupation in which the farmer is actively engaged, either on a seasonal or year-round basis.

(8) "Farm operation" shall mean the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. Farm operation also includes the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land.

(9) "Forest products business" means a Vermont enterprise that is primarily engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing products derived from Vermont forests.

(10) "Livestock" shall mean cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, chukar partridge, coturnix quail, ferrets, camelids and ratites, cultured trout propagated by commercial trout farms, and bees.

~~(10)~~(11) "Loan" means an operating loan or farm ownership loan, including a financing lease, provided that such lease transfers the ownership of

the leased property to each lessee following the payment of all required lease payments as specified in each lease agreement.

~~(11)~~(12) “Operating loan” means a loan to purchase livestock, farm or forestry equipment, or fixtures to pay annual operating expenses of a farm operation or agricultural facility, to pay loan closing costs, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

~~(12)~~(13) “Program” means the Vermont Agricultural Credit Program established by this chapter.

~~(13)~~(14) “Project” or “agricultural project” means the creation, establishment, acquisition, construction, expansion, improvement, strengthening, reclamation, operation, or renovation of an agricultural facility or farm operation.

~~(14)~~(15) “Resident” means a person who is or will be domiciled in this State as evidenced by an intent to maintain a principal dwelling place in the State indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent, including the filing of a Vermont income tax return within 18 months of the application for a loan under this chapter. In the case of a limited liability company, partnership, corporation, or other business entity, resident means a business entity formed under the laws of Vermont, the majority of which is owned and operated by Vermont residents who are natural persons.

\* \* \*

§ 374h. LOAN ELIGIBILITY STANDARDS

A farmer, or a limited liability company, partnership, corporation, or other business entity the majority ownership of which is vested in one or more farmers, shall be eligible to apply for a farm ownership or operating loan, provided the applicant is:

\* \* \*

(4) an operator or proposed operator of an agricultural facility, ~~or farm operation,~~ or forest products business for whom the loan reduces investment costs to an extent that offers the applicant a reasonable chance to succeed in the operation and management of an agricultural facility or farm operation;

\* \* \*

(7) able to demonstrate that the applicant is responsible and able to manage responsibilities as owner or operator of the farm operation, ~~or agricultural facility,~~ or forest products business;

\* \* \*

(13) able to demonstrate that the proposed loan will be adequately secured by a mortgage on real property ~~with a satisfactory maturity date in no event later than 20 years from the date of inception of the mortgage,~~ or by a security agreement on personal property ~~with a satisfactory maturity date in no event longer than the average remaining useful life of the assets in which the security interest is being taken;~~ and

\* \* \*



Sec. A.7. REPEALS

(a) 2009 Acts and Resolves No. 54, Sec. 112(b), pledging up to \$1,000,000.00 of the full faith and credit of the State for loss reserves for the Vermont Economic Development Authority small business loan program and TECH loan program, is repealed.

(b) In 10 V.S.A. chapter 12 (Vermont Economic Development Authority) the following are repealed:

(1) subchapter 2, §§ 221–229 (Mortgage Insurance); and

(2) subchapter 8, §§ 279–279b (Vermont Financial Access Program).

\* \* \* Cooperatives; Electronic Voting \* \* \*

Sec. B.1. 11 V.S.A. § 995 is amended to read:

§ 995. ARTICLES

Each association formed under this subchapter shall prepare and file articles of incorporation setting forth:

(1) The name of the association;

(2) The purpose for which it is formed;

(3) The place where its principal business will be transacted;

(4) The names and addresses of the directors thereof who are to serve until the election and qualification of their successors;

(5) The name and residence of the clerk;

(6) When organized without capital stock, whether the property rights and interest of the members are equal, and, if unequal, the general rules

applicable to all members by which the property rights and interest, respectively, of each member shall be determined and fixed, and provision for the admission of new members who shall be entitled to share in the property of the association in accordance with such general rules. This provision or paragraph of the certificate of organization shall not be altered, amended, or replaced except by the written consent or vote representing three-fourths of the members;

(7) When organized with capital stock, the amount of such stock, the number of shares into which it is divided, and the par value thereof;

(8) The capital stock may be divided into preferred and one or more classes of common stock. When so divided, the certificate of organization shall contain a statement of the number of shares of stock to which preference is granted, the number of shares of stock to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each;

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

(10) In addition to the foregoing, the articles of incorporation of any association incorporated hereunder may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement, and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate or with respect to its members, officers, or directors and any other provisions relating to its affairs;

(11) The certificate shall be subscribed by the incorporators and shall be sworn to by one or more of them; and shall be filed with the ~~secretary of state~~ Secretary of State. A certified copy shall also be filed with the ~~secretary of agriculture, food and markets;~~ Secretary of Agriculture, Food and Markets.

(12) When so filed, the certificate of organization or a certified copy thereof shall be received in the courts of this ~~state~~ State as prima facie evidence of the facts contained therein and of the due incorporation of such association.

\* \* \* Regional Planning and Economic Development \* \* \*

Sec. C.1. 24 V.S.A. chapter 76 is amended to read:

#### CHAPTER 76. ECONOMIC DEVELOPMENT PERFORMANCE

#### ~~CONTRACTS~~ GRANTS

\* \* \*

§ 2782. PROPOSALS FOR PERFORMANCE ~~CONTRACTS~~ GRANTS FOR  
ECONOMIC DEVELOPMENT

(a) The Secretary shall ~~annually award~~ negotiate and issue performance ~~contracts~~ grants to qualified regional development corporations, regional planning commissions, or both in the case of a joint proposal, to provide economic development services under this chapter.

(b) A proposal shall be submitted in response to a request for proposals issued by the Secretary.

(c) The Secretary may require that a service provider submit with a proposal, or subsequent to the filing of a proposal, additional supportive data or information that he or she considers necessary to make a decision to award or to assess the effectiveness of a performance ~~contract~~ grant.

§ 2783. ELIGIBILITY FOR PERFORMANCE ~~CONTRACTS~~ GRANTS

Upon receipt of a proposal for a performance ~~contract~~ grant, the Secretary shall within 60 days determine whether or not the service provider may be awarded a performance ~~contract~~ grant under this chapter. The Secretary shall enter into a performance ~~contract~~ grant with a service provider if the Secretary finds:

(1) the service provider serves an economic region generally consistent with one or more of the State's regional planning commission regions;

(2) the service provider demonstrates the ability and willingness to provide planning and resource development services to local communities and

to assist communities in evaluating economic conditions and prepare for economic growth and stability;

(3) the service provider demonstrates an ability to gather economic and demographic information concerning the area served;

(4) the service provider has, or demonstrates it will be able to secure, letters of support from the legislative bodies of the affected municipalities;

(5) the service provider demonstrates a capability and willingness to assist existing business and industry, to encourage the development and growth of small business, and to attract industry and commerce;

(6) the service provider appears to be the best qualified service provider from the region to accomplish and promote economic development;

(7) the service provider needs the performance ~~contract-award~~ grant and that the performance ~~contract-award~~ grant will be used for the employment of professional persons or expenses consistent with performance ~~contract~~ grant provisions, or both;

(8) the service provider presents an operating budget and has adequate funds available to match the performance ~~contract-award~~ grant;

(9) the service provider demonstrates a willingness to involve the public of the region in its policy-making process by offering membership to representatives of all municipalities in the economic region which shall elect the directors of the governing board;

(10) the service provider demonstrates a willingness to coordinate its activities with the planning functions of any regional planning commission located in the same geographic area as the service provider.

§ 2784. TERMS OF PERFORMANCE ~~CONTRACTS~~ GRANTS

(a)(1) Funds available ~~under~~ through a performance ~~contract~~ grant may only be used by an applicant to perform the duties or provide the services ~~set forth~~ specified in the performance ~~contract~~ grant.

(2) The amount and terms of the performance ~~contract-award~~ grant shall be determined by the ~~parties to the contract~~ Secretary.

(b) A performance ~~contract~~ grant shall be made for a period ~~agreed to by the parties~~ specified by the grant.

(c) Payments to a service provider shall be made pursuant to the terms of the performance ~~contract~~ grant.

§ 2784a. PLANS

A service provider awarded a performance ~~contract~~ grant under this chapter shall conduct its activities under subdivision 2784(a)(1) of this title consistent with local and regional plans.

\* \* \*

§ 2786. APPLICABILITY OF STATE LAWS

(a) A service provider awarded a performance ~~contract~~ grant by the Secretary under this chapter shall be subject to 1 V.S.A. chapter 5, subchapter 2 (open meetings) and 1 V.S.A. chapter 5, subchapter 3

(public records), except that in addition to any limitation provided in subchapter 2 or 3:

(1) no person shall disclose any information relating to a proposed transaction or agreement between the service provider and another person, in furtherance of the service provider's public purposes under the law, prior to final execution of such transaction or agreement; and

(2) meetings of the service provider's board to consider such proposed transactions or agreements may be held in executive session under 1 V.S.A. § 313.

(b) Nothing in this section shall be construed to limit the exchange of information between or among regional development corporations or regional planning commissions concerning any activity of the corporations and the commissions, provided that such information shall be subject to the provisions of subsection (a) of this section.

(c) The provisions of 2 V.S.A. chapter 11 (registration of lobbyist) shall apply to regional development corporations and regional planning commissions.

\* \* \*

Sec. C.2. 24 V.S.A. § 4341a is amended to read:

§ 4341a. ~~PERFORMANCE CONTRACTS~~ GRANTS FOR REGIONAL  
PLANNING SERVICES

(a) The Secretary of Commerce and Community Development shall negotiate and ~~enter into performance contracts with~~ issue performance grants ~~to~~ regional planning commissions, or ~~with~~ to regional planning commissions and regional development corporations in the case of a joint ~~contract~~ grant, to provide regional planning services.

(b) A performance ~~contract~~ grant shall address how the regional planning commission, or regional planning commission and regional development corporation jointly, will improve results and achieve savings compared with the current regional service delivery system, which may include:

- (1) a proposal without change in the makeup or change of the area served;
- (2) a joint proposal to provide different services ~~under one contract with~~ pursuant to a grant to one or more regional service providers;
- (3) ~~co-location~~ colocation with other local, regional, or State service providers;
- (4) merger with one or more regional service providers;
- (5) consolidation of administrative functions and additional operational efficiencies within the region; or
- (6) such other cost-saving mechanisms as may be available.



\* \* \* Vermont Training Program \* \* \*

Sec. D.1. 10 V.S.A. § 531 is amended to read:

§ 531. THE VERMONT TRAINING PROGRAM

\* \* \*

(b) Eligibility for grant. The Secretary of Commerce and Community Development may award a grant to an employer if:

\* \* \*

(2) the employer provides its employees with at least three of the following:

\* \* \*

(H) other paid time off, ~~including~~ excluding paid sick days;

\* \* \*

(e) Work-based learning activities.

(1) In addition to eligible training authorized in subsection (b) of this section, the Secretary of Commerce and Community Development may annually allocate up to 10 percent of the funding appropriated for the Program to fund work-based learning programs and activities with eligible employers to introduce Vermont students in a middle school, secondary school, career technical education program, or postsecondary school to manufacturers and other regionally significant employers.

(2) An employer with a defined work-based learning program or activity developed in partnership with a middle school, secondary school, career

technical education program, or postsecondary school may apply to the  
Program for a grant to offset the costs the employer incurs for the work-based  
learning program or activity, including the costs of transportation, curriculum  
development, and materials.

\* \* \*

(k) Annually on or before January 15, the Secretary shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs. In addition to the reporting requirements under section 540 of this title, the report shall identify:

(1) all active and completed contracts and grants;

(2) from among the following, the category the training addressed:

(A) preemployment training or other training for a new employee to begin a newly created position with the employer;

(B) preemployment training or other training for a new employee to begin in an existing position with the employer;

(C) training for an incumbent employee who, upon completion of training, assumes a newly created position with the employer;

(D) training for an incumbent employee who upon completion of training assumes a different position with the employer;

(E) training for an incumbent employee to upgrade skills;

- (3) for the training identified in subdivision (2) of this subsection whether the training is onsite or classroom-based;
- (4) the number of employees served;
- (5) the average wage by employer;
- (6) any waivers granted;
- (7) the identity of the employer, or, if unknown at the time of the report, the category of employer;
- (8) the identity of each training provider; ~~and~~
- (9) whether training results in a wage increase for a trainee, and the amount of increase; and
- (10) the number, type, and description of grants for work-based learning programs and activities awarded pursuant to subsection (e) of this section.

\* \* \* Corporations; Mergers, Conversions, Domestications,

Share Exchanges, Limited Liability Company Technical Corrections \* \* \*

Sec. E.1. 11A V.S.A. chapter 11 is amended to read:

~~CHAPTER 11. MERGER AND SHARE EXCHANGE~~

~~§ 11.01. MERGER~~

~~(a) One or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders (if required by section 11.03 of this title) approve a plan of merger.~~

~~(b) The plan of merger must set forth:~~

~~(1) the name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;~~

~~(2) the terms and conditions of the merger; and~~

~~(3) the manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or in part.~~

~~(c) The plan of merger may set forth:~~

~~(1) amendments to the articles of incorporation of the surviving corporation; and~~

~~(2) other provisions relating to the merger.~~

#### ~~§ 11.02. SHARE EXCHANGE~~

~~(a) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders (if required by section 11.03 of this title) approve the exchange.~~

~~(b) The plan of exchange must set forth:~~

~~(1) the name of the corporation whose shares will be acquired and the name of the acquiring corporation;~~

~~(2) the terms and conditions of the exchange;~~

~~(3) the manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or in part.~~

~~(c) The plan of exchange may set forth other provisions relating to the exchange.~~

~~(d) This section does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through a voluntary exchange or otherwise.~~

~~§ 11.03. ACTION ON PLAN~~

~~(a) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (g) of this section) or share exchange for approval by its shareholders.~~

~~(b) For a plan of merger or share exchange to be approved:~~

~~(1) the board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and~~

~~(2) the shareholders entitled to vote must approve the plan.~~

~~(c) The board of directors may condition its submission of the proposed merger or share exchange on any basis.~~

~~(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 7.05 of~~

~~this title. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.~~

~~(e) Unless this title, the articles of incorporation, or the board of directors (acting pursuant to subsection (c) of this section) require a greater vote or a vote by voting groups, the plan of merger or share exchange to be authorized must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.~~

~~(f) Separate voting by voting groups is required:~~

~~(1) on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under section 10.04 of this title;~~

~~(2) on a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.~~

~~(g) Action by the shareholders of the surviving corporation on a plan of merger is not required if:~~

~~(1) the articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in section 10.02 of this title) from its articles before the merger;~~

~~(2) each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;~~

~~(3) the number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than 20 percent the total number of voting shares of the surviving corporation outstanding immediately before the merger; and~~

~~(4) the number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than 20 percent the total number of participating shares outstanding immediately before the merger.~~

~~(h) As used in subsection (g) of this section:~~

~~(1) "Participating shares" mean shares that entitle their holders to participate without limitation in distributions.~~

~~(2) "Voting shares" mean shares that entitle their holders to vote unconditionally in elections of directors.~~

~~(i) After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned (subject to any contractual rights), without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.~~

~~§ 11.04. MERGER OF SUBSIDIARY~~

~~(a) A parent corporation owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary.~~

~~(b) The board of directors of the parent shall adopt a plan of merger that sets forth:~~

~~(1) the names of the parent and subsidiary; and~~

~~(2) the manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or in part.~~

~~(c) The parent shall mail a copy or summary of the plan merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.~~

~~(d) The parent may not deliver articles of merger to the secretary of state for filing until at least 30 days after the date it mailed a copy of the plan of~~



~~merger to each shareholder of the subsidiary who did not waive the mailing requirement.~~

~~(e) Articles of merger under this section may not contain amendments to the articles of incorporation of the parent corporation (except for amendments enumerated in section 10.02 of this title).~~

~~§ 11.05. ARTICLES OF MERGER OR SHARE EXCHANGE~~

~~(a) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the secretary of state for filing, articles of merger or share exchange setting forth:~~

~~(1) the plan of merger or share exchange;~~

~~(2) if shareholder approval was not required, a statement to that effect;~~

~~(3) if approval of the shareholders of one or more corporations party to the merger or share exchange was required:~~

~~(A) the designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation; and~~

~~(B) either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.~~

~~(b) A merger or share exchange takes effect upon the effective date of the articles of merger or share exchange as provided in section 1.23 of this title.~~

~~§ 11.06. EFFECT OF MERGER OR SHARE EXCHANGE~~

~~(a) When a merger takes effect:~~

~~(1) every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;~~

~~(2) the title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment;~~

~~(3) the surviving corporation has all liabilities of each corporation party to the merger;~~

~~(4) a proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;~~

~~(5) the articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and~~

~~(6) the shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property are converted, and the former~~

~~holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under chapter 13 of this title.~~

~~(b) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under chapter 13 of this title.~~

~~§ 11.07. MERGER OR SHARE EXCHANGE WITH FOREIGN  
CORPORATION~~

~~(a) One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:~~

~~(1) in a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;~~

~~(2) in a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated;~~

~~(3) the foreign corporation complies with section 11.05 of this title if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and~~

~~(4) each domestic corporation complies with the applicable provisions of sections 11.01 through 11.04 of this title and, if it is the surviving~~

~~corporation of the merger or acquiring corporation of the share exchange, with section 11.05 of this title.~~

~~(b) Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange is deemed:~~

~~(1) to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange; and~~

~~(2) to agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under chapter 13 of this title.~~

~~(c) This section does not limit the power of a foreign corporation to acquire all or part of the shares of one or more classes or series of a domestic corporation through a voluntary exchange or otherwise.~~

## CHAPTER 11. CONVERSION, MERGER, SHARE EXCHANGE, AND DOMESTICATION

### § 11.01. DEFINITIONS

As used in this chapter:

(1) “Constituent corporation” means a constituent organization that is a corporation.

(2) “Constituent organization” means an organization that is a party to a conversion, merger, share exchange, or domestication pursuant to this chapter.

(3) “Conversion” means a transaction authorized by sections 11.02 through 11.07 of this title.

(4) “Converted organization” means the converting organization as it continues in existence after a conversion.

(5) “Converting organization” means the domestic organization that approves a plan of conversion pursuant to section 11.04 of this title or the foreign organization that approves a conversion pursuant to the law of its jurisdiction of formation.

(6) “Domestic organization” means an organization whose internal affairs are governed by the law of this State.

(7) “Domesticated corporation” means the corporation that exists after a domesticating corporation effects a domestication pursuant to sections 11.13 through 11.16 of this title.

(8) “Domesticating corporation” means the corporation that effects a domestication pursuant to sections 11.13 through 11.16 of this title.

(9) “Domestication” means a transaction authorized by sections 11.13 through 11.16 of this title.

(10) “Governing statute” means the statute that governs an organization’s internal affairs.

(11) “Interest holder” means:

(A) a shareholder of a business corporation;

(B) a member of a nonprofit corporation;

(C) a general partner of a general partnership, including a limited liability partnership;

(D) a general partner of a limited partnership, including a limited liability partnership;

(E) a limited partner of a limited partnership, including a limited liability partnership;

(F) a member of a limited liability company;

(G) a shareholder of a general cooperative association;

(H) a member of a limited cooperative association or mutual benefit enterprise;

(I) a member of an unincorporated nonprofit association;

(J) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or

(K) any other direct holder of an interest.

(12) “Merger” means a merger authorized by sections 11.08 through 11.12 of this title.

(13) “Organization”:

(A) means any of the following, whether a domestic or foreign organization, and regardless of whether organized for profit:

(i) a business corporation;

(ii) a nonprofit corporation;

(iii) a general partnership, including a limited liability partnership;

- (iv) a limited partnership, including a limited liability limited partnership;
- (v) a limited liability company;
- (vi) a general cooperative association;
- (vii) a limited cooperative association or mutual benefit enterprise;
- (viii) an unincorporated nonprofit association;
- (ix) a statutory trust, business trust, or common-law business trust; or
- (x) any other person that has:
  - (I) a legal existence separate from any interest holder of that person; or
  - (II) the power to acquire an interest in real property in its own name; and
- (B) does not include:
  - (i) an individual;
  - (ii) a trust with a predominantly donative purpose or a charitable trust;
  - (iii) an association or relationship that is not an organization listed in subdivision (A) of this subdivision (13) and is not a partnership under 11 V.S.A. chapter 22 or 23, or a similar provision of law of another jurisdiction;
  - (iv) a decedent's estate; or

(v) a government or a governmental subdivision, agency, or instrumentality.

(14) “Organizational documents” means the organizational documents for a domestic or foreign organization that create the organization, govern the internal affairs of the organization, and govern relations between or among its interest holders, including:

(A) for a general partnership, its statement of partnership authority and partnership agreement;

(B) for a limited liability partnership, its statement of qualification and partnership agreement;

(C) for a limited partnership, its certificate of limited partnership and partnership agreement;

(D) for a limited liability company, its certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute;

(E) for a business trust, its agreement of trust and declaration of trust;

(F) for a business corporation, its certificate or articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and



(G) for any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

(15) “Personal liability” means:

(A) liability for a debt, obligation, or other liability of an organization which is imposed on a person:

(i) by the governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or

(ii) by the organization’s organizational documents under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization; or

(B) an obligation of an interest holder under the organizational documents of an organization to contribute to the organization.

(16) “Private organizational documents” means organizational documents or portions thereof for a domestic or foreign organization that are not part of the organization’s public record, if any, and includes:

(A) the bylaws of a business corporation;

(B) the bylaws of a nonprofit corporation;

(C) the partnership agreement of a general partnership or limited liability partnership;

(D) the partnership agreement of a limited partnership or limited liability limited partnership;

(E) the operating agreement of a limited liability company;

(F) the bylaws of a general cooperative association;

(G) the bylaws of a limited cooperative association or mutual benefit enterprise;

(H) the governing principles of an unincorporated nonprofit association; and

(I) the trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.

(17) “Protected agreement” means:

(A) a record evidencing indebtedness and any related agreement in effect on July 1, 2017;

(B) an agreement that is binding on an organization on July 1, 2017;

(C) the organizational documents of an organization in effect on July 1, 2017; or

(D) an agreement that is binding on any of the partners, directors, managers, or interest holders of an organization on July 1, 2017.

(18) “Public organizational documents” means the record of organizational documents required to be filed with the Secretary of State to form an organization, and any amendment to or restatement of that record, and includes:

- (A) the articles of incorporation of a business corporation;
- (B) the articles of incorporation of a nonprofit corporation;
- (C) the statement of partnership authority of a general partnership;
- (D) the statement of qualification of a limited liability partnership;
- (E) the certificate of limited partnership of a limited partnership;
- (F) the articles of organization of a limited liability company;
- (G) the articles of incorporation of a general cooperative association;
- (H) the articles of organization of a limited cooperative association or mutual benefit enterprise; and
- (I) the certificate of trust of a statutory trust or similar record of a business trust.

(19) “Record,” used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) “Share exchange” means a share exchange authorized by sections 11.08 through 11.12 of this title.

(21) “Surviving organization” means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

§ 11.02. CONVERSION AUTHORIZED

(a) By complying with sections 11.03 through 11.06 of this title, a domestic corporation may become a domestic organization that is a different type of organization.

(b) By complying with sections 11.03 through 11.06 of this title, a domestic organization may become a domestic corporation.

(c) By complying with sections 11.03 through 11.06 of this title applicable to foreign organizations, a foreign organization that is not a foreign corporation may become a domestic corporation if the conversion is authorized by the law of the foreign organization's jurisdiction of formation.

(d) If a protected agreement contains a provision that applies to a merger of a domestic corporation but does not refer to a conversion, the provision applies to a conversion of the corporation as if the conversion were a merger until the provision is amended after July 1, 2017.

§ 11.03. PLAN OF CONVERSION

(a) A domestic corporation may convert to a different type of organization under section 11.02 of this title by approving a plan of conversion, and a domestic organization, other than a corporation, may convert into a domestic corporation by approving a plan of conversion. The plan shall be in a record and shall contain:

(1) the name of the converting corporation or organization;

(2) the name, jurisdiction of formation, and type of organization of the converted organization;

(3) the manner and basis for converting an interest holder's interest in the converting organization into any combination of an interest in the converted organization and other consideration;

(4) the proposed public organizational documents of the converted organization if it will be an organization with public organizational documents filed with the Secretary of State;

(5) the full text of the private organizational documents of the converted organization that are proposed to be in a record;

(6) the other terms and conditions of the conversion; and

(7) any other provision required by the law of this State or the organizational documents of the converting corporation.

(b) A plan of conversion may contain any other provision not prohibited by law.

#### § 11.04. APPROVAL OF CONVERSION

Subject to section 11.17 of this title and any contractual rights, a converting organization shall approve a plan of conversion as follows:

(1) a domestic corporation shall approve a plan of conversion in accordance with the procedures for approving a merger under section 11.10 of this title;

(2) any other organization shall approve a plan of conversion in accordance with its governing statute and its organizational documents; provided:

(A) if its organizational documents do not address the manner for approving a conversion, then a plan of conversion shall be approved by the same vote required under the organizational documents for a merger; and

(B) if its organizational documents do not provide for approval of a merger, then by the approval of the number or percentage of interest holders required to approve a merger under the governing statute.

§ 11.05. AMENDMENT OR ABANDONMENT OF PLAN OF  
CONVERSION

(a) A domestic corporation may amend a plan of conversion:

(1) in the same manner the corporation approved the plan, if the plan does not specify how to amend the plan; or

(2) by its directors and shareholders as provided in the plan, but a shareholder who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the shareholder may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the

conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the shareholder in any material respect.

(b) A domestic general or limited partnership may amend a plan of conversion:

(1) in the same manner the partnership approved the plan, if the plan does not specify how to amend the plan; or

(2) by the partners as provided in the plan, but a partner who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the partner may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the partner in any material respect.

(c) A domestic limited liability company may amend a plan of conversion:

(1) in the same manner the company approved the plan, if the plan does not specify how to amend the plan; or

(2) by the managers or members as provided in the plan, but a member who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the member may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the member in any material respect.

(d)(1) After a domestic converting organization approves a plan of conversion, and before a statement of conversion takes effect, the organization may abandon the conversion as provided in the plan.

(2) Unless prohibited by the plan, the organization may abandon the plan in the same manner it approved the plan.

(e)(1) A domestic converting organization that abandons a plan of conversion pursuant to subsection (d) of this section shall deliver a signed



statement of abandonment to the Secretary of State for filing before the statement of conversion takes effect.

(2) The statement of abandonment shall contain:

(A) the name of the converting organization;

(B) the date the Secretary of State filed the statement of conversion; and

(C) a statement that the converting organization has abandoned the conversion pursuant to this section.

(3) A statement of abandonment takes effect on filing, and on filing the conversion is abandoned and does not take effect.

§ 11.06. STATEMENT OF CONVERSION; EFFECTIVE DATE OF CONVERSION

(a) A converting organization shall sign a statement of conversion and deliver it to the Secretary of State for filing.

(b) A statement of conversion shall contain:

(1) the name, jurisdiction of formation, and type of organization prior to the conversion;

(2) the name, jurisdiction of formation, and type of organization following the conversion;

(3) if the converting organization is a domestic organization, a statement that the organization approved the plan of conversion in accordance with the provisions of this chapter, or, if the converting organization is a foreign

organization, a statement that the organization approved the conversion in accordance with its governing statute; and

(4) the public organizational documents of the converted organization.

(c) A statement of conversion may contain any other provision not prohibited by law.

(d) If the converted organization is a domestic organization, its public organizational documents, if any, shall comply with the law of this State.

(e)(1) If a converted organization is a domestic corporation, its conversion takes effect when the statement of conversion takes effect.

(2) If a converted organization is not a domestic corporation, its conversion takes effect on the later of:

(A) the date and time provided by its governing statute; or

(B) when the statement of conversion takes effect.

#### § 11.07. EFFECT OF CONVERSION

(a) When a conversion takes effect:

(1) The converted organization is:

(A) organized under and subject to the governing statute of the converted organization; and

(B) the same organization continuing without interruption as the converting organization.

(2) The property of the converting organization continues to be vested in the converted organization without transfer, assignment, reversion, or impairment.

(3) The debts, obligations, and other liabilities of the converting organization continue as debts, obligations, and other liabilities of the converted organization.

(4) Except as otherwise provided by law or the plan of conversion, the rights, privileges, immunities, powers, and purposes of the converting organization remain in the converted organization.

(5) A court or other authority may substitute the name of the converted organization for the name of the converting organization in any pending action or proceeding.

(6) The public organizational documents of the converted organization takes effect.

(7) The provisions of the organizational documents of the converted organization that are required to be in a record, if any, that were approved as part of the plan of conversion take effect.

(8) The interests in the converting organization are converted, and the interest holders of the converting organization are entitled only to the rights provided to them under the plan of conversion.

(b) Except as otherwise provided in the organizational documents of a domestic converting organization, a conversion does not give rise to any rights

that a shareholder, member, partner, limited partner, director, or third party would have upon a dissolution, liquidation, or winding up of the converting organization.

(c) When a conversion takes effect, a person who did not have personal liability with respect to the converting organization and becomes subject to personal liability with respect to the converted organization as a result of the conversion has personal liability only to the extent provided by the governing statute of the converted organization and only for those debts, obligations, and other liabilities that the converted organization incurs after the conversion.

(d) When a conversion takes effect, a person who had personal liability for a debt, obligation, or other liability of the converting organization but who does not have personal liability with respect to the converted organization is subject to the following rules:

(1) The conversion does not discharge any personal liability under this title to the extent the personal liability was incurred before the conversion took effect.

(2) The person does not have personal liability under this title for any debt, obligation, or other liability that arises after the conversion takes effect.

(3) This title continues to apply to the release, collection, or discharge of any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(4) The person has the rights of contribution from another person that are provided by this title, law other than this title, or the organizational documents of the converting organization with respect to any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(e) When a conversion takes effect, a person may serve a foreign organization that is the converted organization with process in this State for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in section 5.04 of this title.

(f) If the converting organization is a registered foreign organization, its registration to do business in this State is canceled when the conversion takes effect.

(g) A conversion does not require an organization to wind up its affairs and does not constitute or cause the dissolution of the organization.

#### § 11.08. MERGER AUTHORIZED; PLAN OF MERGER

(a) A corporation organized pursuant to this title may merge with one or more other constituent organizations pursuant to this section and sections 11.09 through 11.12 of this title and a plan of merger if:

(1) the governing statute of each of the other constituent organizations authorizes the merger;

(2) the merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and

(3) each of the other constituent organizations complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) the name and type of each constituent organization;

(2) the name and type of the surviving constituent organization and, if the surviving constituent organization is created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting an interest holder's interest in each constituent organization into any combination of an interest in the surviving organization and other consideration;

(4) if the merger creates the surviving constituent organization, the surviving constituent organization's organizational documents that are proposed to be in a record; and

(5) if the merger does not create the surviving constituent organization, any amendments to the surviving constituent organization's organizational documents that are, or are proposed to be, in a record.

§ 11.09. SHARE EXCHANGE AUTHORIZED; PLAN OF SHARE

EXCHANGE

(a) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each

corporation adopts, and its shareholders, if required under section 11.10 of this title, approve a plan of share exchange.

(b) The plan of share exchange shall be in a record and shall include:

(1) the name of the corporation whose shares will be acquired and the name of the acquiring corporation; and

(2) the terms and conditions of the share exchange; including the manner and basis of exchanging the shares to be acquired in exchange for shares of the acquiring corporation or other consideration.

(c) The plan of share exchange may contain any other provision not prohibited by law.

#### § 11.10. APPROVAL OF PLAN OF MERGER OR SHARE EXCHANGE

(a) Subject to section 11.17 of this title and any contractual rights, a constituent organization shall approve a plan of merger or share exchange as follows:

(1) If the constituent organization is a corporation:

(A) the board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(B) the shareholders entitled to vote must approve the plan.

(2) If the constituent organization is not a corporation, the plan of merger or share exchange shall be approved in accordance with the organization's governing statute and organizational documents.

(b) The board of directors of a constituent corporation may condition its submission of the proposed merger or share exchange on any basis.

(c) For a constituent organization that is a domestic corporation:

(1)(A) The constituent organization shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 7.05 of this title.

(B) The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

(2) Unless this title, the articles of incorporation, or the board of directors acting pursuant to subsection (b) of this section requires a greater vote or a vote by voting groups, the plan of merger or share exchange must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(3) Separate voting by voting groups is required:

(A) on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under section 10.04 of this title; and



(B) on a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

(4) Action by the shareholders of the surviving corporation on a plan of merger is not required if:

(A) the articles of incorporation of the surviving corporation will not differ, except for amendments enumerated in section 10.02 of this title, from its articles before the merger;

(B) each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;

(C) the number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than 20 percent the total number of voting shares of the surviving corporation outstanding immediately before the merger; and

(D) the number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not

exceed by more than 20 percent the total number of participating shares  
outstanding immediately before the merger.

(5) As used in this subsection:

(A) “Participating shares” means shares that entitle their holders to  
participate without limitation in distributions.

(B) “Voting shares” means shares that entitle their holders to vote  
unconditionally in elections of directors.

(d) Subject to section 11.17 of this title and any contractual rights, after a  
constituent organization approves a merger or share exchange, and before the  
organization delivers articles of merger or share exchange to the Secretary of  
State for filing, a constituent organization may amend the plan or abandon the  
merger or share exchange:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, in the same manner it  
approved the plan.

§ 11.11. FILING REQUIRED FOR MERGER OR SHARE EXCHANGE;

EFFECTIVE DATE

(a) After each constituent organization approves a merger or share  
exchange, a person with appropriate authority shall sign articles of merger or  
share exchange on behalf of:

(1) each constituent corporation; and

(2) each other constituent organization as required by its governing statute.

(b) Articles of merger under this section shall be in a record and shall include:

(1) the name and type of each constituent organization and the jurisdiction of its governing statute;

(2) the name and type of the surviving constituent organization, the jurisdiction of its governing statute, and, if the merger creates the surviving constituent organization, a statement to that effect;

(3) the date the merger takes effect under the governing statute of the surviving constituent organization;

(4) if the merger creates the surviving constituent organization, its public organizational documents;

(5) if the surviving constituent organization preexists the merger, any amendments to its public organizational documents;

(6) a statement on behalf of each constituent organization that it approved the merger as required by its governing statute;

(7) if the surviving constituent organization is a foreign constituent organization not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title; and

(8) any additional information the governing statute of a constituent organization requires.

(c) A merger takes effect under this chapter:

(1) if the surviving constituent organization is a corporation, upon the later of:

(A) compliance with subsection (f) of this section; or

(B) subject to section 1.23 of this title, as specified in the articles of merger; or

(2) if the surviving constituent organization is not a corporation, as provided by the governing statute of the surviving constituent organization.

(d) Articles of share exchange under this section shall be in a record and shall include:

(1) the name and type of each constituent organization and the jurisdiction of its governing statute;

(2) the date the share exchange takes effect under the governing statute of each of the constituent organizations;

(3) a statement on behalf of each constituent organization that it approved the share exchange as required by its governing statute;

(4) if either constituent organization is a foreign organization not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title; and

(5) any additional information the governing statute of a constituent organization requires.

(e) A share exchange takes effect under this chapter upon the later of:

(1) compliance with subsection (f) of this section; or

(2) subject to section 1.23 of this title, as specified in the articles of share exchange.

(f) Each constituent organization shall deliver the articles of merger or share exchange for filing in the Office of the Secretary of State.

#### § 11.12. EFFECT OF MERGER OR SHARE EXCHANGE

(a) When a merger takes effect:

(1) the surviving constituent organization continues or comes into existence;

(2) each constituent organization that merges into the surviving constituent organization ceases to exist as a separate entity;

(3) the property of each constituent organization that ceases to exist vests in the surviving constituent organization without transfer, assignment, reversion, or impairment;

(4) the debts, obligations, and other liabilities of each constituent organization that ceases to exist continue as debts, obligations, and other liabilities of the surviving constituent organization;

(5) an action or proceeding pending by or against a constituent organization that ceases to exist continues as if the merger did not occur;

(6) except as prohibited by other law, the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving constituent organization;

(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(8) except as otherwise agreed, if a constituent corporation ceases to exist, the merger does not dissolve the corporation for the purposes of chapter 14 of this title;

(9) if the merger creates the surviving constituent organization, its public organizational documents take effect; and

(10) if the surviving constituent organization preexists the merger, any amendments to its public organizational documents take effect.

(b)(1) A surviving constituent organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce a debt, obligation, or other liability the constituent organization owes, if before the merger the constituent organization was subject to suit in this State on the debt, obligation, or other liability.

(2) A surviving constituent organization that is a foreign organization and not authorized to transact business in this State appoints the Secretary of State as its agent for service of process for the purposes of enforcing a debt, obligation, or other liability under this subsection.

(3) A person shall serve the Secretary of State under this subsection in the same manner, and the service has the same consequences, as in section 5.04 of this title.

(c) When a share exchange takes effect:

(1) the shares of each acquired constituent organization are exchanged as provided in the plan of share exchange; and

(2) the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under chapter 13 of this title.

#### § 11.13. DOMESTICATION AUTHORIZED

(a) A foreign corporation may become a domestic corporation pursuant to this section and sections 11.14 through 11.17 of this title and a plan of domestication if:

(1) the foreign corporation's governing statute and its organizational documents permit the domestication; and

(2) the foreign corporation complies with its governing statute and organizational documents.

(b) A domestic corporation may become a foreign corporation pursuant to this section and sections 11.14 through 11.17 of this title and a plan of domestication if:

(1) its organizational documents permit the domestication; and

(2) the corporation complies with this section and sections 11.14 through 11.17 of this title and its organizational documents.

(c) A plan of domestication shall be in a record and shall include:

(1) the name of the domesticating corporation before domestication and the jurisdiction of its governing statute;

(2) the name of the domesticated corporation after domestication and the jurisdiction of its governing statute;

(3) the terms and conditions of the domestication, including the manner and basis for converting an interest holder's interest in the domesticating organization into any combination of an interest in the domesticated organization and other consideration; and

(4) the organizational documents of the domesticated corporation that are, or are proposed to be, in a record.

#### § 11.14. ACTION ON PLAN OF DOMESTICATION

(a) A domesticating corporation shall approve a plan of domestication as follows:

(1) if the domesticating corporation is a domestic corporation, in accordance with this chapter and the corporation's organizational documents; provided that:

(A) if its organizational documents do not specify the vote needed to approve domestication, then by the same vote required for a merger under its organizational documents; or



(B) if its organizational documents do not specify the vote required for a merger, then by the number or percentage of shareholders required to approve a merger under this chapter;

(2) if the domesticating corporation is a foreign corporation, as provided in its organizational documents and governing statute.

(b) Subject to any contractual rights, after a domesticating corporation approves a domestication and before it delivers articles of domestication to the Secretary of State for filing, the domesticating corporation may amend the plan or abandon the domestication:

(1) as provided in the plan; or

(2) except as otherwise prohibited by the plan, in the same manner it approved the plan.

§ 11.15. FILING REQUIRED FOR DOMESTICATION; EFFECTIVE DATE

(a) A domesticating corporation that approves a plan of domestication shall deliver to the Secretary of State for filing articles of domestication that include:

(1) a statement, as the case may be, that the corporation was domesticated from or into another jurisdiction;

(2) the name of the corporation and the jurisdiction of its governing statute prior to the domestication;

(3) the name of the corporation and the jurisdiction of its governing statute following domestication;

(4) the date the domestication takes effect under the governing statute of the domesticated company; and

(5) a statement that the corporation approved the domestication as required by the governing statute of the jurisdiction to which it is domesticating.

(b) When a domesticating corporation delivers articles of domestication to the Secretary of State pursuant to subsection (a) of this section, it shall include:

(1) if the domesticating corporation will be a domestic corporation, articles of incorporation pursuant to section 2.02 of this title;

(2) if the domesticating corporation will be a foreign corporation authorized to transact business in this State, an application for a certificate of authority pursuant to section 15.03 of this title; or

(3) if the domesticating corporation will be a foreign corporation that is not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title.

(c) A domestication takes effect:

(1) when the articles of domestication of the domesticating corporation take effect, if the corporation is domesticating to this State; and

(2) according to the governing statute of jurisdiction to which the corporation is domesticating.

§ 11.16. EFFECT OF DOMESTICATION

(a) When a domestication takes effect:

(1) The domesticated corporation is for all purposes the corporation that existed before the domestication.

(2) The property owned by the domesticating corporation remains vested in the domesticated corporation.

(3) The debts, obligations, and other liabilities of the domesticating corporation continue as debts, obligations, and other liabilities of the domesticated corporation.

(4) An action or proceeding pending by or against a domesticating corporation continues as if the domestication had not occurred.

(5) Except as prohibited by other law, the rights, privileges, immunities, powers, and purposes of the domesticating corporation remain vested in the domesticated corporation.

(6) Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect.

(7) Except as otherwise agreed, the domestication does not dissolve a domesticating corporation for the purposes of this chapter 11.

(b)(1) A domesticated corporation that was a foreign corporation consents to the jurisdiction of the courts of this State to enforce a debt, obligation, or other liability the domesticating corporation owes, if, before the domestication,

the domesticating corporation was subject to suit in this State on the debt, obligation, or other liability.

(2) A domesticated corporation that was a foreign corporation and not authorized to transact business in this State appoints the Secretary of State as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection.

(3) A person shall serve the Secretary of State under this subsection in the same manner, and the service has the same consequences, as in section 5.04 of this title.

(c) A corporation that domesticates in a foreign jurisdiction shall deliver to the Secretary of State for filing a statement surrendering the corporation's certificate of organization that includes:

(1) the name of the corporation;

(2) a statement that the articles of incorporation are surrendered in connection with the domestication of the company in a foreign jurisdiction;

(3) a statement that the corporation approved the domestication as required by this title; and

(4) the name of the relevant foreign jurisdiction.

§ 11.17. RESTRICTION ON APPROVAL OF CONVERSION, MERGER,  
AND DOMESTICATION

(a) An approval or amendment of a plan of conversion, plan of merger, or plan of domestication under this chapter is ineffective without the approval of

each interest holder of a surviving constituent who will have personal liability for a debt, obligation, or other liability of the organization, unless:

(1) a provision of the organization's organizational documents provides in a record that some or all of its interest holders may be subject to personal liability by a vote or consent of fewer than all of the interest holders; and

(2)(A) the interest holder voted for or consented in a record to the provision referenced in subdivision (1) of this subsection; or

(B) the interest holder became an interest holder after the organization adopted the provision referenced in subdivision (1) of this subsection.

(b) An interest holder does not provide consent as required in subdivision (a)(2)(A) of this section merely by consenting to a provision of the organizational documents that permits the organization to amend the organizational documents with the approval of fewer than all of the interest holders.

§ 11.18. CHAPTER NOT EXCLUSIVE

(a) This chapter does not preclude an organization from being converted, merged, or domesticated under law other than this title.

(b) This chapter does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through means other than those included in this chapter.

Sec. E.2. 11A V.S.A. § 13.02 is amended to read:

§ 13.02. RIGHT TO DISSENT

(a) A shareholder is entitled to dissent from, and obtain payment of the fair value of his or her shares in the event of, any of the following corporate actions:

(1) Merger. Consummation of a plan of merger to which the corporation is a party;

(A) if shareholder approval is required for the merger by section ~~11.03~~ 11.10 of this title or the articles of incorporation and the shareholder is entitled to vote on the merger; or

(B) if the corporation is a subsidiary that is merged with its parent under section ~~11.04~~ 11.08 of this title;

(2) Share exchange. Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;

(3) Conversion. Consummation of a plan of conversion pursuant to section 11.03 of this title to which the corporation is a party unless the shareholders of the corporation will have the same dissenters' rights after conversion to the converted organization as they hold before conversion.

(4) Domestication. Consummation of a plan of domestication pursuant to section 11.14 of this title to which the corporation is a party unless the shareholders of the corporation will have the same dissenters' rights after

domestication to the domesticated organization as they hold before  
domestication.

(5) Sale of assets. Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale;

~~(4)~~(6) Amendment to articles. An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

(A) alters or abolishes a preferential right of the shares;

(B) creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;

(C) alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities;

(D) excludes or limits the right of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

(E) reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under section 6.04 of this title; ~~or.~~

~~(5)~~(7) Market exception. Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(b) A shareholder entitled to dissent and obtain payment for his or her shares under this chapter may not challenge the corporate action creating his or her entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Sec. E.3. 11 V.S.A. chapter 25 is amended to read:

#### CHAPTER 25. LIMITED LIABILITY COMPANIES

\* \* \*

#### § 4003. EFFECT OF OPERATING AGREEMENT; NONWAIVABLE PROVISIONS

(a) Except as otherwise provided in subsection (b) of this section, an operating agreement regulates the affairs of the company and the conduct of its business and governs relations among the members, among the managers, and among the members, managers, and the limited liability company. To the extent the operating agreement does not otherwise provide, this chapter regulates the affairs of the company, the conduct of its business, and governs



relations among the members, among the managers, and among members, managers, and the limited liability company.

(b) An operating agreement may not:

(1) vary a limited liability company's capacity under subsection 4011(e) of this title to sue and be sued in its own name;

(2) except as provided in subchapter 8 of this chapter, vary the law applicable under subsection 4011(g) of this title;

(3) vary the power of the court under section 4030 of this title;

(4) subject to subsections (c) through (f) of this section, eliminate or restrict the duty of loyalty, the duty of care, or any other fiduciary duty;

(5) subject to subsections (c) through (f) of this section, eliminate or restrict the contractual obligation of good faith and fair dealing under subsection 4059(d) of this title;

(6) unreasonably restrict the duties and rights with respect to books, records, and other information stated in section 4058 of this title, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(7) vary the power of a court to decree dissolution in the circumstances specified in subdivision 4101(a)(4) of this title;

(8) vary the requirement to wind up a limited liability company's business as specified in section ~~4102~~ 4101 of this title;

\* \* \*

§ 4141. DEFINITIONS

~~As used in~~ As used in this subchapter:

\* \* \*

(3) "Conversion" means a transaction authorized by sections ~~by~~ 4142 through 4147 of this title.

\* \* \*

(13) "Limited partnership" means a limited partnership created under chapter ~~4~~ 23 of this title, a predecessor law, or comparable law of another jurisdiction.

\* \* \*

(17) "Partnership" means a general partnership under chapter ~~9~~ 22 of this title, a predecessor law, or comparable law of another jurisdiction.

\* \* \*

(21) "Protected agreement" means:

(A) ~~a record~~ an instrument or agreement evidencing indebtedness ~~and any related agreement of an organization in effect on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier;

(B) an agreement that is binding on an organization ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier;

(C) the organizational documents of an organization in effect ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier; or

(D) an agreement that is binding on any of the ~~governors~~ directors, officers, general partners, managers, or interest holders of an organization ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier.

\* \* \*

#### § 4142. CONVERSION AUTHORIZED

(a) By complying with sections ~~4142~~ 4143 through 4146 of this title, a domestic limited liability company may become a domestic organization that is a different type of organization.

(b) By complying with sections 4143 through 4146 of this title, a domestic limited liability company may convert into a different type of foreign organization if the conversion is authorized by the foreign statute that governs the organization after conversion and the converting organization complies with the statute.

(c) By complying with sections ~~4142~~ 4143 through 4146 of this title, a domestic ~~partnership or limited partnership~~ organization may become a domestic limited liability company.

~~(e)~~(d) By complying with sections ~~4142~~ 4143 through 4146 of this title applicable to foreign organizations, a foreign organization that is not a foreign limited liability company may become a domestic limited liability company if the conversion is authorized by the law of the foreign organization's jurisdiction of formation.

~~(d)~~(e) If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a conversion, the provision applies to a conversion of the company as if the conversion were a merger until the provision is amended ~~after the effective date set forth in section 4171 of this title~~ after July 1, 2016, or after the date the organization elects to become subject to this chapter, whichever is earlier.

\* \* \*

§ 4149. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED  
LIABILITY COMPANY

(a) Subject to section 4156 of this title, a plan of merger shall be approved in accordance with the organizational documents of the constituent limited liability company, or, in the absence of a provision governing approval of ~~conversions~~ a merger, by all the members of the limited liability company entitled to vote on or consent to any matter.

(b) Subject to section 4156 of this title and any contractual rights, after a merger is approved, and at any time before the articles of merger are delivered to the Secretary of State for filing under section 4150 of this title, a constituent limited liability company may amend the plan or abandon the merger:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

\* \* \*

Sec. E.4. 11 V.S.A. § 1623 is amended to read:

§ 1623. REGISTRATION BY ~~CORPORATIONS AND LIMITED~~

~~LIABILITY COMPANIES~~ BUSINESS ORGANIZATIONS

(a) A ~~corporation or limited liability company~~ business organization doing business in this State under any name other than that of the ~~corporation or limited liability company~~ business organization shall be subject to all the provisions of this chapter; and shall file returns sworn to by some officer or ~~member~~ director of ~~such the corporation or mutual benefit enterprise,~~ or by some member or manager of ~~such the~~ limited liability company, or by some partner of the partnership or limited partnership, setting forth:

(1) the name and location of the principal office of the business organization;

(2) the name other than the corporation or limited liability company name under which such the organization will conduct business is carried on;

(3) the name of the town wherein such business is to be carried on, or towns where the organization conducts business under the name; and

(4) a brief description of the kind of business transacted under such name, and the corporate or the limited liability company name and location of the principal office of such corporation or limited liability company the organization conducts under the name.

\* \* \*

\* \* \* Vermont State Treasurer; Public Retirement Plan \* \* \*

Sec. F.1. INTERIM STUDY ON THE FEASIBILITY OF ESTABLISHING  
A PUBLIC RETIREMENT PLAN

(a) Creation of Committee.

(1) There is created a Public Retirement Plan Study Committee to evaluate the feasibility of establishing a public retirement plan.

(2) It is the intent of the General Assembly that the Committee continue the work of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016.

(b) Membership.

(1) The Public Retirement Plan Study Committee shall be composed of eight members as follows:

(A) the State Treasurer or designee;

(B) the Commissioner of Labor or designee;

(C) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(D) an individual with private sector experience in the area of providing retirement products and financial services to small businesses, to be appointed by the Speaker;

(E) an individual with experience or expertise in the area of the financial needs of an aging population, to be appointed by the Committee on Committees;

(F) an individual with experience or expertise in the area of the financial needs of Vermont youth or young working adults, to be appointed by the Treasurer;

(G) a representative of employers, to be appointed by the Speaker; and

(H) a representative of employees who currently lack access to employer-sponsored retirement plans, to be appointed by the Committee on Committees.

(2) Unless another appointee is specified pursuant to the authority granted under subdivision (1) of this subsection, the members of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016, shall serve as the members of the Committee created pursuant to this section.

(c) Powers and duties.

(1)(A) The Committee shall study the feasibility of establishing a public retirement plan, including the following:

(i) the access Vermont residents currently have to employer-sponsored retirement plans and the types of employer-sponsored retirement plans;

(ii) data and estimates on the amount of savings and resources Vermont residents will need for a financially secure retirement;

(iii) data and estimates on the actual amount of savings and resources Vermont residents will have for retirement, and whether those savings and resources will be sufficient for a financially secure retirement;

(iv) current incentives to encourage retirement savings, and the effectiveness of those incentives;

(v) whether other states have created a public retirement plan and the experience of those states;

(vi) whether there is a need for a public retirement plan in Vermont;

(vii) whether a public retirement plan would be feasible and effective in providing for a financially secure retirement for Vermont residents;

(viii) other programs or incentives the State could pursue in combination with a public retirement plan, or instead of such a plan, in order to encourage residents to save and prepare for retirement; and



(B) if the Committee determines that a public retirement plan is necessary, feasible, and effective, the Committee shall study:

(i) potential models for the structure, management, organization, administration, and funding of such a plan;

(ii) how to ensure that the plan is available to private sector employees who are not covered by an alternative retirement plan;

(iii) how to build enrollment to a level where enrollee costs can be lowered;

(iv) whether such a plan should impose any obligation or liability upon private sector employers; and

(v) any other issue the Committee deems relevant.

(2) The Committee shall:

(A) continue monitoring U.S. Department of Labor guidance concerning State Savings Programs for Non-Governmental Employees regarding ERISA rules and other pertinent areas of analysis;

(B) further analyze the relationship between the role of states and the federal government; and

(C) continue its collaboration with educational institutions, other states, and national stakeholders.

(3) The Committee shall have the assistance of the staff of the Office of the Treasurer, the Department of Labor, and the Department of Disabilities, Aging, and Independent Living.

(d) Report. On or before January 15, 2018, the Committee shall report to the General Assembly its findings and any recommendations for legislative action. In its report, the Committee shall state its findings as to every factor set forth in subdivision (c)(1)(A) of this section, whether it recommends that a public retirement plan be created, and the reasons for that recommendation. If the Committee recommends that a public retirement plan be created, the Committee's report shall include specific recommendations as to the factors listed in subdivision (c)(1)(B) of this section.

(e) Meetings; term of Committee; Chair. The Committee may meet as frequently as necessary to perform its work and shall cease to exist on January 15, 2018. The State Treasurer shall serve as Chair of the Committee and shall call the first meeting.

(f) Reimbursement. For attendance at meetings, members of the Committee who are not employees of the State of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

\* \* \* Vermont State Treasurer; ABLE Savings Program \* \* \*

Sec. F.2. 33 V.S.A. § 8001 is amended to read:

§ 8001. PROGRAM ESTABLISHED

\* \* \*

(c) The Treasurer or designee shall have the authority to implement the Program in cooperation with one or more states or other partners in the manner

he or she determines is in the best interests of the State and designated beneficiaries.

(d) The Treasurer or designee shall have the authority to adopt rules, policies, and procedures necessary to implement the provisions of this chapter and comply with applicable federal law.

Sec. F.3. 2015 Acts and Resolves No. 51, Sec. C.8 is amended to read:

Sec. C.8. VERMONT ABLE TASK FORCE; REPORTS

~~The~~ Until the State Treasurer or designee implements the ABLE Savings Program pursuant to 33 V.S.A. chapter 80, the Treasurer shall convene a Vermont ABLE Task Force to include representatives of the Department of Disabilities, Aging- and Independent Living, the Vermont Developmental Disabilities Council, Vermont Center for Independent Living; Green Mountain Self-Advocates, and other stakeholders with relevant expertise, to provide recommendations annually beginning on or before January 15, 2016 to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on planning and delivery of the ABLE Savings Program, including:

- (1) promotion and marketing of the Program;
- (2) rules governing operation of ABLE accounts, including mechanisms for consumer convenience;
- (3) fees charged to account owners;

(4) future enhancements to protect from the loss of State benefits as may be necessary to fulfill the intent of the ABLE Act;

(5) the composition and charge of an ABLE Advisory Board; and

(6) a progress update on implementation of the Program consistent with U.S. Treasury Department Rules, the Internal Revenue Code, and the federal ABLE Act (P.L. 113-295 of 2014).

\* \* \* Vermont State Treasurer;

Private Activity Bond Advisory Committee \* \* \*

Sec. F.4. PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

Notwithstanding any provision of 32 V.S.A. § 994 to the contrary, the Private Activity Bond Advisory Committee shall not meet or perform its statutory duties except upon call of the Vermont State Treasurer in his or her discretion.

\* \* \* Vermont State Treasurer;

Vermont Community Loan Fund \* \* \*

Sec. F.5. REPEAL

2014 Acts and Resolves No. 179, Sec. E.131(a) (Treasurer authority to invest in Vermont Community Loan Fund) is repealed.

Sec. F.6. 10 V.S.A. § 9 is added to read:

§ 9. INVESTMENT IN VERMONT COMMUNITY LOAN FUND

Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the State Treasurer is authorized to invest up to \$1,000,000.00 of short-term

operating or restricted funds in the Vermont Community Loan Fund on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c).

\* \* \* Vermont State Treasurer; Treasurer’s Local Investment

Advisory Committee \* \* \*

Sec. F.7. REPEAL

2014 Acts and Resolves No. 199, Secs. 23–25 (Treasurer’s Local Investment Advisory Committee, Report, and Sunset) are repealed.

Sec. F.8. REPEAL

2015 Acts and Resolves No. 51, Sec. E.3 (extending sunset of Local Investment Advisory Committee provisions) is repealed.

Sec. F.9. 10 V.S.A. §§ 10–11 are added to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR

LOCAL INVESTMENTS

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State’s average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities.

§ 11. TREASURER'S LOCAL INVESTMENT ADVISORY COMMITTEE

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee is established to advise the Treasurer on funding priorities and address other mechanisms to increase local investment.

(b) Membership.

(1) The Advisory Committee shall be composed of six members as follows:

(A) the State Treasurer or designee;

(B) the Chief Executive Officer of the Vermont Economic Development Authority or designee;

(C) the Chief Executive Officer of the Vermont Student Assistance Corporation or designee;

(D) the Executive Director of the Vermont Housing Finance Agency or designee;

(E) the Director of the Municipal Bond Bank or designee; and

(F) the Director of Efficiency Vermont or designee.

(2) The State Treasurer shall be the Chair of the Advisory Committee and shall appoint a vice chair and secretary. The appointed members of the

Advisory Committee shall be appointed for terms of six years and shall serve until their successors are appointed and qualified.

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

(1) meet regularly to review and make recommendations to the State Treasurer on funding priorities and using other mechanisms to increase local investment in the State of Vermont;

(2) invite regularly State organizations, citizens' groups, and members of the public to Advisory Committee meetings to present information on needs for local investment, capital gaps, and proposals for financing; and

(3) consult with constituents and review feedback on changes and needs in the local and State investment and financing environments.

(d) Meetings.

(1) Meetings of the Advisory Committee shall occur at the call of the Treasurer.

(2) A majority of the members of the Advisory Committee who are physically present at the same location or available electronically shall constitute a quorum, and a member may participate and vote electronically.

(3) To be effective, action of the Advisory Committee shall be taken by majority vote of the members at a meeting in which a quorum is present.

(e) Report. On or before January 15, the Advisory Committee annually shall submit a report to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, on Finance, and on

Government Operations and the House Committees on Appropriations, on Commerce and Economic Development, on Ways and Means, and on Government Operations. The report shall include the following:

(1) the amount of the subsidies associated with lending through each credit facility authorized by the General Assembly and established by the Treasurer;

(2) a description of the Advisory Committee's activities; and

(3) any information gathered by the Advisory Committee on the State's unmet capital needs, and other opportunities for State support for local investment and the community.

\* \* \* Medicaid for Working People with Disabilities \* \* \*

Sec. G.1. 33 V.S.A. § 1902 is amended to read:

§ 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

(a) In determining whether a person is medically indigent, the Secretary of Human Services shall prescribe and use an income standard and requirements for eligibility which will permit the receipt of federal matching funds under Title XIX of the Social Security Act.

(b) Workers with disabilities whose income is less than 250 percent of the federal poverty level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected income level for one or the Supplemental Security Income (SSI) payment level for two, whichever is higher, after disregarding all earnings of the working individual with disabilities, any Social



Security disability insurance benefits, and any veteran's disability benefits. Earnings of the working individual with disabilities shall be documented by evidence of Federal Insurance Contributions Act tax payments, Self-Employment Contributions Act tax payments, or a written business plan approved and supported by a third-party investor or funding source. The resource limit for this program shall be ~~\$5,000.00~~ \$10,000.00 for an individual and ~~\$6,000.00~~ \$15,000.00 for a couple at the time of enrollment in the program. Assets attributable to earnings made after enrollment in the program shall be disregarded.

\* \* \* Vermont Employment Growth Incentive \* \* \*

Sec. H.1. 32 V.S.A. chapter 105 is added to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE  
PROGRAM

Subchapter 1. Vermont Economic Progress Council

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

(a) Creation. The Vermont Economic Progress Council is created to exercise the authority and perform the duties assigned to it, including its authority and duties relating to:

(1) the Vermont Employment Growth Incentive Program pursuant to subchapter 2 of this chapter; and

(2) tax increment financing districts pursuant to 24 V.S.A. chapter 53, subchapter 5 and section 5404a of this title.

(b) Membership.

(1) The Council shall have 11 voting members:

(A) nine residents of the State appointed by the Governor with the advice and consent of the Senate who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, State fiscal affairs, property taxation, or entrepreneurial ventures and represent diverse geographical areas of the State and municipalities of various sizes;

(B) one member of the Vermont House of Representatives appointed by the Speaker of the House; and

(C) one member of the Vermont Senate appointed by the Senate Committee on Committees.

(2)(A) The Council shall have two regional members from each region of the State, one appointed by the regional development corporation of the region and one appointed by the regional planning commission of the region.

(B) A regional member shall be a nonvoting member and shall serve during consideration by the Council of an application from his or her region.

(c) Terms.

(1) Members of the Council appointed by the Governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms.

(2) After the initial term expires, a member's term is four years and a member may be reappointed.

(3) A term commences on April 1 of each odd-numbered year.

(d) Compensation.

(1) For attendance at a meeting and for other official duties, a member appointed by the Governor shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that a member who is a member of the General Assembly shall be entitled to compensation for services and reimbursement of expenses as provided in 2 V.S.A. § 406.

(2) A regional member who does not otherwise receive compensation and reimbursement of expenses from his or her regional development or planning organization shall be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

(e) Operation.

(1) The Governor shall appoint a chair from the Council's members.

(2) The Council shall receive administrative support from the Agency of Commerce and Community Development and the Department of Taxes.

(3) The Council shall have:

(A) an executive director appointed by the Governor with the advice and consent of the Senate who is knowledgeable in subject areas of the Council's jurisdiction and who is an exempt State employee; and

(B) administrative staff.

(f) Rulemaking authority. The Council shall have the authority to adopt policies and procedures as necessary, and to adopt rules under 3 V.S.A. chapter 25, to implement the provisions of this chapter.

(g) Decisions not subject to review. A decision of the Council to approve or deny an application under subchapter 2 of this chapter, or to approve or deny a tax increment financing district pursuant to 24 V.S.A. chapter 53, subchapter 5 and section 5404a of this title, is an administrative decision that is not subject to the contested case hearing requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

§ 3326. COST-BENEFIT MODEL

(a) The Council shall adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities.

(b) The Council shall not modify the cost-benefit model without the prior approval of the Joint Fiscal Committee.

Subchapter 2. Vermont Employment Growth Incentive Program

§ 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;

ELIGIBLE APPLICANT

(a) Purpose. The purpose of the Vermont Employment Growth Incentive Program is to generate net new revenue to the State by encouraging a business to add new payroll, create new jobs, and make new capital investments and sharing a portion of the revenue with the business.

(b) Form of incentives; enhanced incentives.

(1) The Vermont Economic Progress Council may approve an incentive under this subchapter in the form of a direct cash payment in annual installments.

(2) The Council may approve the following enhanced incentives:

(A) an enhanced incentive for a business in a labor market area with higher than average unemployment or lower than average wages pursuant to section 3334 of this title;

(B) an enhanced incentive for an environmental technology business pursuant to section 3335 of this title; and

(C) an enhanced incentive for a business that participates in a State workforce training program pursuant to section 3336 of this title.

(c) Eligible applicant. Only a business may apply for an incentive pursuant to this subchapter.

§ 3331. DEFINITIONS

As used in this subchapter:

(1) “Award period” means the consecutive five years during which a business may apply for an incentive under this subchapter.

(2) “Base employment” means the number of full-time Vermont jobs held by non-owner employees as of the date a business with an approved application commences its proposed economic activity.

(3) “Base payroll” means the Vermont gross salaries and wages paid as compensation to full-time Vermont jobs held by non-owner employees as of the date a business with an approved application commences its proposed economic activity.

(4) “Capital investment performance requirement” means the minimum value of additional investment in one or more capital improvements.

(5) “Jobs performance requirement” means the minimum number of qualifying jobs a business must add.

(6) “Labor market area” means a labor market area as designated by the Vermont Department of Labor.

(7) “Non-owner” means a person with no more than 10 percent ownership interest, including attribution of ownership interests of the person’s spouse, parents, spouse’s parents, siblings, and children.

(8) “Payroll performance requirement” means the minimum value of Vermont gross salaries and wages a business must pay as compensation for one or more qualifying jobs.

(9) “Qualifying job” means a new, permanent position in Vermont that meets each of the following criteria:

(A) The position is filled by a non-owner employee who regularly works at least 35 hours each week.

(B) The business provides compensation for the position that equals or exceeds the wage threshold.

(C) The business provides for the position at least three of the following:

(i) health care benefits with 50 percent or more of the premium paid by the business;

(ii) dental assistance;

(iii) paid vacation;

(iv) paid holidays;

(v) child care;

(vi) other extraordinary employee benefits;

(vii) retirement benefits;

(viii) other paid time off, excluding paid sick days.

(D) The position is not an existing position that the business transfers from another facility within the State.

(E) When the position is added to base employment, the business's total employment exceeds its average annual employment during the two preceding years, unless the Council determines that the business is establishing a significantly different, new line of business and creating new jobs in the new line of business that were not part of the business prior to filing its application.

(10) "Utilization period" means each year of the award period and the four years immediately following each year of the award period.

(11) "Vermont gross wages and salaries" means Medicare wages as reported on Federal Tax Form W-2 to the extent those wages are Vermont wages, excluding income from nonstatutory stock options.

(12) "Wage threshold" means the minimum amount of annualized Vermont gross wages and salaries a business must pay for a qualifying job, as required by the Council in its discretion, but not less than:

(A) 60 percent above the State minimum wage at the time of application; or

(B) for a business located in a labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State, 40 percent above the State minimum wage at the time of application.

#### § 3332. APPLICATION; APPROVAL CRITERIA

(a) Application.



(1) A business may apply for an incentive in one or more years of an award period by submitting an application to the Council in the format the Council specifies for that purpose.

(2) For each award year the business applies for an incentive, the business shall:

(A) specify a payroll performance requirement;

(B) specify a jobs performance requirement or a capital investment performance requirement, or both; and

(C) provide any other information the Council requires to evaluate the application under this subchapter.

(b) Mandatory criteria. The Council shall not approve an application unless it finds:

(1) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, the new revenue the proposed activity generates to the State exceeds the costs of the activity to the State.

(2) The host municipality welcomes the new business.

(3) The proposed economic activity conforms to applicable town and regional plans.

(4) If the business proposes to expand within a limited local market, an incentive would not give the business an unfair competitive advantage over

other Vermont businesses in the same or similar line of business and in the same limited local market.

(5) But for the incentive, the proposed economic activity:

(A) would not occur; or

(B) would occur in a significantly different manner that is significantly less desirable to the State.

### § 3333. CALCULATING THE VALUE OF AN INCENTIVE

Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, an enhanced incentive for an environmental technology business under section 3335 of this title, or an enhanced incentive for workforce training under section 3336 of this title, the Council shall calculate the value of an incentive for an award year as follows:

(1) Calculate new revenue growth. To calculate new revenue growth, the Council shall use the cost-benefit model created pursuant to section 3326 of this title to determine the amount by which the new revenue generated by the proposed economic activity to the State exceeds the costs of the activity to the State.

(2) Calculate the business's potential share of new revenue growth. Except as otherwise provided for an environmental technology business in section 3335 of this title, to calculate the business's potential share of new

revenue growth, the Council shall multiply the new revenue growth determined under subdivision (1) of this subsection by 80 percent.

(3) Calculate the incentive percentage. To calculate the incentive percentage, the Council shall divide the business's potential share of new revenue growth by the sum of the business's annual payroll performance requirements.

(4) Calculate qualifying payroll. To calculate qualifying payroll, the Council shall subtract from the payroll performance requirement the projected value of background growth in payroll for the proposed economic activity.

(5) Calculate the value of the incentive. To calculate the value of the incentive, the Council shall multiply qualifying payroll by the incentive percentage.

(6) Calculate the amount of the annual installment payments. To calculate the amount of the annual installment payments, the Council shall:

(A) divide the value of the incentive by five; and

(B) adjust the value of the first installment payment so that it is proportional to the actual number of days that new qualifying employees are employed in the first year of hire.

§ 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING  
LABOR MARKET AREA

(a) The Council may increase the value of an incentive for a business that is located in a labor market area in which:

(1) the average annual unemployment rate is greater than the average annual unemployment rate for the State; or

(2) the average annual wage is less than the average annual wage for the State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

(1) \$1,500,000.00 for one or more initial approvals; and

(2) \$1,000,000.00 for one or more final approvals.

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than \$500,000.00 upon application by the Governor to, and approval of, the Joint Fiscal Committee.

(d) In evaluating the Governor's request, the Committee shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(e) The Council shall provide the Committee with testimony, documentation, company-specific data, and any other information the Committee requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL  
TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

(1) is subject to income taxation in Vermont; and

(2) seeks an incentive for economic activity in Vermont that the Secretary of Commerce and Community Development certifies is primarily research, design, engineering, development, or manufacturing related to one or more of the following:

(A) waste management, including waste collection, treatment, disposal, reduction, recycling, and remediation;

(B) natural resource protection and management, including water and wastewater purification and treatment, air pollution control and prevention or remediation, soil and groundwater protection or remediation, and hazardous waste control or remediation;

(C) energy efficiency or conservation;

(D) clean energy, including solar, wind, wave, hydro, geothermal, hydrogen, fuel cells, waste-to-energy, or biomass.

(b) The Council shall consider and administer an application from an environmental technology business pursuant to the provisions of this subchapter, except that:

(1) the business's potential share of new revenue growth shall be 90 percent; and

(2) to calculate qualifying payroll, the Council shall:

(A) determine the background growth rate in payroll for the applicable business sector in the award year;

(B) multiply the business's full-time payroll for the award year by 20 percent of the background growth rate; and

(C) subtract the product from the payroll performance requirement for the award year.

§ 3336. ENHANCED INCENTIVE FOR WORKFORCE TRAINING

(a) A business whose application is approved may elect to claim the incentive specified for an award year as an enhanced training incentive by:

(1) notifying the Council of its intent to pursue an enhanced training incentive and dedicate its incentive funds to training through the Vermont Training Program; and

(2) applying for a grant from the Vermont Training Program to perform training for one or more new employees who hold qualifying jobs.

(b) If a business is awarded a grant for training under this section, the Agency of Commerce and Community Development shall disburse grant funds for on-the-job training of 75 percent of wages for each employee in training or 75 percent of trainer expense, and the business shall be responsible for the remaining 25 percent of the applicable training costs.

(c) A business that successfully completes its training shall submit a written certificate of completion to the Agency of Commerce and Community Development which shall notify the Department of Taxes.

(d) Upon notification by the Agency, and if the Department determines that the business has earned the incentive for the award year, it shall:

(1) disburse to the business a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subsection (b) of this section;

(2) disburse to the Agency of Commerce and Community Development a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subsection (b) of this section; and

(3) disburse the remaining value of the incentive in annual installments pursuant to section 3337 of this title.

§ 3337. EARNING AN INCENTIVE

(a) Earning an incentive; installment payments.

(1) A business with an approved application earns the incentive specified for an award year if, within the applicable time period provided in this section, the business:

(A) maintains or exceeds its base payroll and base employment;

(B) meets or exceeds the payroll performance requirement specified for the award year; and

(C) meets or exceeds the jobs performance requirement specified for the award year, or the capital investment performance requirement specified for the award year, or both.

(2) A business that earns an incentive specified for an award year is eligible to receive an installment payment for the year in which it earns the incentive and for each of the next four years in which the business:

(A) maintains or exceeds its base payroll and base employment;

(B) maintains or exceeds the payroll performance requirement specified for the award year; and

(C) if the business earns an incentive by meeting or exceeding the jobs performance target specified for the award year, maintains or exceeds the jobs performance requirement specified for the award year.

(b) Award year one.

(1) For award year one, a business has from the date it commences its proposed economic activity through December 31 of that year, plus two additional years, to meet the performance requirements specified for award year one.

(2) A business that does not meet the performance requirements specified for award year one within this period becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(c) Award years two and three.

(1) For award year two and award year three, beginning on January 1 of the award year, a business has three years to meet the performance requirements specified for the award year.



(2) A business that does not meet the performance requirements specified for award year two or for award year three within three years becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(d) Extending the earning period in award years one and two.

Notwithstanding subsection (b) of this section:

(1) Upon request, the Council may extend the period to earn an incentive for award year one or award year two if it determines:

(A) a business did not earn the incentive for the award year due to facts or circumstances beyond its control; and

(B) there is a reasonable likelihood the business will earn the incentive within the extended period.

(2) The Council may extend the period to earn an incentive:

(A) for award year one, by two years, reviewed annually; or

(B) for award year two, by one year.

(3) If the Council extends the period to earn an incentive, it shall recalculate the value of the incentive using the cost-benefit model and shall adjust the amount of the incentive as is necessary to account for the extension.

(e) Award year four.

(1) Beginning on January 1 of award year four, a business that remains eligible to earn incentives has two years to meet the performance requirements specified for award year four.

(2) A business that does not meet the performance requirements specified for award year four within two years becomes ineligible to earn incentives for award year four and award year five.

(f) Award year five.

(1) Beginning on January 1 of award year five, a business that remains eligible to earn incentives has one year to meet the performance requirements specified for award year five.

(2) A business that does not meet the performance requirements specified for award year five by the end of that award year becomes ineligible to earn the incentive specified for that award year.

(g) Carrying forward growth that exceeds targets. If a business exceeds one or more of the payroll performance requirement, the jobs performance requirement, or the capital investment performance requirement specified for an award year, the business may apply the excess payroll, excess jobs, and excess capital investment toward the performance requirement specified for a future award year, provided that the business maintains the excess payroll, excess jobs, or excess capital investment into the future award year.

§ 3338. CLAIMING AN INCENTIVE; ANNUAL FILING WITH

DEPARTMENT OF TAXES

(a) On or before April 30 following each year of the utilization period, a business with an approved application shall submit an incentive claim to the Department of Taxes.

(b) A business shall include the information the Department requires, including the information required in section 5842 of this title and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment for which the business is eligible.

(c) The Department may consider an incomplete claim to be timely filed if the business files a complete claim within the additional time allowed by the Department in its discretion.

(d) Upon finalizing its review of a complete claim, the Department shall:

(1) notify the business and the Council whether the business is entitled to an installment payment for the applicable year; and

(2) make an installment payment to which the business is entitled.

(e) The Department shall not pay interest on any amounts it holds or pays for an incentive or installment payment pursuant to this subchapter.

#### § 3339. RECAPTURE; REDUCTION; REPAYMENT

(a) Recapture.

(1) The Department of Taxes may recapture the value of one or more installment payments a business has claimed, with interest, if:

(A) the business fails to file a claim as required in section 3338 of this title; or

(B) during the utilization period, the business experiences:

(i) a 90 percent or greater reduction from base employment; or

(ii) if it had no jobs at the time of application, a 90 percent or greater reduction from the sum of its job performance requirements.

(2) If the Department determines that a business is subject to recapture under subdivision (1) of this subsection, the business becomes ineligible to earn or claim an additional incentive or installment payment for the remainder of the utilization period.

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of this subsection as follows:

(A) under subdivision (1)(A) of this subsection, no later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, no later than three years from date the business experiences the reduction from base employment, or three years from the last day of the utilization period, whichever occurs first.

(b) Reduction; recapture. If a business fails to make capital investments that equal or exceed the sum of its capital investment performance requirements by the end of the award period:

(1) The Department shall:

(A) calculate a reduced incentive by multiplying the combined value of the business's award period incentives by the same proportion that the business's total actual capital investments bear to the sum of its capital investment performance requirements; and

(B) reduce the value of any remaining installment payments for which the business is eligible by the same proportion.

(2) If the value of the installment payments the business has already received exceeds the value of the reduced incentive, then:

(A) the business becomes ineligible to claim any additional installment payments for the award period; and

(B) the Department shall recapture the amount by which the value of the installment payments the business has already received exceeds the value of the reduced incentive.

(c) Tax liability.

(1) A person who has the duty and authority to remit taxes under this title shall be personally liable for an installment payment that is subject to recapture under this section.

(2) For purposes of this section, the Department of Taxes may use any enforcement or collection action available for taxes owed pursuant to chapter 151 of this title.

#### § 3340. REPORTING

(a) On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic

Development, Housing and General Affairs, and on Appropriations, and to the  
Joint Fiscal Committee.

(b) The Council and the Department shall include in the joint report:

(1) the total amount of incentives authorized during the preceding year;

(2) with respect to each business with an approved application:

(A) the date and amount of authorization;

(B) the calendar year or years in which the authorization is expected  
to be exercised;

(C) whether the authorization is active; and

(D) the date the authorization will expire; and

(3) the following aggregate information:

(A) the number of claims and incentive payments made in the current  
and prior claim years;

(B) the number of qualifying jobs; and

(C) the amount of new payroll and capital investment.

(c) The Council and the Department shall present data and information in  
the joint report in a searchable format.

(d) Notwithstanding any provision of law to the contrary, an incentive  
awarded pursuant to this subchapter shall be treated as a tax expenditure for  
purposes of chapter 5 of this title.

§ 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS

INFORMATION

(a) The Vermont Economic Progress Council and the Department of Taxes shall use measures to protect proprietary financial information, including reporting information in an aggregate form.

(b) Information and materials submitted by a business concerning its income taxes and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly, and shall also be available to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any proprietary business information or any information that would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(c) Nothing in this section shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

§ 3342. ANNUAL PROGRAM CAP

(a) In each calendar year the Vermont Economic Progress Council may approve one or more incentives under this subchapter, the total value of which shall not exceed:

- (1) \$15,000,000.00 for one or more initial approvals; and
- (2) \$10,000,000.00 for one or more final approvals.

(b) The Council may increase the cap imposed in subdivision (a)(2) of this section by not more than \$5,000,000.00 upon application by the Governor to, and approval of, the Joint Fiscal Committee.

(c) In evaluating the Governor's request, the Committee shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(d) The Council shall provide the Committee with testimony, documentation, company-specific data, and any other information the Committee requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

Sec. H.2. 10 V.S.A. § 531(d)(2) is amended to read:

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that, except for an award under an enhanced ~~training~~ incentive for workforce training as provided in ~~32 V.S.A. § 5930b(h)~~ 32 V.S.A. § 3336, a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in



training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

Sec. H.3. 21 V.S.A. § 1314(e)(1) is amended to read:

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of ~~32 V.S.A. chapter 151, subchapter 11E~~ 32 V.S.A. chapter 105, subchapter 2; but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

\* \* \*

Sec. H.4. 32 V.S.A. § 3102(e)(11) is amended to read:

(11) To the Joint Fiscal Office or its agent, provided that the disclosure relates to a successful business applicant under ~~section 5930a~~ chapter 105, subchapter 2 of this title and the ~~tax~~ incentive it has claimed and is reasonably necessary for the Joint Fiscal Office or its agent to perform the duties authorized by the Joint Fiscal Committee or a standing committee of the General Assembly under ~~subsection 5930a(h)~~ that subchapter; to the Auditor of Accounts for the performance of duties under section 163 of this title; to the Department of Economic Development for the purposes of subsection 5922(f) of this title; and to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under ~~sections 5930a and 5930b~~ chapter 105, subchapter 2 of this title and the ~~tax~~ incentive it has claimed and is reasonably necessary for the ~~council~~ Council to perform its duties under ~~sections 5930a and 5930b~~ that subchapter.

Sec. H.5. 32 V.S.A. § 5401(10) is amended to read:

(10) “Nonresidential property” means all property except:

\* \* \*

(H) ~~Real property, excluding land, consisting of unoccupied new facilities, or unoccupied facilities under renovation or expansion, owned by a business that has obtained the approval of the Vermont Economic Progress Council under section 5930a of this title that is less than 75 percent complete,~~

~~not in use as of April 1 of the applicable tax year, and for a period not to exceed two years. [Repealed.]~~

~~(I) Real property consisting of the value of remediation expenditures incurred by a business that has obtained the approval of the Vermont Economic Progress Council under section 5930a of this title for the construction of new, expanded or renovated facilities on contaminated property eligible under the redevelopment of contaminated properties program pursuant to 10 V.S.A. § 6615a(f), including supporting infrastructure, on sites eligible for the United States Environmental Protection Agency “Brownfield Program,” for a period of 10 years. [Repealed.]~~

\* \* \*

Sec. H.6. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT  
FINANCING DISTRICTS

(a) Tax agreements and exemptions affecting the education property tax grand list. A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

(1) A prior agreement, meaning that it was:

(A) a tax stabilization agreement for any purpose authorized under 24 V.S.A. § 2741 or comparable municipal charter provisions entered into or proposed and voted by the municipality before July 1, 1997, or a property tax

exemption adopted by vote pursuant to chapter 125 of this title or comparable municipal charter provisions before July 1, 1997; or

(B) an agreement relating to property sold or transferred by the New England Power Company of its Connecticut River system and its facilities along the Deerfield River which was warned before September 1, 1997.

(2) A tax stabilization agreement relating to industrial or commercial property entered into under 24 V.S.A. § 2741, or comparable municipal charter provisions ~~or an exemption for the purposes of economic development adopted by vote under sections 3834 (factories; quarries; mines), 3836 (private homes and dwellings), 3837 (airports), or 3838 (hotels) of this title or comparable municipal charter provisions after June 30, 1997 if subsequently approved by the Vermont Economic Progress Council pursuant to this subsection and section 5930a of this title. An agreement or exemption may be approved by the Vermont Economic Progress Council only if it has first been approved by the municipality in which the property is located with respect to the municipal tax liability of the property in that municipality. Any agreement or exemption approved by the Vermont Economic Progress Council may not affect the education tax liability of the property in a greater proportion than the agreement or exemption affects the municipal tax liability of the property. A municipality's approval of an agreement or exemption under this subsection may be made conditional upon approval of the agreement or exemption by the Vermont Economic Progress Council. The legislative body of the municipality~~

~~in which the property subject to the agreement or exemption is located or the business that is subject to the agreement or exemption may request the Vermont Economic Progress Council to approve an agreement or exemption pursuant to section 5930a of this title. The Council shall also report to the General Assembly on the terms of the agreement or exemption, and the effect of the agreement or exemption on the education property tax grand list of the municipality and of the State. If so approved by the Council, an agreement or exemption shall be effective to reduce the property tax liability of the municipality under this chapter beginning April 1 of the year following approval.~~

(3) An agreement relating to affordable housing, which ~~may be submitted to the council for its approval under subdivision (2) of this subsection, or alternatively~~ may be approved under this subdivision by the Commissioner of Taxes upon recommendation of the Commissioner of Housing and Community Affairs provided the agreement provides either for new construction housing projects or rehabilitated preexisting housing projects and secures federal financial participation which may include projects financed with federal low income housing tax credits.

\* \* \*

(b) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under this chapter for the duration of the agreement or

exemption without extension or renewal, and for a maximum of 10 years;  
~~subject to the provisions of subsection 5930b(f) of this title.~~ A municipality's  
property tax liability under this chapter shall be reduced by any difference  
between the amount of the education property taxes collected on the subject  
property and the amount of education property taxes that would have been  
collected on such property if its fair market value were taxed at the equalized  
nonresidential rate for the tax year.

(c) Tax agreements not affecting the education property tax grand list. A  
tax agreement shall not affect the education property tax grand list if it is:

(1) A tax exemption adopted by vote of a municipality after July 1, 1997  
under chapter 125 of this title, or voted under a comparable municipal charter  
provision or other provision of law for property owned by nonprofit  
organizations used for public, pious, or charitable purposes, ~~other than~~  
~~economic development exemptions voted under section 3834, 3836, 3837, or~~  
~~3838 of this title and approved by the Vermont Economic Progress Council,~~ or  
exemptions of property of a nonprofit volunteer fire, rescue, or ambulance  
organization adopted by vote of a municipality.

(2) A tax stabilization agreement relating to agricultural property, ~~forest~~  
~~land~~ forestland, open space land, or alternate energy generating plants entered  
into after July 1, 1997 by a municipality under 24 V.S.A. § 2741.

(3) A tax stabilization agreement relating to commercial or industrial  
property entered into after July 1, 1997 by a municipality under 24 V.S.A.

§ 2741, or a property tax exemption for purposes of economic development adopted by vote after July 1, 1997, ~~which has not been approved by the Vermont Economic Progress Council to affect the education grand list under subsection (a)(2) of this section and section 5930a of this title. In granting tax stabilization agreements for commercial or industrial property under 24 V.S.A. § 2741, a municipality shall consider any applicable guidelines established for the approval of such stabilization agreements by the Vermont Economic Progress Council established in subsection 5930a(e) of this title.~~

\* \* \*

Sec. H.7. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

\* \* \*

(u) The statutory purpose of the ~~Vermont employment growth incentive~~ Vermont Employment Growth Incentive Program in ~~section 5930b~~ chapter 105, subchapter 2 of this title is to ~~provide a cash incentive to encourage quality job growth in Vermont~~ generate net new revenue to the State by encouraging a business to add new payroll, create new jobs, and make new capital investments and sharing a portion of the revenue with the business.

\* \* \*

Sec. H.8. 32 V.S.A. § 5930ll(a)(1) is amended to read:

(1) “Full-time job” ~~has the same meaning as defined in subdivision 5930b(a)(9) of this title~~ means a permanent position filled by an employee who works at least 35 hours per week.

Sec. H.9. 32 V.S.A. § 9741(39) is amended to read:

(39) Sales of building materials within any three consecutive years in excess of one million dollars in purchase value, ~~which may be reduced to \$250,000.00 in purchase value upon approval of the Vermont Economic Progress Council pursuant to section 5930a of this title,~~ used in the construction, renovation, or expansion of facilities which are used exclusively, except for isolated or occasional uses, for the manufacture of tangible personal property for sale.

Sec. H.10. EXTENSION OF CURRENT VEGI STATUTE; TRANSITION

Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 2 of No. 52 of the Acts of 2011, and as further amended by 2012 Acts and Resolves No. 143, Sec. 20, is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act.

Unless extended by act of the General Assembly, as of ~~July 1, 2017~~

January 1, 2017, no new Vermont employment growth incentive (VEGI)

awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted



prior to ~~July 1, 2017~~ January 1, 2017 may remain in effect until used and shall be governed by the provisions of 32 V.S.A chapter 105.

Sec. H.11. PROSPECTIVE REPEAL OF CURRENT VEGI STATUTE

32 V.S.A. §§ 5930a and 5930b are repealed.

Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD INCENTIVES

Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after January 1, 2021.

Sec. H.13. VERMONT EMPLOYMENT GROWTH INCENTIVE

POLICY REVIEW

(a) The Vermont Economic Progress Council shall review the following policy questions relating to the Vermont Employment Growth Incentive Program:

(1) whether the enhanced incentives available under the program are appropriate and necessary, including:

(A) an analysis of the growth in the environmental technology sector in Vermont as defined in the enhanced incentive for environmental technology business and whether growth in this sector obviates the need for the current enhancement; and

(B) whether the State should forgo additional net fiscal benefit under the enhancements and whether the policy objectives of the enhancements are met;

(2) whether and how to include a mechanism in the Program for equity investments in incentive recipients;

(3) whether and under what circumstances the Department of Taxes should have, and should exercise, the authority to recapture the value of incentives paid to a business that is subsequently sold or relocated out of the State, or that eliminates qualifying jobs after receiving an incentive;

(4) how to most effectively ensure, through the application and award process, that recipients of VEGI incentives are in compliance with all federal and State water quality and air quality laws and regulations;

(5) the size, industry, and profile of the businesses that historically have experienced, and are forecast to experience, the most growth in Vermont, and whether the Program should be more targeted to these businesses;

(6) changes to the Program to ensure incentives will benefit the creation and growth of more small businesses;

(7) whether additional applicant and program data reporting and transparency could be accomplished without damage to applicant businesses; and

(8) quantifiable standards for the type, quality, and value of employee benefits that an applicant must offer in order for a new job to count as a

“qualifying job” for purposes of the Vermont Employment Growth Incentive Program.

(b) The Council shall have the authority to designate one or more policy study subcommittees to perform its work pursuant to this section, and shall collaborate with, and have the authority to request data, technical support, and other necessary assistance from, the Agency of Commerce and Community Development and the Departments of Labor and of Taxes.

(c) On or before January 15, 2017, the Council shall report its findings, conclusions, recommendations, and supporting data for legislative action to the House Committees on Commerce and Economic Development, on Ways and Means, and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Appropriations.

#### Sec. H.14. VERMONT EMPLOYMENT GROWTH INCENTIVE

##### PROGRAM; TECHNICAL WORKING GROUP REVIEW

(a) On or before August 15, 2016, the Joint Fiscal Committee shall convene a Vermont Employment Growth Incentive Program Technical Working Group that shall consist of the following members, as designated by the Committee:

(1) the legislative economist or another designee from the Joint Fiscal Office;

(2) a policy analyst from the Agency of Commerce and Community Development;

- (3) an economic and labor market information chief from the Department of Labor; and
- (4) a fiscal analyst from the Department of Taxes or the State economist.
- (b) The Group shall review the following questions relating to the Vermont Employment Growth Incentive Program:
- (1) whether the cost-benefit model is effectively utilized;
- (2) whether the inputs to the cost-benefit model should be adjusted for those applicants who assert that but for the incentive the scale or timing of the project would change;
- (3) whether the Program can integrate the use of business-specific background growth rates in addition to, or in place of, industry-specific background growth rates; and, if industry-specific background growth rates are recommended, a methodology to review, calculate, and set those rates routinely; and
- (4) whether differential rates in annual average wages or annual average unemployment, defined by labor market area, are appropriate triggers for an incentive enhancement for projects located in, or lower wage threshold for jobs created in, qualifying labor market areas, and whether the margins of error in annual labor market area wage and unemployment rates are within an acceptable range of tolerance for this use.
- (c) On or before January 15, 2017, the Group shall submit a report of its findings and conclusions to the Joint Fiscal Committee, the Vermont

Economic Progress Council, and the House Committees on Commerce and Economic Development, on Ways and Means, and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Appropriations.

\* \* \* Blockchain Technology \* \* \*

Sec. I.1. 12 V.S.A. § 1913 is added to read:

§ 1913. BLOCKCHAIN ENABLING

(a) As used in this section, “blockchain technology” means a mathematically secured, chronological, and decentralized consensus ledger or database, whether maintained via Internet interaction, peer-to-peer network, or otherwise.

(b) Authentication, admissibility, and presumptions.

(1) A digital record electronically registered in a blockchain shall be self-authenticating pursuant to Vermont Rule of Evidence 902, if it is accompanied by a written declaration of a qualified person, made under oath, stating the qualification of the person to make the certification and:

(A) the date and time the record entered the blockchain;

(B) the date and time the record was received from the blockchain;

(C) that the record was maintained in the blockchain as a regular conducted activity; and

(D) that the record was made by the regularly conducted activity as a regular practice.

(2) A digital record electronically registered in a blockchain, if accompanied by a declaration that meets the requirements of subdivision (1) of this subsection, shall be considered a record of regularly conducted business activity pursuant to Vermont Rule of Evidence 803(6) unless the source of information or the method or circumstance of preparation indicate lack of trustworthiness. For purposes of this subdivision (2), a record includes information or data.

(3) The following presumptions apply:

(A) A fact or record verified through a valid application of blockchain technology is authentic.

(B) The date and time of the recordation of the fact or record established through such a blockchain is the date and time that the fact or record was added to the blockchain.

(C) The person established through such a blockchain as the person who made such recordation is the person who made the recordation.

(D) If the parties before a court or other tribunal have agreed to a particular format or means of verification of a blockchain record, a certified presentation of a blockchain record consistent with this section to the court or other tribunal in the particular format or means agreed to by the parties demonstrates the contents of the record.

(4) A presumption does not extend to the truthfulness, validity, or legal status of the contents of the fact or record.

(5) A person against whom the fact operates has the burden of producing evidence sufficient to support a finding that the presumed fact, record, time, or identity is not authentic as set forth on the date added to the blockchain, but the presumption does not shift to a person the burden of persuading the trier of fact that the underlying fact or record is itself accurate in what it purports to represent.

(c) Without limitation, the presumption established in this section shall apply to a fact or record maintained by blockchain technology to determine:

(1) contractual parties, provisions, execution, effective dates, and status;

(2) the ownership, assignment, negotiation, and transfer of money, property, contracts, instruments, and other legal rights and duties;

(3) identity, participation, and status in the formation, management, record keeping, and governance of any person;

(4) identity, participation, and status for interactions in private transactions and with a government or governmental subdivision, agency, or instrumentality;

(5) the authenticity or integrity of a record, whether publicly or privately relevant; and

(6) the authenticity or integrity of records of communication.

(d) The provisions of this section shall not create or negate:

(1) an obligation or duty for any person to adopt or otherwise implement blockchain technology for any purpose authorized in this section; or

(2) the legality or authorization for any particular underlying activity whose practices or data are verified through the application of blockchain technology.

\* \* \* Regulation of Lodging Accommodations \* \* \*

Sec. J.1. STUDY; INTERNET-BASED LODGING

On or before January 15, 2017, the Departments of Taxes, of Health, of Tourism and Marketing, of Financial Regulation, and the Division of Fire Safety within the Department of Public Safety, engaging interested stakeholders as necessary, shall:

(1) review the provisions of law within their subject matter jurisdiction, and enforcement of those provisions if any, applicable to Internet-based lodging accommodations businesses; and

(2) report its findings, conclusions, and any recommendations for administrative action or legislative action, or both, to the House Committees on Commerce and Economic Development and on Ways and Means, and to the Senate Committees on Finance and on Economic Development, Housing and General Affairs.



\* \* \* State Workforce Development Board \* \* \*

Sec. K.1. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

- (1) Perform the following duties in consultation with the State

Workforce ~~Investment~~ Development Board:

\* \* \*

§ 541a. STATE WORKFORCE ~~INVESTMENT~~ DEVELOPMENT BOARD

- (a) Board established; duties. Pursuant to the requirements of 29 U.S.C.

§ ~~2824~~ 3111, the Governor shall establish a State Workforce ~~Investment~~ Development Board to assist the Governor in the execution of his or her duties under the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

- (b) Additional duties; planning; process. In order to inform its decision-making and to provide effective assistance under subsection (a) of this section, the Board shall:

\* \* \*

(2) maintain familiarity with the federal Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes, and coordinate workforce and education activities in the State, including the development and implementation of the State plan required under the Workforce ~~Investment~~ Innovation and Opportunity Act of 1998 2014, with economic development planning processes occurring in the State, as appropriate.

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor in conformance with the federal Workforce Innovation and Opportunity Act and who serve at his or her pleasure, unless otherwise indicated:

(1) the Commissioner of Labor;

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

~~(2)~~(3) two members of the Vermont Senate appointed by the Senate Committee on Committees;

~~(3)~~(4) the President of the University of Vermont or designee;

~~(4)~~(5) the Chancellor of the Vermont State Colleges or designee;

~~(5)~~(6) the President of the Vermont Student Assistance Corporation or designee;

~~(6)~~(7) a representative of an independent Vermont college or university;

~~(7)~~ the Secretary of Education or designee;

- (8) a director of a regional technical center;
- (9) a principal of a Vermont high school;
- (10) two representatives of labor organizations who have been nominated by a State labor federations federation;
- (11) two representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § ~~2801(52)~~ 3102(71);
- (12) two representatives of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § ~~2801(51)~~ 3102(68);
- (13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § ~~2841(b)~~ 3151(b), or if no official has that responsibility, ~~a representative~~ representatives in the State with ~~expertise~~ responsibility relating to these programs and activities;
- (14) the Commissioner of Economic Development;
- (15) ~~the Commissioner of Labor~~ the Secretary of Commerce and Community Development;
- (16) the Secretary of Human Services ~~or designee~~;
- (17) the Secretary of Education;
- (18) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and

~~(18)~~(19) a number of appointees sufficient to constitute a majority of the Board who:

(A) are owners, chief executives, or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(B) represent businesses with employment opportunities that reflect ~~the~~ in-demand sectors and employment opportunities ~~of~~ in the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Member representation.

(A) A member of the State Board may send a designee that meets the requirements of subdivision (B) of this subdivision (1) to any State Board meeting who shall count toward a quorum and shall be allowed to vote on behalf of the Board member for whom he or she serves as a designee.

(B) Members of the State Board or their designees who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

~~(B)~~(C) The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas.

\* \* \*

(6) Reimbursement.

\* \* \*

(B) Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a nonlegislative member of the Board shall be eligible for per diem compensation of \$50.00 per day for attendance at a meeting of the Board, and for reimbursement of his or her necessary expenses, which shall be paid ~~by the Department of Labor solely from~~ through funds available for that purpose under the Workforce ~~Investment~~ Innovation and Opportunity Act of 1998 2014.

(7) Conflict of interest. A member of the Board shall not:

\* \* \*

(B) engage in any activity that the Governor determines constitutes a conflict of interest as specified in the State Plan required under 29 U.S.C. § ~~2822~~ 3112 or 3113.

(8) Sunshine provision. The Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Board, including information regarding the State Plan adopted pursuant to 29 U.S.C. § ~~2822~~ 3112 or 3113 and prior to submission of the State Plan to the U.S. Secretary of Labor, information regarding membership, and, on request, minutes of formal meetings of the Board.

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF  
OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE  
PARTNERS

(a) To ensure the State Workforce Investment Development Board and the Commissioner of Labor are able to fully perform their duties under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board or the Commissioner in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board and the Commissioner of Labor, ~~including the development and implementation of the State Plan for workforce education and training required under the Workforce Investment Act of 1998.~~

§ 542. REGIONAL WORKFORCE EDUCATION AND TRAINING

(a) The Commissioner of Labor, in coordination with the Secretary of Commerce and Community Development, and in consultation with the State Workforce Investment Development Board, is authorized to issue performance grants to one or more persons to perform workforce education and training activities in a region.

\* \* \*

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT  
PROGRAMS

\* \* \*

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce ~~Investment~~ Development Board, shall develop award criteria and may grant awards to the following:

\* \* \*

§ 544. VERMONT STRONG INTERNSHIP PROGRAM

\* \* \*

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, State-funded postsecondary educational institutions, the State Workforce ~~Investment~~ Development Board, and other State agencies and departments that have workforce education and training and training monies, shall:

\* \* \*

Sec. K.2. 10 V.S.A. § 531(a)(1) is amended to read:

(a)(1) The Secretary of Commerce and Community Development, in consultation with the State Workforce ~~Investment~~ Development Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.

Sec. K.3. 16 V.S.A. § 1542(b) is amended to read:

(b) A regional advisory board, with the consent of the State Workforce Investment Development Board, may delegate its responsibilities to the grantee that performs workforce development activities in the region pursuant to 10 V.S.A. § 542. In this case, the grantee shall become the regional advisory board unless and until the school board that operates the career technical center requests that the regional advisory board be reconstituted pursuant to subsection (a) of this section.

\* \* \* Vermont Creative Network \* \* \*

Sec. L.1. VERMONT CREATIVE NETWORK

(a) Creation. The Vermont Arts Council, an independent nonprofit corporation, in collaboration with statewide partners, shall perform the duties specified in this section and establish the Vermont Creative Network, which shall be:

(1) a communications, advocacy, and capacity-building entity that strengthens Vermont's creative sector, utilizes it to enhance Vermonters' quality of life, increases the State's economic vitality; and

(2) based on a collective impact model and shall use Results Based Accountability as a planning and assessment tool.

(b) Outcomes and Indicators.



(1) The outcomes of the Vermont Creative Network are as follows:

(A) The Vermont creative sector enhances Vermonters' quality of life and has a positive economic impact on the State.

(B) Participants in Vermont's creative sector thrive as significant contributors to the State's general and economic well-being.

(C) Participants in Vermont's creative sector effectively share their talents with a broad range of Vermonters and visitors throughout the State.

(D) The creative sector focuses its collective energy on planning and development to advance the creative sector and its contributions to Vermonters' quality of life and the State's economic well-being.

(E) Participants in Vermont's creative sector collaborate to identify, advocate on behalf of, and promote common interests.

(2) Indicators to measure the success of these outcomes include the following:

(A) advancement of quality of life measures;

(B) improvements in planning and development;

(C) increases in workforce development;

(D) increases in economic activity;

(E) inclusion of creativity and innovation in the Vermont brand;

(F) increases in access and equity;

(G) increases in sustainability; and

(H) cross-pollination with other sectors.

(c) Duties. With oversight and support from the Vermont Arts Council, the Vermont Creative Network shall perform the following duties:

(1) On or before June 30, 2017, the Vermont Creative Network shall create, and may update and revise as necessary, a strategic plan that:

(A) identifies and addresses the needs of the creative sector and gaps in the creative sector's infrastructure;

(B) includes a plan to inventory Vermont's creative sector and creative industries based on existing data, studies, and analysis, including:

(i) existing assets, infrastructure, and resources;

(ii) the potential for new creators to enter the local economy, the methods to secure appropriate space and other infrastructure, and the opportunities and barriers to creative labor;

(iii) the types of creative products, services, and industries available in Vermont, and the financial viability of each; and

(iv) the current and potential markets in which Vermont creators can promote, distribute, and sell their products and services.

(2) The Vermont Creative Network shall support regional creativity zones.

(3) The Vermont Creative Network shall identify methods and opportunities to strengthen the links within the sector, including:

(A) advocacy for the use of local arts and cultural resources by Vermont schools, businesses, and institutions;

(B) support for initiatives that improve direct marketing of arts, culture, and creativity to consumers; and

(C) identifying creative financing opportunities for the creative sector.

(d) Authority. To accomplish the goals and perform the duties in this section, the Vermont Creative Network may:

(1) create a Network steering team;

(2) hire or assign staff;

(3) seek and accept funds from private and public entities; and

(4) utilize technical assistance, loans, grants, or other means approved by the Network steering team.

(e) Report.

(1) On or before January 15, 2017, the Vermont Arts Council shall submit a report concerning the activities of the Vermont Creative Network to the Governor and to the General Assembly.

(2) The report shall include a summary of work, including progress toward meeting the program outcomes, information regarding any meetings of the Network steering team, an accounting of all revenues and expenses related to the Network, and recommendations regarding future Network activity.

Sec. L.2. ALLOCATION OF APPROPRIATIONS TO VERMONT ARTS

COUNCIL

Of the amounts appropriated from the General Fund to the Vermont Arts Council in Fiscal Year 2017, the Council shall allocate the amount of \$30,000.00 to perform the duties specified in Sec. L.1 of this act (Vermont Creative Network).

Secs. M.1.–M.2. [Deleted.]

Secs. N.1–N.2. [Deleted.]

\* \* \* Vermont Sustainable Jobs Fund \* \* \*

Sec. O.1. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

(a) There is created a Sustainable Jobs Fund Program to create quality jobs that are compatible with Vermont's natural and social environment.

(b) The Vermont Economic Development Authority shall incorporate a nonprofit corporation pursuant to the provisions of subdivision 216(14) of this title to administer the Sustainable Jobs Fund Program, and to fulfill the purposes of this chapter by means of loans or grants to eligible applicants for eligible activities, provided that any funds contributed to the Program by the Authority under subsection (c) of this section shall be used for lending purposes only.

(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the Authority may contribute not more than \$1,000,000.00 to the capital of the

corporation formed under this section, and the Board of Directors of the corporation formed under this section shall consist of:

(A) the Secretary of Commerce and Community Development or his or her designee;

(B) the Secretary of Agriculture, Food and Markets or his or her designee;

(C) a director appointed by the Governor; and

(D) eight independent directors, no more than two of whom shall be State government employees or officials, and who shall be selected as vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the Board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the Governor shall serve for more than three terms.

(C) The director appointed by the Governor shall serve at the pleasure of the Governor and may be removed at any time with or without cause.

(3) A director of the Board who is or is appointed by a State government official or employee shall not be eligible to hold the position of Chair, Vice Chair, Secretary, or Treasurer of the Board.

~~(d) The Vermont Economic Development Authority may hire or assign a program director to administer, manage, and direct the affairs and business of the Board, subject to the policies, control, and direction of the corporation formed under this section. [Repealed.]~~

(e) The Agency of Commerce and Community Development shall have the authority and responsibility for the administration and implementation of the Program.

(f) The Vermont Sustainable Jobs Fund Program shall work collaboratively with the Agency of Agriculture, Food and Markets to assist the Vermont slaughterhouse industry in supporting its efforts at productivity and sustainability.

Sec. O.2. 2002 Acts and Resolves No. 142, Sec. 254(a) is amended to read:

~~(a) All authority and responsibility for the administration and implementation of the sustainable jobs fund and the sustainable jobs program established by chapter 15A of Title 10 is transferred from the Vermont economic development authority to the agency of commerce and community development, secretary's office. The agency shall be the successor to all rights and obligations of the authority in any matter pertaining to the fund and the program on and after July 1, 2002. [Repealed.]~~

Secs. P.1–P.2. [Deleted.]

\* \* \* Tax Study \* \* \*

Sec. Q.1. [Deleted.]

Sec. Q.2. VERMONT TAX STUDY

(a) The Joint Fiscal Office, with assistance from the Office of Legislative Council, and under the direction of the Joint Fiscal Committee, shall conduct a study of Vermont State taxes.

(b) The study shall:

(1) Analyze historical trends since 2005 in Vermont taxes as compared to other states, and compare the percentage of Vermont revenue from each State-level source to the percentage of revenue from each state-level source in other states.

(2) Analyze State tax levels per capita, per income level, or by incidence on typical Vermont families of a variety of incomes, and on typical Vermont business enterprises of a variety of sizes and types, and analyze trends in the taxpayer revenue base.

(3) Analyze cross-border tax policies and competitiveness with neighboring states, including:

(A) impacts on the pattern of retailing, the location of retail activity, and retail market share;

(B) impacts of retail sales tax rates and other related excise taxes, including on tobacco products, and to the extent data is available, on alcohol and gasoline; and

(C) the impact by business size, to the extent data is available.

(c) Based upon the data resulting from the study in subsection (b) of this section, the Joint Fiscal Office shall, as part of the study or separately, review the future Vermont economic and demographic trends and implications for Vermont's tax structure and performance of the major State revenue sources, including simplicity, equity, stability, and competitiveness.

(d) The Vermont Department of Taxes shall cooperate with and provide assistance as needed to the Joint Fiscal Office.

(e) The Joint Fiscal Office shall submit the study, including recommendations for further research or analysis, to the General Assembly on or before January 15, 2017.

\* \* \* Financial Literacy Commission \* \* \*

Sec. R.1. 9 V.S.A. § 6002(b)(7) is amended to read:

(7) ~~a representative~~ two representatives, each from a nonprofit entity that provides financial literacy and related services to persons with low income;

(A) one appointed by the Governor; and

(B) one appointed by the Office of Economic Opportunity from among candidates proposed by the Community Action Agencies;

\* \* \*

Sec. S.1. [Deleted.]



\* \* \* Workforce Housing; Down Payment Assistance Program \* \* \*

Sec. T.1. [Deleted.]

Sec. T.2. AFFORDABLE HOUSING; STUDY

On or before December 15, 2016, the Agency of Commerce and Community Development shall report to the House Committees on Commerce and Economic Development and on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs on the following:

(1) A review of existing statutes and programs, such as property tax reallocation, that may serve as tools to update existing housing stock.

(2) Data from the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, and the Natural Resources Board with respect to priority housing projects.

(A) For each such project, these agencies shall provide in the report:

(i) Whether the project received an exemption under 10 V.S.A. chapter 151 (Act 250).

(ii) The amount of the fee savings under Act 250.

(iii) The amount of the fee savings under permit programs administered by the Agency of Natural Resources.

(iv) The cost under 10 V.S.A. § 6093 to mitigate primary agricultural soils and a comparison to what that cost of such mitigation would have been if the project had not qualified as a priority housing project.

(B) Based on this data, the report shall summarize the benefits provided to priority housing projects.

(C) As used in this subdivision (2), “primary agricultural soils” and “priority housing project” have the same meaning as in 10 V.S.A. § 6001.

(3) The results of a process led by the Executive Director of the Vermont Economic Progress Council to engage stakeholders, including representatives of the private lending industry; the private housing development industry; a municipality that has an Tax Increment Financing District; a municipality that has a designated downtown, growth center, or neighborhood development area; a municipality that has a priority housing project; the Department of Housing and Community Development; the Department of Economic Development; the Department of Taxes; and the Vermont Housing and Conservation Board, to investigate alternative municipal infrastructure financing to enable smaller communities to build the needed infrastructure to support mixed-income housing projects in communities around the State.

Sec. T.3. 10 V.S.A. § 303 is amended to read:

§ 303. DEFINITIONS

As used in this chapter:

(1) “Board” means the Vermont Housing and Conservation Board established by this chapter.

(2) "Fund" means the Vermont Housing and Conservation Trust Fund established by this chapter.

(3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation, or development of residential dwelling units ~~which~~ that are affordable to:

(i) lower income Vermonters; or

(ii) for owner-occupied housing, Vermonters whose income is less than or equal to 120 percent of the median income based on statistics from State or federal sources;

\* \* \*

Sec. T.4. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

\* \* \*

(g)(1) In any fiscal year, the allocating agency may award up to:

(A) \$400,000.00 in total first-year credit allocations to all applicants for rental housing projects, for ~~a total~~ an aggregate limit of \$2,000,000.00 over any given five-year period that credits are available under this subdivision (A);

(B) \$300,000.00 in total first-year credit allocations for owner-occupied unit financing or down payment loans consistent with the

allocation plan, including for new construction and manufactured housing, for ~~a total~~ an aggregate limit of \$1,500,000.00 over any given five-year period that credits are available under this subdivision (B).

~~(2) In fiscal years 2016, 2017, and 2018, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section for a total aggregate limit of \$375,000.00 over the five-year period that credits are available under this subdivision. In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding-year deemed allocations shall not exceed \$3,500,000.00.~~

~~(h) The aggregate limit for all credit allocations available under this section in any fiscal year is \$3,875,000.00.~~

(1) In fiscal year 2016 through fiscal year 2022, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section.

(2) In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding-year deemed allocations shall not exceed \$625,000.00.

\* \* \* Effective Dates \* \* \*

Sec. U.1. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

- (1) Secs. A.2–A.7 (Vermont Economic Development Authority).
- (2) Sec. B.1 (cooperatives; electronic voting).
- (3) Sec. E.4 (technical correction to business registration statute).
- (4) Sec. G.1 (Medicaid for working people with disabilities).
- (5) Sec. Q.2 (tax study).

(b) The following sections shall take effect on July 1, 2016:

- (1) Sec. D.1 (Vermont Training Program).
- (2) Secs. F.1–F.9 (Vermont State Treasurer).
- (3) Secs. H.10 (extension of VEGI sunset) and H.13–H.14 (VEGI

program reviews).

- (4) Sec. I.1 (blockchain technology).
- (5) Sec. J.1 (Internet-based lodging accommodations study).
- (6) Secs. K.1–K.3 (State Workforce Development Board).
- (7) Secs. L.1–L.2 (Vermont Creative Network).
- (8) Secs. O.1–O.2 (Vermont Sustainable Jobs Fund).
- (9) Secs. T.2–T.4 (affordable housing study; VHCB; down payment

assistance).

(c) The following sections shall take effect on July 1, 2017:

- (1) Secs. C.1–C.2 (regional planning and development).

(2) Secs. E.1–E.2 (conversion, merger, share exchange, and domestication of a corporation).

(d)(1) Notwithstanding 1 V.S.A. § 214, Sec. E.3 (technical corrections to LLC Act) shall take effect retroactively as of July 1, 2015, and apply only to:

(A) a limited liability company formed on or after July 1, 2015; and

(B) except as otherwise provided in subdivision (4) of this subsection, a limited liability company formed before July 1, 2015 that elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this act.

(2) Sec. E.3 does not affect an action commenced, a proceeding brought, or a right accrued before July 1, 2015.

(3) Except as otherwise provided in subdivision (4) of this subsection, Sec. E.3 shall apply to all limited liability companies on and after July 1, 2016.

(4) For the purposes of applying Sec. E.3 to a limited liability company formed before July 1, 2015, for the purposes of applying 11 V.S.A. § 4023 and subject to 11 V.S.A. § 4003, language in the company’s articles of organization designating the company’s management structure operates as if that language were in the operating agreement.

(e) Sec. R.1 (Financial Literacy Commission) shall take effect on July 2, 2016.

(f) Secs. H.1–H.9 (Vermont Employment Incentive Growth Program) and Secs. H.11–H.12 (prospective repeal of current VEGI statute; prospective

No. 157  
2016

Page 143 of 143

repeal of authority to issue award incentives) shall take effect on

January 1, 2017.

Date Governor signed bill: June 2, 2016