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H.849

Introduced by Committee on Government Operations and Military Affairs

Date:

Subject: Legislature; Vermont Statutes Annotated; technical corrections

Statement of purpose of bill as introduced: This bill proposes to make  
nonsubstantive, technical amendments to the Vermont Statutes Annotated.

An act relating to technical corrections for the 2024 legislative session

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

\* \* \* Technical Corrections \* \* \*

\* \* \* Title 3 \* \* \*

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

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

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

(b) Member contributions.

(1) Allocations and periodic review.

1           (A) Allocations. Contributions deducted from the compensation of  
2 members together with any member contributions transferred thereto from the  
3 predecessor systems shall be accumulated in the Fund and separately recorded  
4 for each member. The amounts so transferred on account of Group A  
5 members shall be allocated between regular and additional contributions. The  
6 amounts so allocated as regular contributions shall be determined as if the rate  
7 of contribution of four percent has been continuously in effect in the  
8 predecessor system from which such amounts were transferred and the balance  
9 of any amount so transferred on account of any Group A member shall be  
10 deemed additional contributions. In the case of Group C members who were  
11 members as of the date of establishment and Group D members, all  
12 contributions transferred from predecessor systems shall be deemed regular  
13 contributions. Those members who, prior to the date of establishment of this  
14 system, had been contributing at a rate less than four percent shall have any  
15 benefit otherwise payable on their behalf actuarially reduced to reflect such  
16 prior contribution rate of less than four percent. Upon a member's retirement  
17 or other withdrawal from service on the basis of which a retirement allowance  
18 is payable, the member's additional contributions, with interest thereon, shall  
19 be paid as an additional allowance equal to an annuity that is the actuarial  
20 equivalent of such amount, in the same manner as the benefit otherwise  
21 payable under the System.

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

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

\* \* \*

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

(D) Each comment submitted to the agency on the proposed rule. The agency shall redact sensitive personal information from the posted comments. As used in this subdivision (D), “sensitive personal information” means each of the items listed in 9 V.S.A. § ~~2430(5)(A)(i)-(iv)~~ 2430(10)(A) and does not include the name, affiliation, and contact information of the commenter.

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

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

\* \* \* Title 10 \* \* \*

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

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

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

2 (d) Removal and storage.

3 (1) Removal of abandoned vessel. Upon request from a law  
4 enforcement officer or at ~~his or her~~ the Secretary's own initiative, the  
5 Secretary shall promptly cause the removal and safe storage of a vessel that is  
6 abandoned as described in subdivision (a)(1) of this section, unless the vessel  
7 is to be removed by a federal agency. If removal is requested by a law  
8 enforcement officer, the Secretary shall make reasonable efforts to determine if  
9 the vessel qualifies as abandoned. In addition, the Secretary shall have the  
10 authority to take actions as may be necessary to eliminate risks to public health  
11 or safety caused by the condition of the vessel.

12 \* \* \*

13 (e) Notice and listing of abandoned vessel.

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

17 \* \* \*

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

19 (a) Allowed uses.

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

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

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

\* \* \*

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

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

~~(5) [Repealed.]~~

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

(B) tax incentives, including the following options:

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

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

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

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

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

9 (B) one of the following applies:

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

13 (ii) technically feasible alternatives are not available at reasonable  
14 cost; and

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

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

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



1 which, under its articles of ~~association~~ incorporation or bylaws, such delegates  
2 have complete voting power on behalf of the membership for every purpose  
3 except that of their own election and the election of district directors,  
4 following reasonable notice to the members or stockholders in accordance with  
5 the bylaws, a majority of the delegates attending and voting at any meeting of  
6 the delegates of the association may adopt, alter, amend, or repeal such  
7 bylaws.

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

9 (4) In the case of any consolidating cooperative having a district  
10 election of delegates and a delegate system of voting as permitted by  
11 subdivision 995(10) of this title, in which, under its articles of ~~association~~  
12 incorporation or bylaws, such delegates have complete voting power on behalf  
13 of the membership for every purpose, except that of their own election and the  
14 election of district directors, the vote adopting the merger or consolidation  
15 required by subdivision (3) of this section shall be that of not less than two-  
16 thirds of the delegates attending and voting at such meeting.

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

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



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

2 § 1083. CORPORATIONS ORGANIZED UNDER ~~CHAPTER 17~~ TITLE  
3 11A; ELECTION TO BE GOVERNED AS WORKER  
4 COOPERATIVE

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

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

10 § 1084. REVOCATION OF ELECTION

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

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

15 § 1086. MEMBERS' MEMBERSHIP SHARES; FEES; RIGHTS AND  
16 RESPONSIBILITIES

17 (a) The articles of ~~association~~ incorporation or the bylaws shall establish  
18 qualifications and the method of acceptance of members. No person may be  
19 accepted as a member unless employed by the worker cooperative on a regular  
20 full-time or a part-time basis. The membership of a worker cooperative shall

1 constitute at least ~~forty~~ 50 and one-tenth percent of the regular, full and part-  
2 time work force.

3 \* \* \*

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

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

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

12 § 1087. VOTING SHARES; BYLAWS; AMENDMENT OF ARTICLES OF  
13 ORGANIZATION

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

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

1           (c) ~~Subchapter 7 of chapter 17~~ 11A V.S.A. chapter 10, subchapter 1  
2 relating to amendments to the articles of ~~association~~ incorporation shall be  
3 construed to limit voting on any amendment of the articles of ~~association~~  
4 incorporation of a worker cooperative to the members, except that  
5 amendments affecting the rights of a class of stockholders ~~as defined in section~~  
6 ~~1933 of this title~~ may not be adopted without the vote of such stockholders in  
7 accordance with ~~that section~~ 11A V.S.A. § 10.04.

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

9           (a) The net earnings or losses of a worker cooperative shall be apportioned  
10 and distributed at such times and in such manner as the articles of ~~association~~  
11 incorporation or bylaws shall specify. Net earnings declared as patronage  
12 allocations with respect to a period of time, and paid or credited to members,  
13 and net losses allocated to members with respect to a period of time shall be  
14 apportioned among the members in accordance with the ratio which each  
15 member's patronage during the period involved bears to total patronage by all  
16 members during that period.

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

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

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

2 § 1090. INTERNAL CAPITAL ACCOUNTS; RECALL OR REDEMPTION  
3 OF SHARES; INTEREST; COLLECTIVE RESERVE ACCOUNT

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

9 (b) The articles of ~~association~~ incorporation or bylaws of a worker  
10 cooperative may permit the periodic redemption of written notices of  
11 allocation and capital stock, and must provide for recall and redemption of the  
12 membership share upon termination of membership in the cooperative. No  
13 redemption shall be made if such redemption would result in the liability of  
14 any director or officer of the worker cooperative under ~~section 1891 of this~~  
15 ~~title~~ 11A V.S.A. § 8.33.

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

19 (d) The articles of ~~association~~ incorporation or bylaws may authorize  
20 assignment of a portion of retained net earnings and net losses to a collective

1 account. Earnings assigned to the collective account may be used for any and  
2 all corporate purposes as determined by the board of directors.

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

4 § 1092. CONVERSION OF MEMBERSHIP SHARES AND INTERNAL  
5 CAPITAL ACCOUNTS UPON REVOCATION OF ELECTION;  
6 CONSOLIDATION OR MERGER

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

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

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

18 § 1583. DEFINITIONS

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

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

§ 1584. APPLICATION

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

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

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

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

\* \* \*

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

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

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

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

2 § 1593. MEMBERSHIP SHARES; REQUIREMENTS

3 A cooperative housing corporation shall issue shares to its members as  
4 evidence of their ownership of a cooperative interest. Such shares shall be in a  
5 form prescribed in the articles of ~~association~~ incorporation or bylaws of the  
6 cooperative housing corporation. Restrictions upon transfer of shares shall be  
7 noted on the face of the certificates representing shares. No membership  
8 shares shall be issued under this section and no proprietary leases shall be  
9 issued under section 1599 of this title prior to issuance of a certificate of  
10 incorporation as a cooperative housing corporation.

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

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

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

2 § 1598. LIMITED EQUITY COOPERATIVES

3 A cooperative housing corporation may organize as a limited equity  
4 cooperative in order to fulfill the public purpose of providing and preserving  
5 housing for persons and households of low and moderate income at the time  
6 that they purchase their memberships. In addition to safeguarding the  
7 foregoing public purpose, a limited equity cooperative shall meet the following  
8 requirements:

9 (1) The articles of ~~association~~ incorporation shall require that  
10 cooperative interests be sold at ~~no~~ not more than a transfer value determined  
11 by a limited equity formula contained in the articles. That value shall be  
12 consistent with the object of maintaining long-term affordability of  
13 cooperative interests for persons or households of low and moderate income.

14 (2) A limited equity formula, once established by a cooperative housing  
15 corporation in its articles of ~~association~~ incorporation, may be amended only if  
16 that amendment does not make the cooperative membership unaffordable for  
17 the class of ~~low~~ low- or ~~moderate income~~ moderate-income households for  
18 which the cooperative housing corporation was originally incorporated, as  
19 determined and certified by the Commissioner of Housing and Community  
20 Affairs. A cooperative housing corporation once organized under this section



1 may not reorganize as other than a limited equity cooperative without first  
2 dissolving.

3 \* \* \*

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

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

9 (6) The articles of ~~association~~ incorporation shall require that upon  
10 dissolution of the cooperative housing corporation, any assets remaining after  
11 retirement of corporate debts and distribution to members shall be distributed  
12 to a charitable organization described in Section 501(c)(3) of the Internal  
13 Revenue Code of 1986, as amended, a public agency, or another limited equity  
14 cooperative whose formula for determining transfer value shall be ~~no~~ not less  
15 restrictive than that of the cooperative housing corporation being dissolved.

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

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

2 (a) In conjunction with the offering of cooperative interests to prospective  
3 members, a cooperative housing corporation, or other persons or entities  
4 seeking to establish a cooperative housing corporation, or the owner of a  
5 cooperative interest seeking to sell that interest, shall provide to all prospective  
6 purchasers a copy of the proposed or adopted articles of ~~association~~  
7 incorporation and bylaws of the cooperative housing corporation, a  
8 subscription agreement or sales agreement, a proposed proprietary lease, and  
9 the most current corporate financial statements, if any exist.

10 \* \* \* Title 13 \* \* \*

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

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

14 \* \* \*

15 \* \* \* Title 16 \* \* \*

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

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



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

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

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

5 (A) submitted materially false or materially inaccurate information;  
6 ~~or~~

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

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

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

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

14 (1) there was fraud in the RRPM compliance statement under section  
15 1759 of this chapter; ~~or~~

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

19 \* \* \*

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

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

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

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

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

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

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

15 § 2053. DIRECTOR; DUTIES; POWERS

16 (a) The Director shall:

17 \* \* \*

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

20 \* \* \*

21 (b) The Director may:

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

\* \* \*

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

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

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

(b) Schedule V drugs shall include:

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

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

\* \* \*

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

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

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

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

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

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

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

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

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

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

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

21 (e) This section does not apply to:





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

6 \* \* \* Title 21 \* \* \*

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

8 § 141. PURPOSE; DEFINITIONS

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

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

15 \* \* \*

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

19 \* \* \*

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

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

§ 142. CONVEYANCES REGULATED

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

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

(A) ~~Elevators.~~ elevators;

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

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

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

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

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

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

2 § 201. OCCUPATIONAL POLICY

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

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

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

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

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





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

2 § 205. VARIANCES

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

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

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

17 § 206. INSPECTIONS AND INVESTIGATIONS

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

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

6 (b) In making inspections and investigations, the Commissioner or the  
7 Director, ~~as the case may be,~~ may require the attendance and testimony of  
8 witnesses and the production of evidence under oath. Witnesses shall be paid  
9 the same fees and mileage as are paid witnesses in ~~the Superior courts~~ Court in  
10 criminal cases. In case of a contumacy, failure, or refusal of any person to  
11 obey such an order, any Superior Court within the jurisdiction of which the  
12 person is found ~~or~~<sub>2</sub> resides<sub>2</sub>, or transacts business, upon the application by the  
13 Commissioner, shall have jurisdiction to issue to the person an order requiring  
14 ~~him or her~~ the person to appear to produce evidence if, as, and when so  
15 ordered, and to give testimony relating to the matter under investigation or in  
16 question. Any failure to obey such order of the court may be punished by the  
17 court as a contempt ~~thereof~~ of court.

18 \* \* \*

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

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

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

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



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

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

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

2 § 209. APPEALS

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

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

12 § 221. STATE PLAN AND COOPERATION

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

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

2 § 222. APPLICATION

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

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

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

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

18 § 223. DUTIES

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

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

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

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

7 § 224. RULES AND STANDARDS

8 \* \* \*

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

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

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

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

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

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

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

9 § 226. ENFORCEMENT

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

14 \* \* \*

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

20 \* \* \*



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

3 No

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

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

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

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



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

*(B) The Review Board may modify its findings as to the facts, or  
make new findings, by reason of additional evidence so taken and filed, and it.  
If it does so, the Review Board shall file ~~such~~ the modified or new findings,  
~~which findings with respect to questions of fact, if supported by substantial~~  
~~evidence on the record considered as a whole, shall be conclusive, and its~~  
~~recommendations, if any, for the modification or setting aside of its original~~  
~~order. New findings with respect to questions of fact that are filed by the~~  
~~Review Board shall be conclusive, if supported by substantial evidence on the~~  
~~record considered as a whole.~~*

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

9 (b)(1) The Commissioner may also obtain a review or enforcement of any  
10 final order of the Review Board by filing a petition for ~~such~~ relief in the  
11 Superior Court within the jurisdiction of which the alleged violation occurred  
12 or in which the employer has its principal office ~~and the.~~ The provisions of

1 subsection (a) of this section shall govern ~~such~~ proceedings under this  
2 subsection to the extent applicable.

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

7 (3) In any such case, as well as in the case of a noncontested citation or  
8 notification by the Commissioner, ~~which~~ that has become a final order of the  
9 Review Board, the clerk of the court, unless otherwise ordered by the court,  
10 shall ~~forthwith~~ promptly enter a decree enforcing the order and shall transmit a  
11 copy of ~~such~~ the court decree to the Commissioner and the employer named in  
12 the petition.

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

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

18 § 228. REPORTS

19 (a) Employers shall keep and file all reports and records required under the  
20 Act, and any reports and records ~~which~~ that the Commissioner or the Secretary  
21 of Human Services may require by rule.

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

4 (c)(1)(A) Each employer shall make, keep, ~~and~~ preserve, and make  
5 available to the Secretary of the U.S. Department of Labor or the Secretary of  
6 the U.S. Department of Health and Human Services, such records regarding  
7 ~~his or her~~ the employer's activities relating to the Act as the Secretary of the  
8 U.S. Department of Labor, in cooperation with the Secretary of the U.S.  
9 Department of Health and Human Services, may prescribe by regulation as  
10 necessary or appropriate for the enforcement of the Act or for developing  
11 information regarding the causes and prevention of occupational accidents and  
12 illnesses. In order to carry out the provisions of this subdivision, such  
13 regulations may include provisions requiring employers to conduct periodic  
14 inspections.

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

19 (2) The Commissioner, in cooperation with the Secretary, shall ~~issue~~  
20 ~~regulations~~ adopt rules requiring employees to maintain accurate records of  
21 employee exposures to potentially toxic materials or harmful physical agents

1 ~~which that~~ are required to be monitored or measured under section 224 of this  
2 title ~~subchapter~~. ~~Such regulations~~ The rules shall provide employees or their  
3 representative with an opportunity to observe ~~such~~ the monitoring or  
4 measuring, and to have access to the records thereof. ~~Such regulations~~ The  
5 rules shall also make appropriate provision for each employee or former  
6 employee to have access to ~~such~~ records as will indicate his or her relating to  
7 the employee's own exposure to toxic materials or harmful physical agents.

8 Each employer shall promptly notify any employee who has been or is being  
9 exposed to toxic materials or harmful physical agents in concentrations or at  
10 levels ~~which that~~ exceed those prescribed by an applicable occupational safety  
11 and health standard ~~promulgated~~ adopted under section 224 of this title  
12 subchapter and shall inform any employee who is being thus exposed of the  
13 corrective action being taken.

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

15 § 230. OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

16 (a) ~~At~~ The Occupational Safety and Health Review Board is created. It  
17 shall consist of three members who shall be appointed by the Governor, with  
18 the advice and consent of the Senate. The members of the Board shall be  
19 appointed for terms of six years, but initially in a manner so that one term  
20 expires in two years, one term in four years, and one term in six years.

21 Thereafter, biennially, in the month of February, with the advice and consent

1 of the Senate, the Governor shall appoint a person as a member of ~~such~~ the  
2 Board for the term of six years, whose term of office shall commence on  
3 March 1 of the year in which ~~such~~ the appointment is made. The Governor,  
4 biennially, shall designate a member of ~~such~~ the Board to be its Chair.

5 (b)(1) With the approval of the Secretary of Administration, the Board may  
6 employ ~~such~~ employees as it deems necessary, and may without such approval  
7 employ and remove a clerk and a reporter for taking and transcribing  
8 testimony in hearings before it and ~~such~~ hearing judges as that it deems  
9 necessary to hear appeals on behalf of the Board. Compensation for  
10 employees of the Board shall be fixed by the Commissioner of Human  
11 Resources.

12 (2) The hearing judge appointed by the Board shall hear, and make a  
13 determination upon, any proceeding instituted before the Board and any  
14 motion in connection ~~therewith,~~ with such a proceeding that is assigned to  
15 ~~such~~ the hearing judge by the Chair of the Board, ~~and.~~ The hearing judge shall  
16 make a report to the Board of any ~~such~~ determination ~~which~~ that constitutes  
17 ~~his or her~~ the hearing judge's final disposition of the proceedings. The report  
18 of the hearing judge shall become the final order of the Board within 30 days  
19 after ~~such~~ the report ~~by the hearing examiner is made to the Board,~~ unless  
20 ~~within such period any,~~ during that period, a Board member ~~has directed~~  
21 directs that ~~such~~ the report shall be reviewed by the Board.

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

\* \* \*

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

§ 231. EMPLOYEE RIGHTS

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

(b) Any employee who believes that ~~he or she~~ the employee has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after ~~such~~ the violation occurs, file a complaint with the Commissioner alleging ~~such~~ the discrimination. Upon receipt of ~~such~~ the complaint, the Commissioner shall ~~cause such investigation to be made as he or she~~ conduct an investigation of the complaint as the Commissioner deems appropriate. If ~~upon such,~~ after the investigation, the

1 Commissioner determines that the provisions of this section have been  
2 violated, ~~he or she~~ the Commissioner shall bring an action in any appropriate  
3 State court against ~~sueh~~ the person alleged to have violated this section. In any  
4 such action, the State courts shall have jurisdiction, for cause shown, to  
5 restrain violations of subsection (a) of this section and order all appropriate  
6 relief, including rehiring or reinstatement of the employee to ~~his or her~~ the  
7 employee's former position with back pay.

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

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

12 § 302. DEFINITIONS

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

14 \* \* \*

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

16 § 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT  
17 SEPARATION AGREEMENTS

18 In support of the State's fundamental interest in protecting the safety of  
19 minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of  
20 the State ~~of Vermont~~ that no confidential employment separation agreement  
21 shall inhibit the disclosure to prospective employers and responsible licensing

1 entities of factual information about a prospective employee's background that  
2 would lead a reasonable person to conclude that the prospective employee has  
3 engaged in conduct jeopardizing the safety of a minor or vulnerable adult.

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

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

7 § 341. DEFINITIONS

8 As used in this subchapter:

9 (1) "Employee" means ~~a person~~ an individual who has entered into the  
10 employment of an employer, where the employer is unable to show that:

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

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

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

19 (2) "Employer" means any person ~~having employees in his or her~~  
20 ~~service~~ that employs one or more individuals.

21 (3) "Commissioner" means the Commissioner of Labor ~~or designee~~.



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

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any employer ~~having one or more employees~~ that is doing and ~~transacting~~ business within the State shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of ~~such~~ payment.

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

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

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

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

6           (B) At the option of the employee, the school district or supervisory  
7           union shall disburse the funds to the employee in either a single payment at the  
8           time the employee receives ~~his or her~~ the employee's final paycheck of the  
9           school year, or in equal weekly or biweekly sums beginning at the end of the  
10          school year.

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

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



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

6           ~~(B) Copies of the written disclosures required by subdivisions (A)~~  
7 ~~and (F) of this subdivision (c)(2) and by subsection (d) of this section shall be~~  
8 ~~provided to the employee in the employee's primary language or in a language~~  
9 ~~the employee understands.~~

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

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

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





1 this section in the employee's primary language or in a language the employee  
2 understands

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

4 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

5 (a) An employee or the Department on its own motion may file a  
6 complaint that wages have not been paid to an employee, not later than two  
7 years ~~from~~ after the date the wages were due. The Commissioner shall  
8 provide notice and a copy of the complaint to the employer by service, or by  
9 certified mail sent to the employer's last known address, together with an order  
10 to file a response to the specific allegation in the complaint filed by the  
11 employee or the Department with the Department within 10 calendar days ~~of~~  
12 after receipt.

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

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(e) Within 30 days after the date of the ~~collection order~~ determination, the employer or employee may file an appeal from the determination to a departmental administrative law judge. The appeal shall, after notice to the employer and employee, be heard by the administrative law judge within a reasonable time. The administrative law judge shall review the complaint ~~de novo~~, and, after a hearing, the determination and, if applicable, order for collection shall be sustained, modified, or reversed by the administrative law judge. Prompt notice in writing of the decision of the administrative law judge and the reasons for it shall be given to all interested parties.

\* \* \*

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

§ 344. ASSIGNMENT OF FUTURE WAGES

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

- (1) the employer from whom ~~such~~ the wages are to become due; or
- (2) ~~to anyone in~~ any person on behalf of ~~such~~ the employer, or ~~if made~~ or procured to be made to anyone for the purpose of relieving ~~such~~ the employer from the obligation to pay under the provisions of section 342 of this subchapter.



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

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

5       § 345. NONPAYMENT OF WAGES AND BENEFITS

6       (a) ~~Each~~ An employer who violates section 342, 343, 482, or 483 of this  
7       title shall be fined not more than \$5,000.00. ~~Where~~ If the employer is a  
8       corporation, the president or other officers who have control of the payment  
9       operations of the corporation shall be considered employers and liable to the  
10      employee for actual wages due when the officer has willfully and without good  
11      cause participated in knowing violations of this ~~chapter~~ subchapter.

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

19      (c) The Commissioner may enforce collection of the ~~fin~~ penalties  
20      assessed under this section in the Civil Division of the Superior Court

21      Sec. 83. 21 V.S.A. § 382 is amended to read:

1 § 382. ~~COVERAGE~~

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

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

5 § 383. DEFINITIONS

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

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

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

12 \* \* \*

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

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

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

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

18 § 384. EMPLOYMENT; WAGES

19 (a)(1) ~~An employer shall not employ any employee at a rate of less than~~  
20 ~~\$10.96. Beginning on January 1, 2021, an employer shall not employ any~~  
21 ~~employee at a rate of less than \$11.75. Beginning on January 1, 2022, an~~

1 employer shall not employ any employee at a rate of less than \$12.55, and on  
2 each subsequent January 1, the minimum wage rate shall be increased by five  
3 percent or the percentage increase of the Consumer Price Index, CPI-U, U.S.  
4 city average, not seasonally adjusted, or successor index, as calculated by the  
5 U.S. Department of Labor or successor agency for the 12 months preceding  
6 the previous September 1, whichever is smaller, but in no event shall the  
7 minimum wage be decreased. The minimum wage shall be rounded off to the  
8 nearest \$0.01.

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

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

19 (b) Notwithstanding subsection (a) of this section, an employer shall not  
20 pay an employee less than one and one-half times the regular wage rate for any

1 work done by the employee in excess of 40 hours during a workweek.

2 However, this subsection shall not apply to:

3 \* \* \*

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

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

9 \* \* \*

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

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

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

17 \* \* \*

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

19 § 385. ADMINISTRATION

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

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

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

\* \* \*

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

§ 386. INVESTIGATIONS

The Commissioner may, and on a petition of 50 or more residents of the State shall, ~~make an investigation of~~ investigate any industry, business, occupation, or employment ~~as set forth in~~, pursuant to the provisions of section

1 385 of this ~~title~~ subchapter, to ascertain whether any violations of this  
2 subchapter have occurred.

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

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

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

8 [Repealed.]

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

10 § 392. ~~COURT PROCEEDINGS~~

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

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

15 § 393. EMPLOYERS' RECORDS; NOTICE

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

1 Commissioner, ~~his or her deputy~~, or any authorized agent of the Department at  
2 any reasonable time.

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

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

9 § 394. PENALTIES

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

18 (b) ~~Any~~ An employer or any of the employer's agents or the an officer or  
19 agent of ~~any corporation~~ who fails to keep the records required under this  
20 subchapter or refuses to permit the Commissioner to enter the place of  
21 business or who fails to furnish the records to the Commissioner upon demand

1 an employer, shall be fined assessed a civil penalty not more than \$100.00 for  
2 any of the following:

3 (1) failing to keep the records required pursuant to this subchapter;

4 (2) refusing to permit the Commissioner to enter the place of business;

5 or

6 (3) failing to furnish records to the Commissioner upon demand.

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

8 § 395. CIVIL ACTIONS

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

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

18 § 396. APPEALS FROM COMMISSIONER'S DECISIONS

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



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

*(b) Procedure. The Commissioner shall forward to the court the record of  
the decision on appeal. The court shall direct the record in the matter  
appealed from to be laid before it, hear the evidence, and make such order  
approving in whole or in part or setting aside in whole or in part the decision  
appealed from consider the record and any evidence presented; may approve  
or set aside the Commissioner's decision in whole or in part, as justice may  
require; and may refer any matter or issue arising in the proceedings to the  
Commissioner for further consideration. However, in In no case shall such an  
appeal operate as a supersedeas or stay unless the Commissioner or the court  
to which such the appeal is taken shall so order orders.*

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

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

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

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

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

15 § 415. VIOLATIONS

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

18 \* \* \*

19 (d) If, after an administrative hearing, the Commissioner determines that an  
20 employer has violated any of the requirements of this subchapter, the  
21 Commissioner shall issue an order including any penalties assessed by the

1 Commissioner under this section and section 417 of this subchapter. The  
2 employer may appeal a decision of the Commissioner to the Superior Court  
3 within 30 days of after the date of the Commissioner's order.

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

5 § 430. POLICY; DEFINITIONS; RULES

6 \* \* \*

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

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

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

11 \* \* \*

12 (4) "Illegal child employment" means the employment of any child  
13 under ~~the age of~~ 18 years of age in any work or occupation specifically  
14 prohibited by State or federal law. "Illegal child employment" does not  
15 include work performed by students as part of an educational program,  
16 provided this subchapter or federal law specifically permits this work.

17 (c) The Commissioner shall adopt rules to carry out the purpose and intent  
18 of this subchapter, provided the rules are consistent with federal child labor  
19 laws and rules. However, the Commissioner shall not be required to adopt or  
20 modify rules ~~in order~~ to conform with a change in federal child labor laws or

1 regulations ~~which~~ that weakens or eliminates an existing child labor protection  
2 policy.

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

4 § 432. RESTRICTIONS

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

9 (1) The school record of the child properly filled out and signed by the  
10 person in charge of the school ~~which~~ that the child last attended, giving the  
11 child's age, address, standing in studies, rating in conduct, and attendance in  
12 days during the school year of the last full year of attendance.

13 \* \* \*

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

20 (4) Before a certificate approving the employment of a child as an actor  
21 or performer in motion pictures, theatrical productions, radio, or television is

1 issued by the Commissioner, the Secretary of Education must approve the  
2 substance and conditions of the educational program being provided to the  
3 child during ~~this~~ the employment, ~~which in no case shall be~~ shall not be for  
4 more than 90 days during the school year.

5 \* \* \*

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

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

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

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

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

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

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

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

14 (b) A child under 16 years of age shall not be employed more than three

15 hours on any day that school is in session, and not more than a total of 18

16 hours during any week that school is in session.

17 (c)(1) ~~However, in the case of~~ Notwithstanding subsections (a) and (b) of

18 this section, a child employed as an actor or performer in motion pictures,

19 theatrical productions, radio, or television, or employed as a baseball bat ~~girl~~

20 ~~or bat boy person~~, the child may be employed until midnight or after midnight

1 if a parent or guardian and the Commissioner of Labor have consented in  
2 writing.

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

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

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

8 § 435. EXAMINATION AND REPORT

9 When so ordered by the Secretary of Education, the superintendent of  
10 schools for the school district or supervisory union where the child under 16  
11 years of age resides shall examine the child for the purpose of determining the  
12 child's eligibility for employment in accordance with the provisions of section  
13 432 of this ~~title~~ subchapter and shall, upon the completion of the examination,  
14 make a written report to the Secretary of Education who shall transmit a copy  
15 of the report to the Commissioner.

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

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

18 A child under 14 years of age shall not be employed or permitted to work in  
19 any gainful occupation unless the occupation has been approved by the  
20 Commissioner, by rule, to be appropriate for a child under ~~the age of 14 years~~ 14 years

1 of age, and the employment occurs during vacation and before and after  
2 school. The provisions of this section shall not apply to:

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

8 (2) ~~A~~ a newspaper carrier; or

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

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

12 § 437. EMPLOYMENT OF CHILDREN; SPECIAL RESTRICTIONS;

13 HOURS FOR CHILDREN UNDER 16 YEARS OF AGE

14 \* \* \*

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

16 § 444a. EMPLOYMENT OF ALIENS

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

18 \* \* \*

19 (3) “Illegal alien” means any person not a citizen of the United States  
20 who has entered the United States in violation of the Federal Immigration and  
21 Naturalization Act or regulations issued ~~thereunder~~ pursuant to the Act, who

1 has legally entered but without the right to be employed in the country, or who  
2 has legally entered subject to a time limit but has remained illegally after the  
3 expiration of ~~such~~ the time limit.

4 \* \* \*

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

10 \* \* \*

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

12 § 472. LEAVE

13 \* \* \*

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

18 \* \* \*

19 (d) The employer shall post and maintain in a conspicuous place in and  
20 about each of ~~his or her~~ the employer's places of business printed notices of



1 the provisions of this subchapter on forms provided by the Commissioner of  
2 Labor.

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

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

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

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

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

17 \* \* \*

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

20 (2)(A) Nothing in this subchapter shall be construed to diminish an  
21 employer's obligation to comply with any collective bargaining agreement or

1 any employment benefit program or plan ~~which~~ that provides greater leave  
2 rights than the rights provided by this subchapter.

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

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

10 \* \* \*

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

12 § 481. DEFINITIONS

13 As used in this subchapter:

14 \* \* \*

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

19 \* \* \*

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

21 § 482. EARNED SICK TIME

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\* \* \*

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

(c) An employer may:

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

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

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

\* \* \*

(e) Except as otherwise provided by subsection 484(a) of this subchapter, an employer shall calculate the amount of earned sick time that an employee has accrued pursuant to this section:

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

(2) on a quarterly basis, provided that an employee may use earned sick time as ~~he or she~~ it accrues ~~it~~ during each quarter.

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

1 § 483. USE OF EARNED SICK TIME

2 (a) An employee may use earned sick time accrued pursuant to section 482  
3 of this subchapter for any of the following reasons:

4 \* \* \*

5 (3) The employee cares for a sick or injured parent, grandparent,  
6 spouse, child, brother, sister, parent-in-law, grandchild, or foster child,  
7 including helping that individual obtain diagnostic, preventive, routine, or  
8 therapeutic health treatment, or accompanying the employee's parent,  
9 grandparent, spouse, or parent-in-law to an appointment related to ~~his or her~~  
10 that individual's long-term care.

11 \* \* \*

12 (c) An employer may limit the amount of earned sick time accrued  
13 pursuant to section 482 of this subchapter that an employee may use to:

14 ~~(1) from January 1, 2017 until December 31, 2018, no more than 24~~  
15 ~~hours in a 12-month period; and~~

16 ~~(2) after December 31, 2018, no more than 40 hours in a 12-month~~  
17 ~~period.~~

18 (d)(1) Except as otherwise provided in subsection 484(a) of this  
19 subchapter, earned sick time that remains unused at the end of an annual  
20 period shall be carried over to the next annual period and the employee shall  
21 continue to accrue earned sick time as provided pursuant to section 482 of this

1 subchapter. However, nothing in this subdivision shall be construed to permit  
2 an employee to use more earned sick time during an annual period than any  
3 limit on the use of earned sick time that is established by ~~his or her~~ the  
4 employee's employer pursuant to subsection (c) of this section.

5 \* \* \*

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

14 (2) An employee that voluntarily separates from employment after ~~he or~~  
15 ~~she has completed~~ completing a waiting period required pursuant to subsection  
16 482(b) of this subchapter and is subsequently rehired by the same employer  
17 within 12 months after the separation from employment shall not be entitled to  
18 accrue and use earned sick time without a waiting period unless agreed to by  
19 the employer.

20 \* \* \*



1 impose the same civil penalties and investigation costs and to order other relief  
2 to the State of Vermont or an aggrieved employee for violations of this  
3 subchapter as they are authorized to impose or order under the provisions of  
4 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the  
5 Superior Courts may order restitution of wages or other benefits on behalf of  
6 an employee and may order reinstatement and other appropriate relief on  
7 behalf of an employee.

8 \* \* \*

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

10 § 495g. PROVISION APPLICABLE TO COLLEGE PROFESSORS

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

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

19 § 496. LEGISLATIVE LEAVE

20 (a) Any ~~person~~ employee who, in order to serve as a member of the  
21 General Assembly, must leave a full-time position in the employ of any

1 employer, shall be entitled to a temporary or partial leave of absence for the  
2 purpose of allowing ~~such~~ the employee to perform any official duty in  
3 connection with ~~his or her~~ the employee's elected office. ~~Such~~ The leave of  
4 absence shall not cause loss of job status, seniority, or the right to participate in  
5 insurance and other employee benefits during the leave of absence.

6 (b) An employee who intends to seek election to the General Assembly and  
7 to invoke, if elected, ~~his or her~~ the right to a leave of absence pursuant to  
8 subsection (a) of this section, shall notify ~~his or her~~ the employee's employer  
9 of those intentions in writing within 10 days after filing the primary election  
10 nominating petition required by 17 V.S.A. § 2353 or of taking any other action  
11 required by 17 V.S.A. chapter 49, to place ~~his or her~~ the employee's name on a  
12 primary or general election ballot. An employee who fails to give notice to ~~his~~  
13 ~~or her~~ the employee's employer as required by this section shall be deemed to  
14 have waived ~~his or her~~ the right to a leave of absence under subsection (a) of  
15 this section.

16 (c) An employer who contends that granting the leave of absence required  
17 by subsection (a) of this section will cause unreasonable hardship for ~~his or her~~  
18 the employer's business may appeal for relief by letter to the Chair of the State  
19 Labor Relations Board created by 3 V.S.A. § 921. The right to such appeal  
20 shall be waived unless it is filed within 14 days ~~of~~ after receipt of the notice  
21 required by subsection (b) of this section. The appeal shall state the name of



1 the employee and the reasons for the alleged unreasonable hardship. The  
2 remedy created by this subsection shall be the exclusive remedy for an  
3 employer who claims unreasonable hardship as a result of the application to  
4 ~~him or her~~ the employer of subsection (a) of this section.

5 (d) The Chair of the State Labor Relations Board, or any member of the  
6 Board designated by the Chair, shall serve as an arbitrator in any case appealed  
7 pursuant to subsection (c) of this section. The proceedings shall include an  
8 opportunity for the employee to respond, orally or in writing, to the allegations  
9 of unreasonable hardship raised by the employer, and shall be conducted in  
10 accord with the rules of practice of the State Labor Relations Board. Within  
11 30 days ~~of~~ after receipt of a notice of appeal, the arbitrator shall issue an order,  
12 which shall be binding on both parties, either granting or denying the  
13 employer's claim of unreasonable hardship. If the employer's claim is  
14 granted, the employee shall not be entitled to the protection of subsection (a)  
15 of this section. In reaching ~~his or her~~ a decision, the arbitrator shall consider,  
16 but is not limited to, the following factors:

17 \* \* \*

18 (f) Any attorney, party, witness, or juror who, while a member of and  
19 during sessions of the General Assembly, is assigned or scheduled to appear in  
20 any court of the State of Vermont shall be entitled to a leave of absence or  
21 postponement from such judicial duties when ~~his or her~~ the individual's duties

1 in the ~~Legislature~~ General Assembly are more compelling, for the purpose of  
2 allowing the member to perform any official duties in connection with ~~his or~~  
3 ~~her~~ the member's elected office. The leave of absence or postponement shall  
4 not prejudice the member or the cause involved.

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

6 § 497e. FUNDS; REVENUE; USE

7 (a) The Chair of the Governor's Committee on Employment of People with  
8 Disabilities or ~~his or her~~ the Chair's designated representative may authorize  
9 or sponsor fund-raising events and the revenue ~~therefrom~~ from the events shall  
10 be placed in the account of the Governor's Committee on Employment of  
11 People with Disabilities.

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

16 \* \* \*

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

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

21 § 499. JURORS AND WITNESSES

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

6           (2) All employees shall be considered in the service of their employer  
7           during all times while serving as jurors in accordance with this section for  
8           purposes of determining seniority, fringe benefits, credit toward vacations, and  
9           other rights, privileges, and benefits of employment.

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

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



1 the procedures set forth in 29 V.S.A. § 161, notwithstanding the \$50,000.00  
2 limitation ~~therein~~ set forth in that section.

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

4 § 504. INCOME FROM VENDING FACILITIES AND MACHINES

5 \* \* \*

6 (c) Income ~~which~~ that accrues to the Division under this subchapter shall  
7 be used to:

8 (1) maintain or enhance the vending facilities program;

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

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

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

15 § 505. VENDING FACILITIES; OPERATION BY OTHER THAN A

16 PERSON WHO IS BLIND OR VISUALLY IMPAIRED

17 Where vending facilities on State property are operated by those other than  
18 persons who are blind or visually impaired on July 1, 1984, the contracts of  
19 these vending facilities may be renewed or extended. A person who does not  
20 intend to renew or extend such a contract shall so notify the Director of the  
21 Division in a timely manner. Within 30 days ~~of such~~ after the notice, the

1 Director shall determine whether the vending facility is suited for operation by  
2 a person who is blind or visually impaired. If the Director determines that the  
3 facility is suited for operation by such person, preference in operation of the  
4 facility shall be given to a person who is blind or visually impaired.

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

6 § 507. WHISTLEBLOWER PROTECTION; HEALTH CARE  
7 EMPLOYEES; PROHIBITIONS; HEARING; NOTICE

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

9 \* \* \*

10 (6) “Public body” means:

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

14 \* \* \*

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

16 § 508. ENFORCEMENT

17 \* \* \*

18 (c) ~~Not~~ Not later than July 1, 2005, all hospitals as defined in 18 V.S.A.  
19 § 1902(1) shall revise their internal processes referred to in subdivision (a)(1)  
20 to include and be consistent with ANCC Magnet Recognition Program

1 standards that support the improvement of quality patient care and professional  
2 nursing practice.

3 \* \* \*

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

5 § 509. NOTICE

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

10 \* \* \*

11 (b) ~~Ne~~ Not later than January 1, 2005, each employer shall post the notice  
12 in the employer's place of business to inform the employees of their  
13 protections and obligations under this subchapter. The employer shall post the  
14 notice in a prominent and accessible location in the workplace. The employer  
15 shall indicate on the notice the name or title of the individual the employer has  
16 designated to receive notifications pursuant to subsection 507(c) of this ~~title~~  
17 subchapter.

18 \* \* \*

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

20 § 514. ADMINISTRATION OF TESTS





1 urine sample is provided, and preserved in such a way that it can be tested later  
2 for the presence of drugs.

3 \* \* \*

4 (11) Medical review officer. The employer shall contract with or  
5 employ a certified medical review officer who shall be a licensed physician  
6 with knowledge of the medical use of prescription drugs and the pharmacology  
7 and toxicology of illicit drugs. The medical review officer shall review and  
8 evaluate all drug test results, ~~assure~~ ensure compliance with this section and  
9 sections 515 and 516 of this ~~title~~ subchapter, report the results of all tests to the  
10 individual tested, and report only confirmed drug test results to the employer.

11 \* \* \*

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

13 § 601. DEFINITIONS

14 As used in this chapter:

15 \* \* \*

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

19 \* \* \*

20 (I)(i) In the case of police officers, rescue or ambulance workers, or  
21 firefighters, post-traumatic stress disorder that is diagnosed by a mental health

1 professional shall be presumed to have been incurred during service in the line  
2 of duty and shall be compensable, unless it is shown by a preponderance of the  
3 evidence that the post-traumatic stress disorder was caused by nonservice-  
4 connected risk factors or nonservice-connected exposure.

5 \* \* \*

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

7 \* \* \*

8 (II) “Mental health professional” means a person with  
9 professional training, experience, and demonstrated competence in the  
10 treatment and diagnosis of mental conditions, who is certified or licensed to  
11 provide mental health care services and for whom diagnoses of mental  
12 conditions are within ~~his or her~~ the person’s scope of practice, including a  
13 physician, nurse with recognized psychiatric specialties, psychologist, clinical  
14 social worker, mental health counselor, or alcohol or drug abuse counselor.

15 \* \* \*

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

17 ~~(A)(i)~~ All officers and State employees, as defined in 3 V.S.A.  
18 § 1101, of all State agencies, departments, divisions, boards, commissions, and  
19 institutions, and the Vermont Historical Society;

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

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

6           ~~(D)~~(iv) ~~members~~ Members of the Military Forces of the State of  
7           Vermont while in the active service of this State ordered by competent  
8           authority;

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

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

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

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

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



1 (iv) any person engaged by the State under retainer or special  
2 agreement.

3 (13) “Wages” includes bonuses and the market value of board, lodging,  
4 fuel, and other advantages that can be estimated in money and that the  
5 employee receives from the employer as a part of ~~his or her~~ the employee’s  
6 remuneration~~;~~, but does not include any sum paid by the employer to ~~his or her~~  
7 the employee to cover any special expenses entailed on the employee by the  
8 nature of ~~his or her~~ the employment.

9 (14) “Worker” and “employee” ~~means~~ mean an individual who has  
10 entered into the employment of, or works under contract of service or  
11 apprenticeship with, an employer. Any reference to a worker who has died as  
12 the result of a work injury shall include a reference to the worker’s  
13 dependents, and any reference to a worker who is a minor or incompetent shall  
14 include a reference to the ~~minor’s~~ worker’s committee, guardian, or next  
15 friend. The term “worker” or “employee” does not include:

16 \* \* \*

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

19 \* \* \*

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





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

2 § 605. TESTIMONY OF PERSON ~~WITHOUT~~ OUTSIDE THE STATE,

3 HOW TAKEN

4 Upon the application of a party in a cause pending before ~~him or her~~ the  
5 Commissioner and on such notice to the adverse party or ~~his or her~~ the adverse  
6 party's attorney as ~~he or she thinks~~ the Commissioner deems reasonable, the  
7 Commissioner may issue a commission to a person designated by the  
8 Commissioner, to take the testimony of a person residing or ~~being without~~  
9 located outside the state State. ~~Such~~ The testimony shall be taken upon  
10 interrogatories settled by order of the Commissioner or upon oral examination,  
11 as ~~he or she~~ the Commissioner directs.

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

13 § 606. DETERMINATION OF QUESTIONS

14 Questions arising under the provisions of this chapter, if not settled by  
15 agreement of the interested parties ~~interested therein~~ with the approval of the  
16 Commissioner, shall be determined, except as otherwise provided, by the  
17 Commissioner.

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

19 § 607. DECISIONS; ENFORCEMENT; APPEALS

20 The decisions of the Commissioner shall be enforceable by the Superior  
21 Court under the provisions of section 675 of this ~~title~~ chapter. From such a



1 decision, an appeal shall lie in the same manner as other appeals from the  
2 Commissioner. However, in no case shall ~~such~~ an appeal under this section  
3 operate as a ~~supersedeas or~~ stay unless ~~he, she,~~ the Commissioner or the court  
4 to which ~~such~~ the appeal is taken shall so ~~order~~ orders.

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

6 § 618. COMPENSATION FOR PERSONAL INJURY

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

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

13 \* \* \*

14 (d) The acceptance of any payment by an employee for a work injury shall  
15 not bar a subsequent election to pursue a civil suit under subsection (b) of this  
16 section unless the employee, with knowledge of ~~his or her~~ the employee's  
17 rights, signs a written agreement waiving the right to pursue a civil action.

18 The agreement shall be filed with and approved by the Commissioner. If the  
19 employer fails to pay any amount due and owing under the workers'  
20 compensation act, the waiver agreement shall be void and the employee may  
21 pursue a civil action.

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\* \* \*

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

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

\* \* \*

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

§ 624. DUAL LIABILITY; CLAIMS, SETTLEMENT PROCEDURE

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

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

7           (3) Not less than 30 days before the commencement of suit by any party  
8 under this section, the party shall notify, by registered mail at their last known  
9 address, the Commissioner, the injured employee, or in the event of death, the  
10 employee's known dependents, or personal representative or known next of  
11 kin, the employee's employer, and the workers' compensation insurance  
12 carrier. Any party in interest shall have a right to join in the suit but the  
13 direction and control of the suit shall be with the injured employee.

14           (b) Prior to entry of judgment, either the employer or the employer's  
15 insurance carrier or the employee or the employee's personal representative  
16 may settle their claims as their interest shall appear and may execute releases  
17 ~~therefor, but the~~ for their claims. The consent of the employer, or, if insured,  
18 the insurance carrier, shall be required, if the amount of the settlement by the  
19 employee or the employee's personal representative is less than the  
20 compensation benefits that would have been payable in the future but for the  
21 provisions of this section.

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\* \* \*

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

(e)(1)(A) In an action to enforce the liability of a third party, the injured employee may recover any amount that the employee or the employee's personal representative would be entitled to recover in a civil action. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or its workers' compensation insurance carrier for any amounts paid or payable under this chapter to date of recovery, and the balance shall ~~forthwith~~ be paid to the employee or the employee's dependents or personal representative as soon as practicable and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits.

(B) Reimbursement required under this subsection (e), except to prevent double recovery, shall not reduce the employee's recovery of any benefit or payment provided by a plan or policy that was privately purchased

1 by the injured employee, including uninsured-underinsured motorist coverage,  
2 or any other first party insurance payments or benefits.

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

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

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

14 (iii) If mediation is unsuccessful, the Commissioner may  
15 adjudicate the dispute or refer the dispute to an arbitrator approved by the  
16 Commissioner. The determination of the Commissioner or of an arbitrator  
17 approved by the Commissioner shall be final.

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

20 \* \* \*

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

4 \* \* \*

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

6 § 632. COMPENSATION TO DEPENDENTS; BURIAL AND FUNERAL  
7 EXPENSES

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

13 (2) Every two years, the Commissioner of Labor shall evaluate the  
14 average burial and funeral expenses in the State and make a recommendation  
15 to the House Committee on Commerce and Economic Development as to  
16 whether an adjustment in compensation is warranted. The provisions of  
17 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to  
18 be made under this section.

19 (b)(1) The employer shall also pay to or for the benefit of the following  
20 persons, for the periods prescribed in section 635 of this ~~title~~ chapter, a weekly  
21 compensation equal to the following percentages of the deceased employee's

1 average weekly wages. ~~The weekly compensation payment herein allowed~~  
2 ~~shall not exceed the maximum weekly compensation or be lower than the~~  
3 ~~minimum weekly compensation:~~

4           ~~(1)~~(A) To the spouse, if there are no dependent children,  $66 \frac{2}{3}$   
5 percent.

6           ~~(2)~~(B) To the spouse, if there is one dependent child,  $71 \frac{2}{3}$  percent;  
7 or if there are two or more dependent children,  $76 \frac{2}{3}$  percent. The  
8 compensation to the spouse shall be for the use and benefit of the spouse and  
9 of the dependent children.

10           ~~(3)~~(C) If there is no spouse, but a dependent child or children, then to  
11 the child or children, the amount or amounts payable to a spouse with the same  
12 number of dependent children, to be divided equally among the children if  
13 more than one.

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

20           ~~(5)~~(E) If there is neither dependent spouse, child, parent, nor  
21 grandparent, but there is a dependent grandchild, brother, or sister, or two or

1 more of them, to the dependents 15 percent for one dependent and five percent  
2 additional for each additional dependent, with a maximum of 25 percent to be  
3 divided equally between the dependents if more than one.

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

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

8 § 635. PERIODS OF COMPENSATION

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

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

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

16 (ii) remarriage; or

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

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

21 \* \* \*



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

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

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

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

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

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

17 § 640a. MEDICAL BILLS; PAYMENT; DISPUTE

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

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\* \* \*

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

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

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

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

\* \* \*

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

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

~~(3)~~ (3) Failure to submit the bill within six months does not bar payment unless the employer or insurance carrier is prejudiced by the delay. The

1 Commissioner may extend the six-month limit if the Commissioner determines  
2 that the delay resulted from circumstances outside the control of the health  
3 care provider.

4 \* \* \*

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

6 § 642a. TEMPORARY TOTAL; INSURER REVIEW

7 The employer shall review every claim for temporary total disability  
8 benefits that continues for more than 104 weeks. ~~Ne~~ Not later than 30 days  
9 after 104 weeks of continuous temporary total disability benefits have been  
10 paid, the employer shall file with the Department and the claimant a medical  
11 report from a physician that evaluates the medical status of the claimant, the  
12 expected duration of the disability, and when or if the claimant is expected to  
13 return to work. If the evaluating physician concludes that the claimant has  
14 reached a medical end result, the employer shall file a notice to discontinue.

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

16 § 643b. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

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

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



1 county in which the worker or the employer resides for damages, including  
2 punitive damages, for noncompliance and may apply for such equitable relief  
3 as may be just and proper under the circumstances. ~~A copy of the complaint~~  
4 ~~shall be filed with the Commissioner.~~

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

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

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

9 § 647. PERIOD OF PAYMENT

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

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

13 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

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

17 (2) If, because of the shortness of the time during which the worker has  
18 been in the employment, or the casual nature of the employment, or the terms  
19 of the employment, it is impracticable to compute the rate of remuneration,  
20 average weekly wages of the injured worker may be based on the average  
21 weekly earnings during the 26 weeks previous to the injury earned by a person

1 in the same grade employed at the same or similar work by the employer of  
2 the injured worker, or if there is no comparable employee, by a person in the  
3 same grade employed in the same class of employment and in the same  
4 district.

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

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

14 (5) The average weekly wage of a volunteer firefighter, volunteer rescue  
15 or ambulance worker, volunteer reserve police officer, or volunteer as set forth  
16 in 3 V.S.A. § 1101(b)(4), who is injured in the discharge of duties as a  
17 firefighter, rescue or ambulance worker, police officer, or State agency  
18 volunteer, shall be the employee's average weekly wage in the employee's  
19 regular employment or vocation but the provisions of section 642 of this title  
20 relative to maximum weekly compensation and weekly net income rates, shall  
21 apply.



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

5 \* \* \*

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

7 § 660a. ELECTRONIC FILING OF REPORTS OF INJURY

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

9 (1) "Electronic data interchange" or "EDI technology" means the  
10 computer-to-computer exchange of business transactions in ~~the~~ a standardized  
11 structured electronic format.

12 \* \* \*

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

18 \* \* \*

19 (e) ~~No later than July 1, 2004, all~~ All first reports of injury shall be filed by  
20 the insurance carrier electronically. The Commissioner may grant an  
21 insurance carrier a variance if the insurance carrier documents to the



1 satisfaction of the Commissioner that compliance would cause the insurance  
2 carrier “undue hardship,” which, for the purposes of this section, means  
3 significant difficulty or expense.

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

5 § 662. AGREEMENTS; REQUIRED PAYMENTS IN ABSENCE OF

6 (a)(1) If the employer and an injured employee or the dependents of a  
7 deceased employee enter into an agreement ~~in regard to~~ regarding  
8 compensation payable under the provisions of this chapter, a memorandum  
9 ~~thereof of the agreement~~ shall be filed with the Commissioner. If approved by  
10 the Commissioner, ~~such~~ the agreement shall be enforceable and subject to  
11 modification as provided by sections 668 and 675 of this ~~title~~ chapter. The  
12 Commissioner shall approve such an agreement only when the terms ~~thereof of~~  
13 the agreement conform to the provisions of this chapter.

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

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

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

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

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

14           (4) If the Commissioner's decision, after a hearing, is that the employee  
15 was not entitled to any or all benefits paid between the initial denial and the  
16 final decision, upon request of the employer, the Commissioner may order that  
17 the employee repay all benefits to which the employee was not entitled. The  
18 employer may enforce ~~such~~ a repayment order in any court ~~of law~~ having  
19 jurisdiction of the amount involved.

20           (5) Nothing in this section shall require the Commissioner to order  
21 payments pending a hearing if the Commissioner concludes that the benefit at

1 issue is not compensable regardless of the lack of evidence supporting the  
2 denial.

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

6 (c)(1) Whenever payment of a compensable claim is refused, on the basis  
7 that another employer or insurer is liable, the Commissioner, after notice to  
8 interested parties and a review of the claim, but in no event later than 30 days,  
9 shall order that payments be made by one employer or insurer until a hearing  
10 is held and a decision is rendered.

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

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

20 \* \* \*

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

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

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

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

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

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

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

18           § 667. EXAMINATION BY INDEPENDENT MEDICAL EXAMINERS

19                (a)(1) ~~Whenever it appears that~~ When a dispute exists regarding the  
20           reasonableness and necessity of treatment for an injury, or regarding the  
21           claimant's ability to perform suitable work, including light duty work, or

1 regarding any other medical issue, the Commissioner may appoint an  
2 independent medical examiner to examine the employee and report to the  
3 Commissioner.

4 (2) Whenever a dispute exists regarding the nature and extent of any  
5 permanent partial impairment ~~which~~ that involves permanent partial disability  
6 ratings ~~which~~ that differ by more than 10 percent, the Commissioner shall  
7 appoint an independent medical examiner to examine the employee and report  
8 to the Commissioner the examiner's opinion regarding the nature and extent of  
9 any permanent partial impairment. The opinion of the independent medical  
10 examiner as to degree of impairment shall be binding on the parties absent a  
11 showing of substantial error or omissions fraud or a gross departure from  
12 generally accepted medical practices.

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

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

18 (2) ~~Representatives of management and labor from the Governor's~~  
19 ~~Advisory Council on Workers' Compensation, if available, otherwise other~~  
20 ~~representatives~~ of management and labor shall each submit a list of health care

1 providers as proposed members of the pool. The Commissioner shall select  
2 the common names from both lists.

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

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

10 (5) Where a dispute involves a determination of the degree of  
11 permanent partial disability, the independent medical examiner shall use the  
12 most recent edition of the American Medical Association Guides to the  
13 Evaluation of Permanent Impairment or the supplement provided by the  
14 Commissioner.

15 \* \* \*

16 (e) The independent medical examination report shall be admitted into  
17 evidence in any Superior Court appellate proceedings concerning the claim.  
18 The use of an independent medical examiner under this section shall not limit  
19 the right of a claimant to obtain ~~his or her~~ the medical examination and report  
20 on any disputed medical issue.

21 \* \* \*

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

2 § 669. FINALITY OF AWARD

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

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

8 § 670. APPEALS TO SUPERIOR COURT

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

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

14 § 671. JURISDICTION; FINDINGS FOR NEW AWARD

15 The jurisdiction of ~~such court~~ the Superior Court shall be limited to a  
16 review of questions of fact or questions of fact and law certified to it by the  
17 Commissioner ~~and upon~~. Upon completion of the case in Superior Court,  
18 either after trial or upon remand from the Supreme Court, the clerk shall  
19 certify the findings of the court to the Commissioner who shall ~~thereupon~~  
20 make issue a new order in accordance ~~therewith~~ with those findings and shall  
21 ~~forthwith~~ promptly send to each of the parties a copy of such order. ~~Such~~ The

1 new order shall have all the force and effect of an award made pursuant to the  
2 provisions of sections 663 and 664 of this ~~title~~ chapter and shall supersede the  
3 award previously made by the Commissioner.

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

5 § 672. APPEALS TO THE SUPREME COURT

6 If an appeal is not taken under the provisions of section 670 of this ~~title~~  
7 chapter within the time ~~limited therefor~~ provided, either party may transfer  
8 ~~such~~ the cause to the Supreme Court. The jurisdiction of the Court shall be  
9 limited to a review of questions of law certified to it by the Commissioner. On  
10 such an appeal or on an appeal taken as provided in sections 670 and 671 of  
11 this ~~title~~ chapter and coming to the Supreme Court on appeal from Superior  
12 Court, the Supreme Court may render final judgment and award execution, or  
13 may remand the cause to the Superior Court or to the Commissioner for  
14 further findings or for a new order by ~~him or her~~ the Commissioner in  
15 accordance with the mandate of the Court. The Court shall, by general rules,  
16 prescribe the procedure to be followed in the case of such appeals.

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

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

19 On petition and proof and in its discretion, the Supreme Court or Superior  
20 Court may grant leave to enter an appeal from an order of the Commissioner  
21 of Labor in cases where the petitioner has been prevented by fraud, accident,



1 or mistake from taking or entering an appeal within the time allowed by law.

2 On granting ~~the same~~ leave, the court shall order ~~such~~ the petitioner to give  
3 sufficient security to prosecute ~~such~~ the appeal to effect and pay ~~such~~ any costs  
4 as are awarded against ~~him or her~~ the petitioner.

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

6 § 674. SERVICE OF PETITION

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

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

12 § 681. CLAIMS NOT ASSIGNABLE

13 Claims for compensation under the provisions of this chapter shall not be  
14 assignable. Compensation and claims ~~therefor~~ for compensation shall be  
15 exempt from all claims of creditors, except as provided in section 682 of this  
16 ~~title~~ chapter.

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

18 § 688. ADMINISTRATIVE PENALTIES; INSURANCE COMPANY'S

19 LICENSE SUSPENDED

20 (a) The Commissioner, after notice and opportunity for a hearing, may  
21 assess administrative penalties of not more than \$5,000.00 against any

1 employer, insurance company, or their agents that the Commissioner finds has  
2 refused or neglected to comply with the reasonable rules ~~and regulations~~ of the  
3 Commissioner or any orders issued by the Commissioner, or to adjust and pay  
4 compensation and medical bills in accordance with the provisions of this  
5 chapter.

6 \* \* \*

7 (c)(1) In addition to assessing administrative penalties, the Commissioner  
8 may refer to the Commissioner of Financial Regulation any insurance  
9 company authorized to transact workers' compensation insurance in this State  
10 ~~which~~ that refuses or neglects to comply with the reasonable rules ~~and~~  
11 ~~regulations~~ of the Commissioner or ~~which~~ that neglects or refuses to properly  
12 and promptly adjust and pay compensation and medical bills in accordance  
13 with the provisions of this chapter.

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

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

21 § 689. EMPLOYER COMPELLED TO INSURE

1        If an employer who secures the payment of compensation under the  
2        provisions of subdivision 687(3) of this ~~title~~ chapter neglects or refuses to  
3        comply with the reasonable rules ~~and regulations~~ of the Commissioner or  
4        neglects and refuses to promptly adjust and pay all compensation and medical  
5        bills as required by law, the Commissioner may cite ~~in~~ the employer. If on  
6        hearing it is found that such neglect or refusal is willful, the Commissioner  
7        may revoke the permission granted to ~~such~~ the employer to secure the payment  
8        of compensation under ~~such~~ that subdivision and compel the employer to take  
9        out insurance in an insurance company authorized to transact workers'  
10       compensation insurance in the State in addition to penalties assessed under  
11       section 688 of this ~~title~~ chapter.

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

13       § 691. POSTING OF NOTICE OF COMPLIANCE

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

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

21       § 693. THE INSURANCE CONTRACT

1       (a) Every policy of insurance and every guarantee contract covering the  
2       liability of an employer for compensation shall cover the entire liability of  
3       such ~~the~~ employer to his or her ~~the~~ employees covered by such ~~the~~ policy or  
4       contract and also shall contain a provision setting forth the right of the  
5       employees to enforce, in their own names, the liability of the insurance carrier  
6       in whole or in part for the payment of such compensation at any time, either  
7       by filing a separate claim ~~at any time~~ or by making ~~at any time~~ the insurance  
8       carrier a party to the original claim.

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

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

13      § 694. KNOWLEDGE OF EMPLOYER TO AFFECT INSURANCE

14                      CARRIER

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

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

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

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

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

7       § 695. INSOLVENCY OF EMPLOYER NOT TO RELEASE INSURANCE  
8               CARRIER

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

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

16       § 701. REPORTS OF ACCIDENTS BY EMPLOYERS

17       (a) Every employer liable to pay compensation under the provisions of this  
18 chapter shall keep a record of all injuries, fatal or otherwise, sustained by ~~his~~  
19 ~~or her~~ the employer's employees in the course of their employment and shall  
20 report such an injury causing an absence of one day or more, or necessitating  
21 medical attendance, to the Commissioner in writing upon forms to be procured

1 from ~~him or her~~ the Commissioner for ~~such~~ that purpose within 72 hours,  
2 Sundays and legal holidays excluded, after the occurrence of ~~such~~ an the  
3 injury.

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

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

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

13 § 702. CONTENTS; PENALTY

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

16 (1) the name and nature of the business of the employer;<sub>2</sub>

17 (2) the location of the place where the accident occurred;<sub>2</sub>

18 (3) the name, age, sex, wages, and occupation of the injured employee;<sub>2</sub>

19 ~~and shall state~~

20 (4) the date and hour of the accident causing the injury;<sub>2</sub> its

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

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

2           **(b)** An employer who refuses or neglects to make ~~such~~ reports required  
3 pursuant to section 701 of this chapter may be assessed an administrative  
4 penalty of not more than \$100.00 per violation after notice and opportunity for  
5 hearing under section 688 of this title.

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

7           § 704. REPORTS; PENALTY

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

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

17           **(c)** An employer who refuses or neglects to file the statistical report within  
18 30 days after a request by the Commissioner, may be assessed an  
19 administrative penalty of not more than \$1,000.00.

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

21           § 705. REGISTRATION; PENALTY

1       ~~The employers mentioned in section 704 of this title~~ Employers shall  
2 register with the Department of Labor, on forms provided by it, when  
3 commencing or ceasing business operations in the State and no fee shall be  
4 required by the State for that registration. An employer who refuses or  
5 neglects to register as required by this section may be assessed an  
6 administrative penalty of not more than \$50.00.

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

8       § 706. CONSTRUCTION

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

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

13       § 1036. EMPLOYEE LEASING COMPANY; DUTIES; DEEMED

14               EMPLOYER

15       (a) A licensee shall:

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

18                       (A) ~~The~~ the Department of Labor;;

19                       (B) ~~The~~ the Department of Taxes;;

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

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





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\* \* \*

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

\* \* \*

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

\* \* \*

~~Sec. 159. 21 V.S.A. § 1111 is amended to read:~~

§ 1111. DEFINITIONS

As used in this chapter:

\* \* \*

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

\* \* \*

1 ~~(28) "Quality assurance assessment" means a comprehensive review~~  
2 conducted by the Department regarding all aspects of an apprenticeship  
3 program's performance, including determining whether:

4 \* \* \*

5 (D) the Department is receiving notification of all new apprentices in  
6 a registered apprenticeship program, apprentices who leave a registered  
7 apprenticeship program, and apprentices who complete the registered  
8 apprenticeship program within 45 business days of after those changes events  
9 occur.

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

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

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

17 (b) The Department shall take all necessary steps as required and permitted  
18 by law to maintain its status as the State Apprenticeship Agency and  
19 recognized its recognition by the federal Office of Apprenticeship under  
20 29 C.F.R. ~~Part 29, section~~ § 29.13.

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

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

4 \* \* \*

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

6 § 1115. PROGRAM REGISTRATION AND OPERATION

7 \* \* \*

8 (f) Union participation.

9 \* \* \*

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

16 \* \* \*

17 (i) Program operation.

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

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

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

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

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

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

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

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

14 \* \* \*

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

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

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

21 § 1117. STANDARDS OF APPRENTICESHIP

1 \* \* \*

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

3 \* \* \*

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

8 \* \* \*

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

18 \* \* \*

19 (11) Minimum qualifications. Facially neutral, minimum qualifications  
20 required by the sponsor for persons entering the apprenticeship program, with

1 an eligible starting age of not less than 16 years of age, or 18 years of age if  
2 required by State law or rules or by federal laws law or regulations.

3 \* \* \*

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

11 \* \* \*

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

13 (12) to conform to the federal Equal Employment Opportunity Act of  
14 1972, 42 ~~United States Code~~, U.S.C. Chapter chapter 21, subchapter VI and  
15 for affirmative action compliance in apprenticeship programs, the voluntary  
16 disclosure of the apprentice's race, sex, gender identity, sexual orientation,  
17 ethnicity, and disability status; and

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

19 § 1120. DEREGISTRATION OF A REGISTERED APPRENTICESHIP  
20 PROGRAM

21 \* \* \*

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

4 \* \* \*

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

8 \* \* \*

9 (c) Deregistration by the Vermont Registered Apprenticeship Program  
10 upon reasonable cause.

11 \* \* \*

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

14 \* \* \*

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

18 \* \* \*

19 (4) If the required correction is not completed within the allotted time,  
20 the Vermont Registered Apprenticeship Program shall send a notice to the



1 sponsor, by registered or certified mail, return receipt requested, stating the  
2 following:

3 (A) the notice is sent under this section;

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

7 \* \* \*

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

17 \* \* \*

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

19 § 1203. EMPLOYMENT SERVICE DIVISION; CREATION; RULES AND  
20 REGULATIONS

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

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

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

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

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

2 § 1204. RECEIPT OF FUNDS

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

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

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

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

16 § 1301. DEFINITIONS

17 As used in this chapter:

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



1 calendar year, had in employment at least one individual (irrespective of  
2 whether the same individual was in employment in each such day). When an  
3 employing unit described in either this subdivision or subdivision (B) of this  
4 subdivision (5), becomes an employer within any calendar year, it shall be  
5 subject to this chapter for the whole of the calendar year.

6 (B)(i) Any employing unit for which service in employment for a  
7 religious, charitable, educational, or other organization as defined in  
8 subdivision (6)(A)(ix) of this section is performed ~~after December 31, 1971,~~  
9 except as provided in subdivision (C) of this subdivision (5).

10 (ii) Any employing unit for which service in employment for the  
11 State and any of its instrumentalities, for a hospital or an institution of higher  
12 education as defined in subdivision (6)(A)(x)(I) of this section is performed  
13 ~~after December 31, 1971;~~<sub>2</sub> except as provided in subdivision (5)(C) of this  
14 section.

15 (iii) Any employing unit for which service in employment for the  
16 State or any political subdivision ~~thereof~~ as defined in subdivision  
17 (6)(A)(x)(II) of this section is performed ~~after December 31, 1977;~~<sub>2</sub> except as  
18 provided in subdivision (5)(C) of this section.

19 (iv) Any employing unit for which agricultural labor as described  
20 in subdivision (6)(A)(vii)(I) of this section is performed ~~after December 31,~~  
21 ~~1977.~~

1                   (v) Any employing unit for which domestic service in  
2                   employment as described in subdivision (6)(A)(viii) is performed after  
3                   ~~December 31, 1977.~~

4                   (C) An employing unit as described in subdivisions (5)(A) and (B) of  
5                   this section except:

6                   (i) In determining whether or not an employing unit for which  
7                   service other than domestic service is also performed is an employer under this  
8                   subdivision, the wages earned or the employment of an employee performing  
9                   domestic service as described in subdivision (5)(B)(v) of this section after  
10                  ~~December 31, 1977~~, shall not be taken into account unless the total cash  
11                  remuneration paid in any calendar quarter for domestic services is \$1,000.00  
12                  or more.

13                  (ii) In determining whether or not an employing unit for which  
14                  service other than agricultural labor is also performed is an employer under  
15                  this subdivision, the wages earned or the employment of an employee  
16                  performing service in agricultural labor after ~~December 31, 1977~~ shall not be  
17                  taken into account unless the agricultural labor is in accordance with  
18                  subdivision (6)(A)(vii)(I) of this section. If an employing unit is determined  
19                  an employer of agricultural labor, ~~such~~ the employing unit shall be determined  
20                  an employer for purposes of subdivision (5)(A) of this section.

1           (D) Any individual or employing unit ~~which~~ that acquired the  
2 organization, trade, or business of another ~~which~~ that at the time of ~~sueh~~ the  
3 acquisition was an employer subject to this chapter.

4           (E)(i) Any employing unit that filed with and had approved by the  
5 Commissioner, on the proper forms prescribed and supplied by the  
6 Commissioner, its written election to become fully subject to this chapter for  
7 not less than two calendar years. ~~Sueh~~ The employing unit, not otherwise  
8 subject to this chapter, that files with the Commissioner its written election to  
9 become an employer subject to this chapter for not less than two calendar  
10 years, shall, with the written approval of ~~sueh~~ the election by the  
11 Commissioner, become an employer subject to this chapter to the same extent  
12 as all other employers, as of the date stated in the approval.

13           (ii) Any employing unit for which services that are excluded from  
14 the term “employment” by subdivisions (6)(A)(ix) and (6)(C)(i) and (ii) of this  
15 section are performed may, by election and approval, elect that all services  
16 performed by individuals in its employ, in one or more establishments or  
17 places of business, shall be deemed to constitute employment for all the  
18 purposes of this chapter for not less than two calendar years. Upon the written  
19 approval of ~~sueh~~ the election by the Commissioner ~~sueh~~ the services shall be  
20 deemed to constitute employment subject to this chapter from the date stated in  
21 the approval.

1           (iii) Any such employing unit may cease to be subject under either  
2           subdivision (5)(E)(i) or (ii) of this section, as of January 1, of any calendar  
3           year subsequent to ~~such~~ the two calendar years, only if at least 30 days prior to  
4           ~~such~~ the first day of January it ~~has filed~~ files with the Commissioner a written  
5           notice of its intention to cancel ~~such~~ the election ~~but this~~. This requirement  
6           may be waived by the Commissioner for good cause.

7           (F) Any employing unit ~~which~~ that acquires a part of the  
8           organization, trade, or business of another, which part, if a separate  
9           organization, trade, or business, would have been an employer. Any  
10          employing unit ~~which~~ that acquires the organization, trade, or business, or  
11          acquires substantially all the assets of another employing unit, if the  
12          employment record of ~~such~~ the acquiring employing unit subsequent to such  
13          an acquisition, together with the employment record of the acquired unit prior  
14          to ~~such~~ the acquisition, both within the same calendar year, would be sufficient  
15          to constitute an employing unit an “employer.”

16          (G) Any employing unit not an employer by reason of any other  
17          provision of this subdivision for which, within either the current or preceding  
18          calendar year, service is or was performed with respect to which ~~such~~ the  
19          employing unit is liable for any federal tax against which credit may be taken  
20          for contributions required to be paid into a state unemployment fund; or ~~which~~  
21          that, as a condition for approval of this chapter for full tax credit against the



1 tax imposed by the Federal Unemployment Tax Act, is required, pursuant to  
2 ~~such act~~ the Act, to be an “employer” under this chapter.

3 (6)(A)(i) “Employment,” subject to the other provisions of this  
4 subdivision (6), means service within the jurisdiction of this State performed  
5 by an employee, as defined in subsections 3306(i) and (o) of the Federal  
6 Unemployment Tax Act, including service in interstate commerce, performed  
7 for wages or under any contract of hire, written or oral, expressed or implied.  
8 Services partly within and partly outside this State may by election as provided  
9 in subdivision (5)(E)(i) of this section be treated as if wholly within the  
10 jurisdiction of this State. If an employing unit has elected to come under the  
11 provisions of a similar act of a state where a part of the services of an  
12 employee are performed, the Commissioner, upon approving the election as to  
13 the employee, may treat the services covered by the election as having been  
14 performed wholly outside the jurisdiction of this State.

15 (ii) The term “employment” ~~shall include~~ includes an individual’s  
16 entire service, performed within, or both within and ~~without~~ outside, this State  
17 if the service is localized in this State. Service shall be deemed to be localized  
18 within a state if:

19 (I) the service is performed entirely within ~~such~~ the state; or

20 (II) the service is performed both within and ~~without such~~  
21 outside the state but the service performed ~~without such~~ outside the state is

1 incidental to the individual's service within the state; for example, is  
2 temporary or transitory in nature or consists of isolated transactions.

3 (iii) The term "employment" ~~shall include~~ includes an individual's  
4 entire service, performed within, or both within and outside, this State if the  
5 service is not localized in any state but some of the service is performed in this  
6 State and:

7 (I) the individual's base of operations is in this State; or

8 (II) if there is no base of operations, then the place from which  
9 ~~such~~ the service is directed or controlled is in this State; or

10 (III) the individual's base of operations or place from which  
11 ~~such~~ the service is directed or controlled is not in any state in which some part  
12 of the service is performed, but the individual's residence is in this State.

13 (iv) The term "employment" ~~shall include~~ includes an individual's  
14 service wherever performed within the United States, the Virgin Islands, or  
15 Canada, if:

16 (I) ~~such~~ the service is not covered under the unemployment  
17 compensation law of any other state, the Virgin Islands, or Canada; and

18 \* \* \*

19 (v) The term "employment" ~~shall include~~ includes the service of  
20 an individual who is a citizen of the United States, performed outside the  
21 United States ~~after December 31, 1971 (except in Canada) or after December~~



1                   (vii) The term “employment” shall also ~~include~~ includes all  
2                   service performed ~~after December 31, 1977,~~ by an individual in agricultural  
3                   labor as defined in subdivision (6)(C)(i)(I) of this section when:

4                               (I) ~~such~~ the service is performed for a person who:

5                                       (aa) during any calendar quarter in either the current or the  
6                   preceding calendar year paid remuneration in cash of \$20,000.00 or more to  
7                   individuals employed in agricultural labor, ~~not taking into account service in~~  
8                   ~~agricultural labor performed before January 1, 1980, by an alien referred to in~~  
9                   ~~subdivision (6)(A)(vii)(II) of this section;~~ or

10                                      (bb) for some portion of a day in each of 20 different  
11                   calendar weeks, whether or not ~~such~~ the weeks were consecutive, in either the  
12                   current or the preceding calendar year, employed in agricultural labor (~~not~~  
13                   ~~taking into account service in agricultural labor performed before January 1,~~  
14                   ~~1980, by an alien referred to in subdivision (6)(A)(vii)(II) of this section)~~ 10  
15                   or more individuals, regardless of whether they were employed at the same  
16                   moment of time.

17                               (II) ~~such~~ the service is not performed in agricultural labor if  
18                   performed ~~before January 1, 1980, or after December 31, 1986,~~ by an  
19                   individual who is an alien admitted to the United States to perform service in  
20                   agricultural labor pursuant to sections 214(e) and 101(a)(15)(H) of the  
21                   ~~Immigration and Nationality Act~~ 8 U.S.C. §§ 1101(a)(15)(H) and 1184(c),

1 provided, that if ~~section 26 U.S.C. § 3306 in the~~ (Federal Unemployment Tax  
2 Act, definitions) is amended so as to include ~~such~~ the service in the definition  
3 of employment in agricultural labor ~~beginning on or after January 1, 1988,~~  
4 then ~~such~~ the service shall be employment in agricultural labor under this  
5 chapter.

6 (III) for the purposes of this subdivision any individual who is  
7 a member of a crew furnished by a crew leader to perform service in  
8 agricultural labor for any other person shall be treated as an employee of ~~such~~  
9 the crew leader:

10 (aa) if ~~such~~ the crew leader holds a valid certificate of  
11 registration under the ~~Farm Labor Contractor Registration Act of 1963~~  
12 Migrant Seasonal Agricultural Worker Protection Act, 29 U.S.C. § 1801 et  
13 seq.; or substantially all the members of ~~such~~ the crew operate or maintain  
14 tractors, mechanized harvesting or cropdusting equipment, or any other  
15 mechanized equipment, ~~which~~ that is provided by such crew leader; and

16 (bb) if the individual is not an employee of ~~such~~ the other  
17 person within the meaning of subdivision (6)(A) of this section.

18 (IV) for the purposes of this subdivision (vii), in the case of  
19 any individual who is furnished by a crew leader to perform service in  
20 agricultural labor for any other person and who is not treated as an employee  
21 of ~~such~~ the crew leader under subdivision (6)(A)(vii)(III) of this section:

1 (aa) the other person and not the crew leader shall be treated  
2 as the employer of ~~such~~ the individual; and

3 (bb) the other person shall be treated as having paid cash  
4 remuneration to ~~such~~ the individual in an amount equal to the amount of cash  
5 remuneration paid to ~~such~~ the individual by the crew leader (either on the crew  
6 leader's own behalf or on behalf of ~~such~~ the other person) for the service in  
7 agricultural labor performed for ~~such~~ the other person.

8 (V) for the purposes of this subdivision (vii) the term "crew  
9 leader" means an individual who:

10 \* \* \*

11 (bb) pays (either on the crew leader's own behalf or on  
12 behalf of ~~such~~ the other persons) the individuals ~~so~~ furnished by the crew  
13 leader for the service in agricultural labor performed by them; and

14 (cc) has not entered into a written agreement with ~~such~~ the  
15 other person under which ~~such~~ the individual is designated as an employee of  
16 ~~such~~ the other person.

17 (viii) The term "employment" shall also ~~include~~ includes domestic  
18 service as used in subdivision (6)(C)(ii) of this section ~~after December 31,~~  
19 ~~1977,~~ in a private home, ~~in~~ a local college club, or local chapter of a college  
20 fraternity or sorority, performed for a person who paid cash remuneration of  
21 \$1,000.00 or more in any calendar quarter ~~after December 31, 1977,~~ in the

1 current calendar year or the preceding calendar year to individuals employed  
2 in ~~such~~ domestic service.

3 (ix) The term “employment” shall also ~~include~~ includes service  
4 for any employing unit performed by an individual in the employ of a  
5 religious, charitable, educational, or other organization if the service is  
6 excluded from “employment” as defined in the Federal Unemployment Tax  
7 Act solely by reason of ~~subdivision~~ 26 U.S.C. § 3306(c)(8) of that act.

8 (x)(I) The term “employment” shall also ~~include~~ includes service  
9 for any employing unit ~~which~~ that is performed ~~after December 31, 1974~~ by an  
10 individual in the employ of this State or any of its instrumentalities, or in the  
11 employ of this State and one or more other states or their instrumentalities, for  
12 a hospital or institution of higher education located in this State provided that  
13 ~~such~~ the service is excluded from “employment” as defined in the Federal  
14 Unemployment Tax Act solely by reason of ~~section~~ 26 U.S.C. § 3306(c)(7) of  
15 ~~that act~~ and is not excluded from “employment” under subdivision (6)(C)(vii)  
16 of this section.

17 (II) The term “employment” shall also ~~include~~ includes service  
18 for any employing unit ~~which~~ that is performed ~~after December 31, 1977~~ by an  
19 individual in the employ of this State or any political subdivision ~~thereof~~ of the  
20 State or any of its instrumentalities or any instrumentality of one or more of  
21 ~~the foregoing~~ them; and service performed for this State or any political

1 subdivision ~~thereof~~ of this State and one or more other states or political  
2 subdivisions ~~thereof~~ of another state or any instrumentality of ~~the foregoing~~  
3 ~~which them~~ that is wholly owned by ~~such the~~ the states or political subdivisions,  
4 provided that ~~such the~~ the service is excluded from “employment” as defined in  
5 the Federal Unemployment Tax Act by ~~section~~ 26 U.S.C. § 3306(c)(7) ~~of that~~  
6 ~~act~~ and is not excluded from “employment” under subdivision (6)(C)(vii) of  
7 this section.

8 (B) Services performed by an individual for wages shall be deemed  
9 to be employment subject to this chapter unless and until it is shown to the  
10 satisfaction of the Commissioner that:

11 (i) ~~Such the~~ the individual has been and will continue to be free from  
12 control or direction over the performance of ~~such the~~ the services, both under ~~his~~  
13 ~~or her~~ the individual's contract of service and in fact; ~~and~~

14 (ii) ~~Such the~~ the service is either outside the usual course of the  
15 business for which ~~such the~~ the service is performed, or ~~that such the~~ the service is  
16 performed outside of all the places of business of the enterprise for which ~~such~~  
17 the service is performed; and

18 (iii) ~~Such the~~ the individual is customarily engaged in an  
19 independently established trade, occupation, profession, or business.

20 (C) The term “employment” ~~shall~~ does not include:



1 (i)(I) Service performed by an individual in agricultural labor  
2 except as provided in subdivision (6)(A)(vii) of this section. ~~For purposes of~~  
3 As used in this subdivision (6)(C), the term “agricultural labor” means any  
4 service performed prior to January 1, 1972 which was agricultural labor as  
5 defined in this subdivision prior to such date, and remunerated service  
6 performed after December 31, 1971:

7 \* \* \*

8 (bb) in the employ of the owner or tenant or other operator  
9 of a farm, in connection with the operation, management, conservation,  
10 improvement, or maintenance of ~~such~~ the farm and its tools and equipment or  
11 in salvaging timber or clearing land of brush and other debris left by a  
12 hurricane, if the major part of ~~such~~ the service is performed on a farm;

13 (cc) in connection with the production or harvesting of any  
14 commodity defined as an agricultural commodity ~~in section 15(g) of~~ pursuant  
15 to the Agricultural Marketing Act, as amended (12 U.S.C. § 1141j), or in  
16 connection with the operation or maintenance of ditches, canals, reservoirs, or  
17 waterways, not owned or operated for profit, used exclusively for supplying  
18 and storing water for farming purposes;

19 (dd) in the employ of the operator of a farm in handling,  
20 planting, drying, packing, packaging, processing, freezing, grading, storing, or  
21 delivering to storage or to market or to a carrier for transportation to market, in

1 its unmanufactured state, any agricultural or horticultural commodity; but only  
2 if ~~such~~ the operator produced more than one-half of the commodity with  
3 respect to which ~~such~~ the service is performed;

4 (ee) in the employ of a group of operators of farms, or a  
5 cooperative organization of which ~~such~~ the operators are members, in the  
6 performance of service described in subdivision (dd) of this subdivision  
7 (C)(i)(I), but only if ~~such~~ the operators produced more than one-half of the  
8 commodity with respect to which ~~such~~ the service is performed; or

9 (ff) on a farm operated for profit if ~~such~~ the service is not in  
10 the course of the employer's trade or business.

11 (II) As used in subdivision (6)(C)(i)(I), the term "farm"  
12 includes stock<sub>;</sub> dairy<sub>;</sub> poultry<sub>;</sub> fruit<sub>;</sub> fur-bearing animal<sub>;</sub> ~~and~~ truck farms<sub>;</sub>  
13 plantations<sub>;</sub> ranches<sub>;</sub> nurseries<sub>;</sub> ranges<sub>;</sub> greenhouses<sub>;</sub> or other similar  
14 structures used primarily for the raising of agricultural or horticultural  
15 commodities<sub>;</sub> and orchards.

16 (III) The provisions of subdivisions (dd) and (ee) of  
17 subdivision (6)(C)(i)(I) of this section shall not be deemed to be applicable  
18 with respect to service performed in connection with commercial canning or  
19 commercial freezing or in connection with any agricultural or horticultural  
20 commodity after its delivery to a terminal market for distribution for  
21 consumption.

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(iii)(I) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for that service is \$50.00 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. For purposes of this subdivision ~~(6)(C)(iii)~~, an individual shall be deemed to be regularly employed by an employer during a calendar quarter if:

(aa) on each of ~~some~~ 24 days during the quarter the individual performs for the employer for some portion of the day service not in the course of the employer's trade or business; or

(bb) the individual was regularly employed ~~(as determined under the preceding subdivision)~~, as defined pursuant to subdivision (aa) of this subdivision (6)(C)(iii), by the employer in the performance of the service during the preceding calendar quarter.

\* \* \*

(iv) Service performed by an individual in the employ of ~~his or her son, daughter, the individual's child~~ or spouse, and service performed by a minor in the employ of ~~his or her father or mother~~ the minor's parent; or service by one member of a family to another under circumstances ~~which~~ that,

1 under the general law, do not give rise to the relation of employer and  
2 employee;

3 (v) Service performed in the employ of the U.S. government or of  
4 an instrumentality of the United States ~~but, provided that~~ if the U.S. Congress  
5 ~~of the United States shall permit~~ permits states to require that the U.S.  
6 government or any instrumentalities of the United States ~~shall~~ make payments  
7 into an unemployment fund under a state unemployment compensation act,  
8 then, to the extent permitted by ~~Congress~~ by federal law, and from and after  
9 the date ~~as of~~ on which ~~such~~ the permission becomes effective, ~~all of the~~  
10 provisions of this chapter shall be applicable to the U.S. government or ~~such~~  
11 its instrumentalities, in the same manner, to the same extent, and on the same  
12 terms as to all other employers, employing units, individuals, and services;  
13 ~~provided that if this.~~ If the provisions of this chapter become applicable to the  
14 U.S. government and its instrumentalities and, in any year, the State should is  
15 ~~not be certified by the Secretary of Labor under section 26 U.S.C. § 3304 of~~  
16 ~~the Federal Unemployment Tax Act for any year,~~ then the payments required  
17 of the U.S. government or ~~such~~ its instrumentalities with respect to ~~such~~ that  
18 year shall be deemed to have been erroneously collected ~~within the meaning of~~  
19 under section 1337 of this ~~title~~ subchapter and shall be refunded by the  
20 Commissioner from the Fund in accordance with the provisions of section  
21 1337;



1 (I) in the employ of a church or convention or association of  
2 churches, or an organization ~~which~~ that is operated primarily for religious  
3 purposes and ~~which~~ that is operated, supervised, controlled, or principally  
4 supported by a church or convention or association of churches;

5 (II) by a duly ordained, commissioned, or licensed minister of  
6 a church in the exercise of ~~his or her~~ the individual's ministry or by a member  
7 of a religious order in the exercise of duties required by ~~such~~ the order;

8 (III) ~~prior to January 1, 1978, in the employ of a school which~~  
9 ~~is not an institution of higher education; [Repealed.]~~

10 (IV) by an individual performing rehabilitative or remunerative  
11 work in a facility ~~conducted~~ operated for the purpose of:

12 (aa) carrying out a program of rehabilitation for individuals  
13 whose earning capacity is limited due to being an elder or having a disability  
14 or injury; or

15 (bb) providing remunerative work for individuals who  
16 because of having a disability cannot be readily absorbed in the competitive  
17 labor market ~~by an individual receiving such rehabilitation or remunerative~~  
18 ~~work;~~

19 (V) by an individual receiving work relief or work training as  
20 part of an unemployment work-relief or work-training program assisted or  
21 financed in whole or in part by any federal agency or an agency of a state or

1 political subdivision thereof ~~of a state, by an individual receiving such work~~  
2 relief or work training; or

3 (VI) ~~prior to January 1, 1978, for a hospital in a state prison or~~  
4 ~~other state correctional institution by an inmate of the prison or correctional~~  
5 ~~institution and after December 31, 1977, by an inmate of a custodial or penal~~  
6 institution.

7 (viii) Service with respect to which unemployment compensation  
8 is payable under an unemployment compensation system established by an act  
9 of Congress; provided, that the Commissioner is hereby authorized and  
10 directed to enter into agreements with the proper agencies under such an act of  
11 Congress, which agreements shall become effective 10 days after publication  
12 thereof in one or more newspapers of general circulation in this State, to  
13 provide reciprocal treatment to individuals who have, after acquiring potential  
14 rights to unemployment compensation under such the act of Congress,  
15 acquired rights to benefits under this chapter;

16 (ix) Service performed ~~on and after July 1, 1939,~~ with respect to  
17 which unemployment compensation is payable under ~~an act of Congress~~  
18 entitled "the Railroad Unemployment Insurance Act";, 45 U.S.C. chapter 11.

19 (x) Service as an officer or member of a crew of an American  
20 vessel performed on or in connection with such the vessel, if the operating  
21 office, from which the operations of the vessel operating on navigable waters

1 within or ~~without~~ outside the United States are ordinarily and regularly  
2 supervised, managed, directed, and controlled, is ~~without~~ outside this State;

3 (xi) Service performed on or in connection with a vessel that is  
4 not an American vessel by an individual, if the individual performs services on  
5 and in connection with ~~such~~ the vessel when outside the United States; ~~and, for~~  
6 ~~the purpose of.~~ As used in this subdivision and subdivision (6)(C)(x) of this  
7 ~~section, the term~~ “American vessel” means any vessel documented or  
8 numbered under the laws of the United States; and includes any vessel ~~which~~  
9 that is neither documented or numbered under the laws of the United States  
10 nor documented under the laws of any foreign country, if its crew performs  
11 services solely for one or more citizens or residents of the United States or  
12 corporations organized under the laws of the United States or of any state;

13 \* \* \*

14 (xiii) Service performed in any calendar quarter in the employ of  
15 any organization exempt from income tax under Section 501(a) (other than an  
16 organization described in Section 401(a)) or under Section 521 of the federal  
17 Internal Revenue Code, if the remuneration for ~~such~~ the service is less than  
18 \$50.00;

19 (xiv) Service performed, in the employ of a school, college, or  
20 university, if ~~such~~ the service is performed by a student who is enrolled and is  
21 regularly attending classes at ~~such~~ the school, college, or university, or by the



1 spouse of such a student, if the spouse is advised, at the time ~~such~~ the spouse  
2 commences to perform ~~such~~ the service, that the employment of ~~such~~ the  
3 spouse to perform ~~such~~ the service is provided under a program to provide  
4 financial assistance to ~~such~~ the student by the school, college, or university,  
5 and ~~such~~ the employment will not be covered by any program of  
6 unemployment insurance;.

7 (xv) Service performed by an individual under ~~the age of 22 years~~  
8 of age who is enrolled at a nonprofit or public educational institution ~~which~~  
9 that normally maintains a regular faculty and curriculum and normally has a  
10 regularly organized body of students in attendance at the place where its  
11 educational activities are carried on as a student in a full-time program, taken  
12 for credit at such institution, ~~which~~ that combines academic instruction with  
13 work experience, if ~~such~~ the service is an integral part of ~~such~~ the program,  
14 and ~~such~~ the institution has so certified to the employer, ~~except that this.~~ This  
15 subdivision shall not apply to service performed in a program established for  
16 or on behalf of an employer or group of employers;.

17 (xvi) Service performed in the employ of a hospital, if ~~such~~ the  
18 service is performed by a patient of the hospital, as defined in this section;.

19 (xvii) Service performed by an individual for a person as an  
20 insurance agent or as an insurance solicitor, if all ~~such~~ the service performed

1 by ~~such~~ the individual for ~~such~~ the person is performed for remuneration  
2 solely by way of commission;

3 (xviii) Service performed by an individual for a person as a  
4 salesman, agent, or solicitor if the state law requires the individual to be  
5 registered or licensed to engage in the performance of the service and if the  
6 individual in the performance of ~~such~~ the service is an independent contractor  
7 under common law rules and if the individual performs all such service for  
8 remuneration solely by way of commission;

9 (xix) Service performed by an individual engaged in the  
10 harvesting of timber, or in the transportation of timber from the place where  
11 harvested to market, or service performed by an individual engaged as a stone  
12 artisan, including sculpting, etching, or carving quarried stone when:

13 (I) ~~such~~ the individual has been and will continue to be free  
14 from control or direction over the performance of ~~such~~ the services, both under  
15 ~~his or her~~ the individual's contract of service and in fact; and

16 (II) ~~such~~ the individual is customarily engaged in an  
17 independently established trade, occupation, profession, or business; and

18 (III) ~~such~~ the individual furnishes substantially all of the  
19 equipment, tools, and supplies necessary in carrying out ~~his or her~~ the  
20 individual's contractual obligations to ~~his or her~~ the individual's clients.





1 (C) As used in this subdivision, “wages” includes only that part of  
2 remuneration in any one week rounded to the next higher dollar ~~which~~ that is  
3 in excess of the amount specified in section 1338a of this title subchapter.

4 (D) An individual’s week of unemployment shall be deemed to  
5 commence only after ~~his or her~~ the individual’s registration at an employment  
6 office, except as the Vermont Employment Security Board may by ~~regulation~~  
7 rule otherwise prescribe.

8 (10) “State” means the states of the United States of America, the  
9 Commonwealth of Puerto Rico, the District of Columbia, ~~and after December~~  
10 ~~31, 1977,~~ the Virgin Islands.

11 \* \* \*

12 (12) “Wages” means all remuneration paid for services rendered by an  
13 individual, including commissions and bonuses and the cash value of all  
14 remuneration paid in any medium other than cash. Gratuities customarily  
15 received by an individual in the course of ~~his or her~~ the individual’s  
16 employment from persons other than the individual’s employer and reported  
17 by the individual to the individual’s employer shall be treated as wages paid by  
18 the individual’s employer. The reasonable cash value of remuneration paid in  
19 any medium other than cash shall be estimated and determined in accordance  
20 with rules ~~prescribed~~ adopted by the Board. The term “wages” ~~as used in this~~  
21 ~~chapter shall~~ does not include:



1 (i) from or to a trust described in ~~Section~~ 26 U.S.C. § 401(a) of  
2 ~~the U.S. Internal Revenue Code~~ which that is exempt from tax under ~~Section~~  
3 26 U.S.C. § 501(a) of ~~the U.S. Internal Revenue Code~~ at the time of such the  
4 payment unless ~~such~~ the payment is made to an employee of the trust as  
5 remuneration for services rendered as ~~such~~ the employee and not as a  
6 beneficiary of the trust; or

7 (ii) under or to an annuity plan which that, at the time of ~~such~~ the  
8 payment, is a plan described in ~~Section~~ 26 U.S.C. § 403(a) of ~~the U.S. Internal~~  
9 ~~Revenue Code~~.

10 (D) The payment by an employer (without deduction from the  
11 remuneration of the employee) of the tax imposed upon an employee under  
12 ~~Section~~ 26 U.S.C. § 3101 of ~~the U.S. Internal Revenue Code~~.

13 (E) Any amounts received from the federal government by members  
14 of the National Guard and ~~organized~~ reserve components of the U.S. Armed  
15 Forces, as drill pay, including longevity pay and allowances.

16 (F) ~~Provided; that if~~ If the definition of “wages” in ~~section~~ 26 U.S.C.  
17 § 3306 of ~~the~~ the Federal Unemployment Tax Act, is amended so as to no longer  
18 exclude ~~from such definition~~ any or all of the payments or amounts  
19 enumerated in subdivisions ~~(12)(A)~~ through (E) of this ~~section~~  
20 subdivision (12), then ~~any or all such~~ payments or amounts shall no longer be  
21 excluded from the federal definition shall be included in the definition of

1 “wages” under this ~~chapter~~ this subdivision (12), effective on a date to  
2 ~~coincide with~~ the effective date of such the amendment ~~(or amendments)~~ to the  
3 Federal Unemployment Tax Act.

4 (G) Any foster care payments excluded from the definition of gross  
5 income under ~~Section 26 U.S.C. § 131 of the U.S. Internal Revenue Code.~~

6 (13) “Week” means ~~such a~~ a period or periods of seven consecutive days,  
7 as the Board may by ~~regulation~~ rule prescribe.

8 (14) “Calendar quarter” means a period of three consecutive calendar  
9 months ending on March 31, June 30, September 30, or December 31, or the  
10 equivalent ~~thereof~~ of such a period as the Board may by ~~regulation~~ rule  
11 prescribe.

12 (15) An individual’s “weekly benefit amount” with respect to any week  
13 means the amount of benefits ~~he or she~~ the individual would be entitled to  
14 receive for ~~such~~ the week if totally unemployed and eligible for benefits  
15 ~~therein~~ for the week.

16 (16)(A) “Benefit year,” with respect to any individual, means the one-  
17 year period beginning with the first day of the week with respect to which the  
18 individual first files a valid claim for benefits in accordance with section 1346  
19 of this ~~title~~ subchapter, and thereafter the one-year period beginning with the  
20 first day of the first week with respect to which the individual next files such a



1 claim for benefits after the termination of ~~his or her~~ the individual's last  
2 preceding benefit year.

3 (B) [Repealed.]

4 (17)(A) ~~For benefit years beginning prior to January 3, 1988, the “base~~  
5 ~~period” is the period of 52 weeks ending with the day immediately preceding~~  
6 ~~the first day of a claimant’s benefit year. Such period shall be extended by one~~  
7 ~~week for each week, not to exceed 18, in which the claimant had no earnings~~  
8 ~~because of sickness or disability as certified by a duly licensed physician.~~

9 (B) ~~For benefit years beginning on January 3, 1988 and subsequent~~  
10 ~~thereto the “base “Base period” shall be the means:~~

11 (A) ~~The period made up of the first four of the most recently~~  
12 ~~completed five calendar quarters immediately preceding the first day of a~~  
13 ~~claimant’s benefit year, and for.~~

14 (B) ~~For any individual who fails to meet the eligibility requirements~~  
15 ~~of section 1338 of this title subchapter in this the base period set forth pursuant~~  
16 ~~to subdivision (A) of this subdivision (17), the Commissioner shall make a~~  
17 ~~redetermination of entitlement based upon a base period which that consists of~~  
18 ~~the last four completed calendar quarters immediately preceding the first day~~  
19 ~~of the claimant’s benefit year.~~

20 (C) ~~For any individual who fails to qualify for benefits under~~  
21 ~~subdivision subdivisions (A) and (B) of this subdivision (17), the~~

1 Commissioner shall make a redetermination of entitlement based upon a base  
2 period ~~which~~ that consists of the last three completed calendar quarters and all  
3 wages paid prior to the effective date of the claimant's initial claim in the  
4 calendar quarter in which the initial claim was filed.

5 (D) All wages ~~which~~ that fall within the "base period" of valid  
6 claims under this section shall not be available for reuse in qualifying for any  
7 subsequent benefit years under section 1338 or 1318 of this ~~title~~ subchapter.

8 (18)(~~A~~) (A) "Institution of higher education" means an educational  
9 institution ~~which~~ that:

10 (~~A~~)(i) admits as regular students only individuals having a  
11 certificate of graduation from a high school, or the recognized equivalent of  
12 such a certificate;

13 (~~B~~)(ii) is legally authorized in this State to provide a program of  
14 education beyond high school;

15 (~~C~~)(iii) provides an educational program for which it awards a  
16 bachelor's or higher degree, or provides a program ~~which~~ that is acceptable for  
17 full credit toward such a degree, a program of post-graduate or post-doctoral  
18 studies, or a program of training to prepare students for gainful employment in  
19 a recognized occupation; and

20 (~~D~~)(iv) is a public or other nonprofit institution.



1 period of unemployment in any activity undertaken while customarily  
2 employed by an employer in full-time work (whether or not such work  
3 constituted employment) and continued subsequent to separation from such  
4 work when ~~such~~ the activity is not engaged in as a primary source of  
5 livelihood. Earnings from such a sideline activity shall not constitute wages or  
6 disqualifying income for unemployment purposes.

7 \* \* \*

8 Sec. 171. 21 V.S.A. § 1302 is amended to read:

9 § 1302. VERMONT EMPLOYMENT SECURITY BOARD<sub>;</sub>

10 COMPOSITION<sub>;</sub> DUTIES

11 (a)(1) There is ~~hereby~~ created a board of three members to be known as the  
12 Vermont Employment Security Board.

13 (2)(A) One member, who will serve as the chair of the Board, shall be  
14 the Commissioner of Labor, ex officio.

15 (B) The two other members of the Board shall be appointed by the  
16 Governor, with the advice and consent of the Senate. The term of each  
17 appointed member shall be six years.

18 (C) Biennially, in the month of February, with the advice and consent  
19 of the Senate, the Governor shall appoint a person as a member of the Board  
20 for the term of six years, whose term of office shall commence March 1 of the  
21 year in which ~~such~~ the appointment is made.

1           (D) Any appointment to fill a vacancy shall be for the unexpired  
2 term.

3           (E) In case of a vacancy by resignation, the member resigning shall  
4 continue in office until that member's successor is appointed.

5           (3) Not more than two members of the Board shall be members of the  
6 same political party.

7           (4) The Governor may at any time remove an appointed member of  
8 ~~such~~ the Board for gross inefficiency, neglect of duty, malfeasance,  
9 misfeasance, or nonfeasance in office.

10          (b)(1) The Board may hear and decide all matters appealed to it under this  
11 chapter. It shall determine its own methods of procedure.

12          (2) ~~It~~ The Board may, with the approval of the Governor, adopt, amend,  
13 suspend, or rescind such rules ~~and regulations~~ as it considers necessary and  
14 consistent with this chapter. The rules ~~and regulations~~ of the Board shall have  
15 the force and effect of law after public hearing thereon of which reasonable  
16 notice has been given, and after filing with the Secretary of State, and  
17 publication in such manner as the Board shall prescribe.

18          (3) The Board may administer oaths, take depositions, certify to official  
19 acts, and subpoena witnesses and compel the production of books, papers,  
20 correspondence, memoranda, and other records necessary and material in the  
21 discharge of its duties imposed by this chapter.

1 Sec. 172. 21 V.S.A. § 1311 is amended to read:

2 § 1311. EMPLOYEES

3 Subject to other provisions of this chapter, the Commissioner is authorized  
4 to appoint a Deputy Commissioner and such officers, accountants, attorneys,  
5 and employees as may be necessary in the performance of ~~his or her~~ the  
6 Commissioner's duties. The Commissioner may delegate to any ~~such~~ person  
7 ~~so~~ appointed ~~such~~ pursuant to the provisions of this section any power and  
8 authority ~~deemed~~ the Commissioner deems reasonable and proper for the  
9 effective administration of this chapter, and may, in the Commissioner's  
10 discretion, bond any person handling monies or signing checks ~~hereunder~~  
11 pursuant to the provisions of this chapter.

12 Sec. 173. 21 V.S.A. § 1312 is amended to read:

13 § 1312. PUBLICATION OF RULES, ~~REGULATIONS,~~ AND REPORTS

14 The Commissioner shall ~~cause to be printed~~ make available for distribution  
15 to the public the text of this chapter, the Board's rules ~~and regulations,~~ ~~his or~~  
16 ~~her~~ the Commissioner's annual reports to the Governor, and any other material  
17 the Commissioner considers relevant and suitable. ~~He or she~~ The  
18 Commissioner shall furnish the ~~same~~ materials made available to the public  
19 pursuant to this section to any person upon ~~application therefor~~ request.

1 Sec. 174. 21 V.S.A. § 1314 is amended to read:

2 § 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;  
3 DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT  
4 EMPLOYMENT INFORMATION; DISCLOSURE OF  
5 INFORMATION TO OTHER STATE AGENCIES TO  
6 INVESTIGATE MISCLASSIFICATION OR MISCODING

7 (a) The Commissioner may require any employing unit to keep ~~such~~ true  
8 and accurate records and make ~~such~~ reports covering persons employed by it  
9 respecting employment, wages, hours, unemployment, and related matters as  
10 the Commissioner deems reasonably necessary for the effective administration  
11 of this chapter. ~~Such~~ The records shall be open to inspection and subject to  
12 being copied by the Commissioner or ~~his or her~~ the Commissioner's  
13 authorized representatives at any reasonable time and as often as may be  
14 necessary.

15 (b) On request of the Commissioner, an employing unit shall report, within  
16 10 days ~~of~~ after the mailing or personal delivery of the request, employment  
17 and separation information with respect to a claimant and the wages paid to a  
18 claimant.

19 (c) If an employing unit fails to comply adequately with the provisions of  
20 subsection (b) of this section and section 1314a of this ~~title~~ subchapter, the  
21 Commissioner shall determine the benefit rights of a claimant upon ~~such~~ the

1 available information ~~as is available~~. Prompt notice in writing of the  
2 determination shall be given to the employing unit. The determination shall be  
3 final with respect to a noncomplying employer as to any charges against its  
4 experience-rating record for benefits paid to the claimant before the week  
5 following the receipt of the employing unit's reply. The employing unit's  
6 experience rating record shall not be relieved of these charges, notwithstanding  
7 any other provision of this chapter, unless the Commissioner determines that  
8 failure to comply was due to unavoidable accident or mistake.

9 (d)(1) Except as otherwise provided in this chapter, information obtained  
10 from any employing unit or individual in the administration of this chapter and  
11 determinations as to the benefit rights of any individual shall be held  
12 confidential and shall not be disclosed or open to public inspection in any  
13 manner revealing the individual's or employing unit's identity, nor be  
14 admissible in evidence in any action or proceeding other than one arising out  
15 of this chapter, or to support or facilitate an investigation by a public agency  
16 identified in subdivision (e)(1) of this section.

17 (2) An individual or ~~his or her~~ an individual's duly authorized agent  
18 may be supplied with information from those records to the extent necessary  
19 for the proper presentation of ~~his or her~~ the individual's claims for benefits or  
20 to inform ~~him or her~~ the individual of ~~his or her~~ the individual's existing or  
21 prospective rights to benefits; ~~an~~. An employing unit may be furnished with



1 such information, as ~~may be deemed~~ the Commissioner deems proper, ~~within~~  
2 ~~the discretion of the Commissioner,~~ to enable it to fully discharge its  
3 obligations and safeguard its rights under this chapter.

4 \* \* \*

5 (4) Notwithstanding the provisions in subdivision (3) of this subsection,  
6 the Department of Labor shall, at the request of the Agency of Administration,  
7 perform ~~such~~ services for other departments and agencies of the State as that  
8 are within the capacity of its data processing equipment and personnel,  
9 provided that ~~such~~ the services can be accomplished without undue  
10 interference with the designated work of the Department of Labor.

11 (e)(1) Subject to ~~such~~ restrictions as adopted by the Board ~~may~~ by  
12 ~~regulation prescribe~~ rule, information from unemployment insurance records  
13 may be made available to any public officer or public agency of this or any  
14 other state or the federal government dealing with the administration or  
15 regulation of relief, public assistance, unemployment compensation, a system  
16 of public employment offices, wages and hours of employment, workers'  
17 compensation, misclassification or miscoding of workers, occupational safety  
18 and health, or a public works program for purposes appropriate to the  
19 necessary operation of those offices or agencies. The Commissioner may also  
20 make information available to colleges, universities, and public agencies of the  
21 State for use in connection with research projects of a public service nature

1 and to the Vermont Economic Progress Council with regard to the  
2 administration of 32 V.S.A. chapter 105, subchapter 2, but no person  
3 associated with those institutions or agencies may disclose that information in  
4 any manner that would reveal the identity of any individual or employing unit  
5 from or concerning whom the information was obtained by the Commissioner.

6 \* \* \*

7 (2)(A)(i) The Department of Labor shall disclose, upon request, to  
8 officers or employees of any state or local child support enforcement agency  
9 any wage information or other information material to the location of an  
10 individual, the individual's assets, or the individual's place of employment or  
11 other source of income contained in the Department's unemployment  
12 compensation claim records with respect to an identified individual that is  
13 contained in those records.

14 (ii) The term "state or local child support enforcement agency"  
15 means any agency of a state or political subdivision ~~thereof~~ of a state operating  
16 pursuant to a plan described in ~~Section 454 of the Social Security Act, which~~  
17 42 U.S.C. § 654 that has been approved by the Secretary of Health and Human  
18 Services under ~~part D, Title IV of the Social Security Act~~ 42 U.S.C. chapter 7,  
19 subchapter IV, part D.

20 (B) The requesting agency shall agree that information provided  
21 under this subsection is to be used only for the following purposes:

1           (i) establishing and collecting child support obligations from, and  
2           locating, individuals owing such obligations that are being enforced pursuant  
3           to a plan described in ~~Section 454 of the Social Security Act~~ 42 U.S.C. § 654  
4           that has been approved by the Secretary of Health and Human Services under  
5           ~~part D, Title IV of the Social Security Act~~ 42 U.S.C. chapter 7, subchapter IV,  
6           ~~part D~~; and

7           (ii) establishing parentage and expediting procedures relating to  
8           establishing parentage pursuant to ~~Section 466(c)(1) of the Social Security Act~~  
9           ~~as added by Section 325(a)(2) of the Personal Responsibility and Work~~  
10          ~~Opportunity Reconciliation Act of 1996, Pub. L. 104-193~~ 42 U.S.C. § 666.

11          (3)(A) The Department of Labor shall disclose, upon request, to officers  
12          and employees of the U.S. Department of Agriculture and any state agency,  
13          with respect to an identified individual, any of the following information that  
14          is contained in its records:

15               (i) wage information;

16               (ii) whether the individual is receiving, has received, or has made  
17          application for unemployment compensation and the amount of any  
18          compensation being received or to be received by ~~such~~ the individual;

19               (iii) the current or most recent home address of the individual; and

1                   (iv) whether the individual has refused an offer of employment  
2                   and, if so, a description of the employment offered and the associated terms,  
3                   conditions, and rate of pay ~~therefor~~.

4                   (B) ~~The term~~ As used in this subdivision (e)(3), “state agency”  
5                   means any agency described in 7 U.S.C. § 2012(s) that administers the  
6                   Supplemental Nutrition Assistance Program ~~established under that act~~.

7                   (C) The requesting agency shall agree that ~~such~~ the information shall  
8                   be used only for purposes of determining the applicant’s eligibility for  
9                   benefits, or the amount of benefits, under the Supplemental Nutrition  
10                  Assistance Program established under 7 U.S.C. chapter 51.

11                  (D) The information shall not be released unless the requesting  
12                  agency agrees to reimburse the costs involved for furnishing ~~such~~ the  
13                  information.

14                  (E) In addition to the requirements of this subdivision, all other  
15                  requirements with respect to confidentiality of information obtained in the  
16                  administration of this chapter and the sanctions imposed for improper  
17                  disclosure of information obtained in the administration of this chapter shall  
18                  apply to the use of ~~such~~ the information by the officers and employees of any  
19                  state agency or the U.S. Department of Agriculture.

20                  (4)(A)(i) The Department of Labor shall disclose, upon request, to  
21                  officers or employees of any state or local agency charged with administering

1 TANF, any wage information with respect to an identified individual that is  
2 contained in its records, which is necessary for the purpose of determining an  
3 individual's eligibility for aid or services or the amount of such the aid or  
4 services to needy families with children.

5 (ii) ~~The term~~ As used in this subdivision (e)(4), "state or local  
6 agency charged with administering TANF" means any such agency  
7 administering a plan approved under ~~part A of Title IV of the Social Security~~  
8 ~~Act~~ 42 U.S.C. chapter 7, subchapter IV, part A.

9 (B) The information requested shall not be released unless the  
10 requesting TANF agency agrees to reimburse the Department of Labor for the  
11 costs involved in furnishing such the information.

12 \* \* \*

13 (5)(A) The Department of Labor shall disclose to officers or employees  
14 of the Federal Parent Locator Service (FPLS) or National New Hire Directory  
15 any employment, wage, and unemployment compensation claim information  
16 contained in its claim records that may be useful in locating an absent parent  
17 or the parent's employer solely for purposes of administering the child support  
18 enforcement provisions of ~~Title IV of the Social Security Act~~ 42 U.S.C.  
19 chapter 7, subchapter IV.



1 20 C.F.R. § 603.7 and the limitations on the use of the information set forth in  
2 ~~section 904(c)(2) of P.L.~~ Pub. L. No. 100-628, § 904(c)(2).

3 (C) The information requested shall not be released unless the  
4 individual about whom the requested information relates has signed a consent  
5 form, approved by the Secretary of HUD, ~~which~~ that permits the release of the  
6 requested information.

7 \* \* \*

8 (g) All written or oral reports, or other communications, from an employer  
9 ~~or his or her~~ the employer's workers to each other, or to the Commissioner or  
10 any of ~~his or her~~ the Commissioner's agents, representatives, or employees,  
11 made in connection with the requirements and administration of this chapter or  
12 ~~the regulations thereunder~~ rules adopted pursuant to this chapter, shall be  
13 absolutely privileged and shall not be made the subject matter or basis for any  
14 suit for slander or libel in any court of this State, unless they are false in fact  
15 and malicious in intent.

16 (h) Any employing unit that fails to report employment and separation  
17 information with respect to a claimant and wages paid to a claimant required  
18 under subsection (b) of this section shall be subject to a penalty of \$100.00 for  
19 each report not received by the prescribed due date, ~~which.~~ The penalty  
20 imposed pursuant to this subsection shall be collected in the manner provided  
21 for the collection of contributions in section 1329 of this ~~title~~ subchapter and

1 shall be paid into the contingent fund ~~provided~~ established in section 1365 of  
2 this ~~title~~ subchapter. If the employing unit demonstrates that its failure was  
3 due to a reasonable cause, the Commissioner may waive the penalty.

4 Sec. 175. 21 V.S.A. § 1314a(e) is amended to read:

5 (e) On request of the Commissioner, any employing unit or employer shall  
6 report, within 10 days ~~of~~ after the mailing or personal delivery of the request,  
7 separation information for a claimant, any disqualifying income the claimant  
8 may have received, and any other information that the Commissioner may  
9 require to determine the claimant's eligibility for unemployment  
10 compensation. The Commissioner shall make a request when:

11 \* \* \*

12 Sec. 176. 21 V.S.A. § 1315 is amended to read:

13 § 1315. STATE-FEDERAL COOPERATION

14 In the administration of this chapter, the Commissioner shall:

15 (1) cooperate with the Secretary of Labor to the fullest extent consistent  
16 with the provisions ~~thereof, with the Secretary of Labor~~ of this chapter;

17 (2) shall make such reports, in such a form and containing such  
18 information as required by the Secretary of Labor ~~may from time to time~~  
19 ~~require, and shall~~;



1           (3) comply with ~~such~~ any provisions as the Secretary of Labor ~~may~~  
2           ~~from time to time find~~ deems necessary to assure ensure the correctness and  
3           verification of ~~such~~ the reports; and

4           (4) ~~shall~~ comply with the regulations prescribed by the Secretary of  
5           Labor governing the expenditures of ~~such~~ sums ~~as may be~~ allotted and paid to  
6           this the State under Title III of the Social Security Act 42 U.S.C. chapter 7,  
7           subchapter III for the purpose of assisting in the administration of this chapter.

8           Sec. 177. 21 V.S.A. § 1316 is amended to read:

9           § 1316. FURNISHING DATA

10          Upon request ~~therefor~~, the Commissioner shall furnish to any agency of the  
11          United States charged with the administration of public works or assistance  
12          through public employment the name, address, ordinary occupation, and  
13          employment status of each recipient of benefits and ~~such~~ the recipient's rights  
14          to further benefits under this chapter.

15          Sec. 178. 21 V.S.A. § 1318 is amended to read:

16          § 1318. RECIPROCAL BENEFIT ARRANGEMENTS

17          (a) The Commissioner is ~~hereby~~ authorized to enter into arrangements with  
18          the appropriate agencies of other states or the federal government ~~whereby~~  
19          under which potential rights to benefits accumulated under the unemployment  
20          compensation laws of ~~the several~~ other states or under ~~such law of the federal~~  
21          ~~government~~ law, or both, may constitute the basis for the payment of benefits

1 through a single appropriate agency under terms ~~which~~ that the Commissioner  
2 finds will be fair and reasonable as to all affected interests and will not result  
3 in any substantial loss to the Fund, ~~and the~~. The Commissioner is authorized  
4 to reimburse ~~sueh~~ a state or federal agency for ~~sueh~~ benefits ~~as may be~~ paid by  
5 that agency upon the basis of wages received in employment subject to this  
6 chapter or to receive from ~~sueh~~ a state or federal agency ~~sueh~~ amounts ~~as may~~  
7 ~~be~~ paid from the Fund upon the basis of wages received in employment subject  
8 to the laws of ~~sueh~~ the state or ~~of the~~ to federal ~~government~~ law.

9 (b) The Commissioner shall participate in any arrangements for the  
10 payment of compensation on the basis of combining an individual's wages and  
11 employment covered under this chapter with ~~his~~ the individual's wages and  
12 employment covered under the unemployment compensation laws of other  
13 states ~~which~~ that are approved by the U.S. Secretary of Labor ~~of the United~~  
14 ~~States~~ in consultation with the state unemployment compensation agencies as  
15 reasonably calculated to ~~assure~~ ensure the prompt and full payment of  
16 compensation in such a situation and ~~which~~ that include provisions for:

17 (1) applying the base period of a single state law to a claim involving  
18 the combining of an individual's wages and employment covered under two or  
19 more state unemployment compensation laws; and

1           (2) avoiding the duplicate use of wages and employment by reason of  
2 ~~such combining~~ the combination pursuant to subdivision (1) of this subsection  
3 (b).

4           (c)(1) Reimbursements paid from the Fund pursuant to this section shall be  
5 deemed to be benefits for the purposes of this chapter, ~~except that no.~~

6           (2) No charge on account of said reimbursements paid pursuant to  
7 subdivision (1) of this subsection (c) shall be made to an employer's  
8 experience rating record under subsection 1325(a) of this title subchapter.

9           (3) Benefits paid from the Fund to an individual, under arrangements  
10 entered into pursuant to this section, shall not be charged to an employer's  
11 experience rating record under subsection 1325(a) of this title subchapter when  
12 ~~such~~ the benefits would not have been payable to the individual but for this  
13 section because ~~of lack of~~ the individual lacked wages in ~~subject~~ employment  
14 necessary to qualify for benefits under section 1338 of this title subchapter.

15 Sec. 179. 21 V.S.A. § 1320 is amended to read:

16 § 1320. INVESTIGATIONS; GENERAL POWERS

17           (a)(1) The Commissioner is authorized to ~~make such~~ conduct  
18 investigations, secure and transmit ~~such~~ information, make available ~~such~~  
19 services and facilities, and exercise ~~such~~ of the other powers provided ~~herein~~  
20 ~~with respect to the administration of~~ pursuant to this chapter as the  
21 Commissioner deems necessary or appropriate to facilitate the administration

1 of any unemployment compensation or public employment service law, ~~and in~~  
2 ~~like manner,~~.

3 (2) The Commissioner is also authorized to accept and utilize  
4 information, services, and facilities made available to this State by any agency  
5 charged with the administration of any ~~such~~ other unemployment  
6 compensation or public employment service law.

7 (3) To the extent permissible under the laws and constitution of the  
8 United States, the Commissioner of Labor is authorized to enter into or  
9 cooperate in arrangements ~~whereby~~ under which facilities and services  
10 provided under this chapter and facilities and services provided under the  
11 unemployment compensation law of any foreign government, may be utilized  
12 for the taking of claims and the payment of benefits under this chapter, or  
13 under a similar law of ~~such~~ the foreign government.

14 (b) On request of an agency ~~which~~ that administers an employment  
15 security law of another state or of a foreign government, and ~~which~~ that has  
16 found in accordance with the provisions of ~~such~~ its law that an individual is  
17 liable to repay benefits received under ~~such~~ the law, the Commissioner may  
18 collect from the individual the amount of ~~such~~ benefits to be refunded to ~~such~~  
19 the agency, and ~~such~~ the amounts may be collected by civil action in the name  
20 of the Commissioner acting as agent for ~~such~~ the agency.



1 Sec. 180. 21 V.S.A. § 1321 is amended to read:

2 § 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

3 (a) Payment of contributions. Contributions shall accrue and become  
4 payable by each employer for each calendar year in which ~~he or she~~ the  
5 employer is subject to this chapter, with respect to wages paid for employment,  
6 as defined in subdivision 1301(6) of this ~~title~~ subchapter, occurring during  
7 ~~such~~ the calendar year, except as otherwise provided in this section. The  
8 contributions shall become due and be payable at ~~such time and in such~~  
9 installments as times and in installments prescribed by the Board prescribes.

10 (b) Base of contributions. ~~Subsequent to December 31, 1982, the term~~  
11 ~~“wages” shall not include that part of remuneration that, after remuneration~~  
12 ~~equal to \$8,000.00 has been paid in a calendar year to an individual by an~~  
13 ~~employer with respect to employment during a calendar year, unless that part~~  
14 ~~of the remuneration is subject to a tax under a federal law imposing a tax~~  
15 ~~against which credit may be taken for contributions required to be paid into a~~  
16 ~~state unemployment fund. For the period January 1, 2010, through December~~  
17 ~~31, 2010, the term “wages” shall not include that part of remuneration that,~~  
18 ~~after remuneration equal to \$10,000.00 has been paid in a calendar year to an~~  
19 ~~individual by an employer with respect to employment during a calendar year,~~  
20 ~~unless that part of the remuneration is subject to a tax under a federal law~~  
21 ~~imposing a tax against which credit may be taken for contributions required to~~

1 ~~be paid into a state unemployment fund.~~ The term “wages” shall not include  
2 that part of remuneration that, after remuneration equal to \$13,000.00 on  
3 January 1, 2011, and \$16,000.00 on January 1, 2012, has been paid in a  
4 calendar year to an individual by an employer with respect to employment  
5 during a calendar year, unless that part of the remuneration is subject to a tax  
6 under a federal law imposing a tax against which credit may be taken for  
7 contributions required to be paid into a state unemployment fund. After  
8 January 1, 2012, whenever the Unemployment Compensation Fund has a  
9 positive balance and all advances made to the State Unemployment  
10 Compensation Fund pursuant to Title XII of the Social Security Act have been  
11 repaid as of June 1, the base of contribution amount shall be adjusted on  
12 January 1 of the following year by the same percentage as any increase in the  
13 State annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of  
14 this ~~title~~ subchapter. When the unemployment contribution rate schedule  
15 established by subsection 1326(e) of this ~~title~~ subchapter is reduced to  
16 schedule III, the base of contribution amount shall be reduced by \$2,000.00 on  
17 January 1 of the following year and shall be adjusted annually thereafter on  
18 January 1 of the following year by the same percentage as any increase in the  
19 State annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of  
20 this ~~title~~ subchapter. When the unemployment contribution rate schedule  
21 established by subsection 1326(e) of this ~~title~~ subchapter is reduced to

1 schedule I, the base of contribution amount shall be reduced by \$2,000.00 on  
2 January 1 of the following year and shall be adjusted annually thereafter on  
3 January 1 of the following year by the same percentage as any increase in the  
4 State annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of  
5 this ~~title~~ subchapter. For the purposes of this subsection:

6 (1) any employer who acquired the entire or a distinct and severable  
7 portion of the organization, trade, or business of an employer shall be treated  
8 as a single unit with its predecessor for the calendar year in which ~~such~~ the  
9 acquisition occurs; and

10 \* \* \*

11 (d) In lieu of contributions required of employers subject to this chapter,  
12 the State of Vermont, including State hospitals but excluding any State  
13 institution of higher education, shall pay to the Commissioner, for the  
14 Unemployment Compensation Fund, an amount equal to the amount of  
15 benefits paid, including the full amount of extended benefits paid, attributable  
16 to service by individuals in the employ of the State. At the end of each  
17 calendar quarter, or at the end of any other period as determined by the  
18 Commissioner, the Commissioner shall bill the State for the amount of benefits  
19 paid during ~~such~~ the quarter or other prescribed period that is attributable to  
20 service in the employ of the State. Subdivisions (c)(3)(C) through (3)(F),  
21 inclusive, and subdivisions (c)(5) and (6) of this section as they apply to



1 nonprofit organizations shall also apply to the State of Vermont, except that the  
2 State shall be liable for all benefits paid, including the full amount of extended  
3 benefits paid, attributable to service in the employ of the State.

4 (e) Any municipality, any State institution of higher education, and any  
5 political or governmental subdivisions or instrumentalities of the State shall  
6 pay contributions unless it elects to pay to the Commissioner for the  
7 Unemployment Compensation Fund, an amount equal to the amount of  
8 benefits paid, including the full amount of extended benefits paid, attributable  
9 to service by individuals in the employ of ~~these entities~~ the entity. Subsections  
10 (a) and (b) and subdivisions (c)(3)(C) through (3)(F), inclusive, and  
11 subdivisions (c)(4) through (6), inclusive of this section as they apply to  
12 nonprofit organizations shall also apply to the entities designated in this  
13 subsection, except that these entities shall be liable for all benefits paid,  
14 including the full amount of extended benefits paid, attributable to service in  
15 the employ of these entities.

16 (1) Any entity designated in this subsection ~~that is, or becomes, subject~~  
17 ~~to this chapter on January 1, 1978~~ may elect to become liable for payments in  
18 lieu of contributions for a period of not less than one calendar year ~~beginning~~  
19 ~~with January 1, 1978 provided~~ if it files with the Commissioner a written  
20 notice of its election within the 30-day period immediately following that date.

1           (2) Any entity designated in this subsection ~~that becomes subject to this~~  
2 ~~chapter after January 1, 1978~~ may elect to become liable for payments in lieu  
3 of contributions for a period of not less than one calendar year following the  
4 date on which ~~the subjectivity begins~~ it becomes subject to the provisions of  
5 this chapter by filing a written notice of its election with the Commissioner not  
6 later than 30 days immediately following the date of the determination of that  
7 subjectivity.

8           (3) Any entity designated in this subsection that makes an election in  
9 accordance with subdivisions (1) and (2) of this subsection will continue to be  
10 liable for payments in lieu of contributions until it files with the Commissioner  
11 a written notice terminating its election not later than 30 days prior to the  
12 beginning of the calendar year for which the termination shall first be  
13 effective.

14           (4) Any entity designated in this subsection that has been paying  
15 contributions under this chapter ~~for a period subsequent to January 1, 1978~~  
16 may change to a reimbursable basis by filing with the Commissioner not later  
17 than 30 days prior to the beginning of any calendar year a written notice of  
18 election to become liable for payments in lieu of contributions. The election  
19 shall not be terminable by the organization for that year and the next year.

20           (5) The Commissioner may for good cause extend the period within  
21 which a notice of election, or a notice of termination, must be filed and may

1 permit an election to be retroactive but not any earlier than with respect to  
2 benefits paid after the date that entity became subject to this chapter.

3 (6) The Commissioner shall notify each entity designated in this  
4 subsection of any determinations that ~~he or she may make of the~~  
5 Commissioner makes regarding its status as an employer and of the effective  
6 date of any election that it makes and of any termination of that election. The  
7 determination shall be subject to reconsideration and to appeal and review in  
8 accordance with the provisions of section 1337a of this ~~title~~ subchapter.

9 \* \* \*

10 Sec. 181. 21 V.S.A. § 1322 is amended to read:

11 § 1322. REPORTS; LIABILITY

12 (a) Every employer shall file with the Commissioner periodic reports to  
13 disclose its liability for contributions under this chapter on ~~such~~ forms and at  
14 ~~such~~ times as prescribed by the Commissioner ~~may prescribe to disclose his or~~  
15 ~~her liability for contributions under this chapter~~.

16 (b)(1) Every employer subject to this chapter who sells in bulk 50 percent  
17 or more of ~~his or her~~ its assets, including any stock of goods, wares, or  
18 merchandise of any kind, fixtures, machinery, equipment, buildings, or real  
19 estate, when ~~such~~ the sale constitutes the sale of the employer's business to  
20 another shall give the Commissioner 10 days' notice of the sale before the  
21 completion of the transfer of the property.

1           (2) The employer shall file all contribution reports with the  
2 Commissioner to the date of the proposed transfer of property and pay all  
3 contributions, interest, and penalties due and payable ~~thereon~~. The employer  
4 shall also file the detailed quarterly wage report required by section 1314a of  
5 this title ~~(subsequent to June 30, 1986)~~ subchapter covering employee wages to  
6 date of proposed transfer. ~~When the reports are filed the~~

7           (3)(A) The Commissioner shall furnish to the employer within 10 days  
8 ~~thereafter~~ after the reports are filed a certificate showing that all reports have  
9 been filed and contributions, interest, and penalties have been paid to the date  
10 of the proposed transfer. If the certificate is not furnished by the  
11 Commissioner within 10 days, no liability may thereafter be imposed upon the  
12 purchaser.

13           (B) The employer shall present the certificate to the purchaser of the  
14 property.

15           (C) The failure of the purchaser to require the certificate makes the  
16 purchaser liable to the Commissioner for the unpaid contributions, interest,  
17 and penalties owed by the employer in an amount not to exceed the reasonable  
18 value of the assets purchased. The liability imposed upon the purchaser by this  
19 subsection shall be secondary to the liability of the employer.

20           (c) Subsection (b) of this section shall not apply to sales made under any  
21 ~~order of court~~ order or to any sales made by assignees for the benefit of

1 creditors, executors, administrators, receivers, or any public officer in ~~his or~~  
2 ~~her~~ the officer's official capacity or by any officer of the court ~~or to any other~~  
3 ~~transfer excepted under Uniform Commercial Code, 9A V.S.A. § 6-103.~~

4 (d) An employing unit ~~which~~ that has been liable otherwise than by its  
5 election to pay contributions as an employer under this chapter for any  
6 calendar year shall file ~~such~~ reports and pay ~~such~~ contributions for the next  
7 succeeding calendar year as the Commissioner may prescribe.

8 Sec. 182. 21 V.S.A. § 1322a is amended to read:

9 § 1322a. OUT-OF-STATE OR NONRESIDENT SUBCONTRACTORS

10 (a) Any contractor, who is or becomes an employer under the provisions of  
11 this chapter, who contracts with any out-of-state or nonresident subcontractor,  
12 who also is or becomes an employer under the provisions of this chapter, shall:

13 (1) withhold sufficient monies on ~~said~~ the contract to guarantee that all  
14 contributions, penalties, and interest are paid upon completion of ~~said~~ the  
15 contract; ~~or shall~~

16 (2) require ~~of said~~ the subcontractor to secure a ~~good and sufficient~~  
17 bond guaranteeing payment of all contributions, penalties, and interest due or  
18 to become due with respect to wages paid for employment on ~~said~~ the contract.

19 (b) Failure to comply with the provisions of this section shall render ~~said~~  
20 the contractor directly liable for ~~such~~ the contributions, penalties, and interest  
21 due from ~~said~~ the subcontractor and the Commissioner shall have all of the

1 remedies of collection against ~~said~~ the contractor under the provisions of this  
2 chapter as though the services in question were performed directly for ~~said~~ the  
3 contractor.

4 (c) Any ~~such~~ contractor who ~~shall become~~ becomes liable for and ~~pay~~ pays  
5 contributions with respect to individuals in the employ of ~~any such a~~  
6 subcontractor may recover the ~~same~~ amounts paid from ~~such~~ the subcontractor.

7 (d) ~~For the purpose of~~ As used in this section, the words “contractor” and  
8 “subcontractor” mean and include individuals, partnerships, firms or  
9 corporations, or other associations of persons engaged in the business of  
10 construction, alteration, repairing, dismantling, or demolition of buildings,  
11 roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants,  
12 water filters, tanks and towers, airports, dams, water wells, pipelines, and  
13 every other type of structure, project, development, or improvement coming  
14 within the definition of real property.

15 Sec. 183. 21 V.S.A. § 1323 is amended to read:

16 § 1323. TERMINATION OF COVERAGE; AGREEMENT BY EMPLOYEE  
17 TO MAKE CONTRIBUTION

18 (a) An employing unit shall cease to be an employer subject to this chapter  
19 only as of the first day of January of any calendar year, if it files with the  
20 Commissioner, on or before March 31 next following, a written application for  
21 termination of coverage, and the Commissioner finds that ~~such~~ the employing

1 unit was not an employer during the preceding calendar year, ~~but these.~~ The  
2 requirements of this subsection may be waived by the Commissioner for good  
3 cause.

4 (b) The Commissioner may terminate coverage of any employing unit on  
5 ~~his or her~~ the Commissioner's own motion when ~~he or she~~ the Commissioner  
6 finds that the employing unit has not selected coverage in accordance with  
7 subdivision 1301(5)(E) of this ~~title~~ subchapter and that:

8 (1) ~~that~~ the employing unit has not been an employer for the period of  
9 one year immediately preceding; ~~or~~

10 (2) ~~that~~ the person who is the employing unit is deceased; or

11 (3) ~~that~~ the employing unit has ceased to employ at least one person  
12 within the State.

13 (c) Any agreement by an individual ~~in his or her employ~~ employed by an  
14 employer to pay the whole or any portion of the ~~employer~~ employer's  
15 contributions required by this chapter shall be void and no employer shall  
16 make any deduction for ~~such~~ that purpose from the wages or salary of any  
17 individual ~~in his or her employ~~ employed by the employer.

18 Sec. 184. 21 V.S.A. § 1324 is amended to read:

19 § 1324. RATE OF CONTRIBUTION

20 (a) ~~For contribution rate years beginning prior to July 1, 1987, the standard~~  
21 ~~rate of contributions shall be five and four-tenths percent. Each employer who~~

1 has not been subject to this chapter for a sufficient period of time to have his  
2 or her rate computed under section 1326 of this title shall pay contributions at  
3 a rate, not exceeding five and four-tenths percent, that is the higher of (1) one  
4 percent or (2) that percent represented by rate class 11 in applicable rate  
5 schedule determined pursuant to section 1326 of this title, in effect with  
6 respect to the calendar quarter for which contributions are payable.

7 (b) For contribution rate years beginning July 1, 1987 and subsequent  
8 thereto:

9 (1) ~~the~~ The standard rate of contributions shall be five and four-tenths  
10 percent;

11 (2)(b) ~~each~~ Each employer ~~who~~ that has not been subject to this chapter for  
12 a sufficient period of time to have the rate computed under section 1326 of this  
13 title subchapter shall pay contributions at the rate of one percent, except that  
14 foreign corporations classified in the three-digit North American Industry  
15 Classification System Code as 236, 237, or 238 shall pay contributions at a  
16 rate equal to the average rate as of the most recent computation date paid by all  
17 employers so classified.

18 Sec. 185. 21 V.S.A. § 1326 is amended to read:

19 § 1326. RATE BASED ON BENEFIT EXPERIENCE

20 (a)(1) The Commissioner shall for each rate year compute a benefit ratio  
21 for each employer who meets the requirements of section 1327 of this title



1 subchapter. For an employer whose record has been chargeable with benefits  
2 throughout the three consecutive calendar years immediately preceding the rate  
3 year for which the ratio is computed, the benefit ratio shall be the quotient  
4 obtained by dividing the total benefits charged to ~~his or her~~ the employer's  
5 record in ~~such~~ those three years by the total of ~~his or her~~ the employer's  
6 taxable payrolls for the same three-year period; ~~for~~.

7 (2) For an employer whose record has been chargeable with benefits for  
8 at least one but less than three consecutive calendar years immediately  
9 preceding the rate year for which the ratio is computed, the benefit ratio shall  
10 be the quotient obtained by dividing the total benefits charged to ~~his or her~~ the  
11 employer's record for ~~such~~ the calendar year or years by the total of ~~his or her~~  
12 the employer's taxable payrolls for the same period.

13 (3) The contribution rate of each employer, not otherwise ineligible,  
14 who meets the requirements of section 1327 of this ~~title~~ subchapter, shall be  
15 determined under subsections (b) through (g) of this section.

16 (b) The Commissioner shall prepare a schedule ~~on which he or she shall~~  
17 list that lists all employers for whom a benefit ratio has been computed  
18 pursuant to this section, in the order of their benefit ratios, beginning with the  
19 lowest such ratio, and on which shall be shown with respect to each such  
20 employer:

21 (1) the amount of ~~his or her~~ the employer's benefit ratio;



1 would have occupied had ~~his or her~~ the employer's corrected benefit ratio been  
2 shown on the list, but ~~such~~ the altered position on the list shall not affect the  
3 position of any other employer.

4 \* \* \*

5 Sec. 186. 21 V.S.A. § 1327 is amended to read:

6 § 1327. RATE~~s~~; REDUCTION~~s~~; CONDITIONS

7 No employer's contribution rate shall be reduced from five and four-tenths  
8 percent for any rate year, except as provided in section 1324 of this ~~title~~  
9 subchapter, unless and until ~~his or her~~ the employer's experience-rating record  
10 has been chargeable with benefits throughout the three consecutive calendar  
11 years immediately preceding the rate year with respect to which ~~said~~ the rate  
12 shall be reduced and contributions were payable by ~~him or her~~ the employer  
13 with respect to ~~such~~ the three calendar years; ~~provided that an.~~ An employer  
14 who has not been subject to the law for a period of time sufficient to meet this  
15 requirement may qualify for a reduced rate if ~~his or her~~ the employer's record  
16 has been chargeable with benefits throughout a lesser number of consecutive  
17 calendar years but in no event less than one calendar year immediately  
18 preceding the rate year with respect to which ~~said~~ the rate shall be reduced and  
19 contributions were payable by ~~him or her~~ the employer with respect to ~~such~~ the  
20 period.

1 Sec. 187. 21 V.S.A. § 1329 is amended to read:

2 § 1329. COLLECTION OF UNPAID CONTRIBUTIONS; SUIT

3 \* \* \*

4 (b) In addition to other remedies and proceedings authorized by this  
5 chapter, a civil action in the name of the Commissioner may be maintained and  
6 the remedies available in ~~such a~~ a civil action, including attachment and trustee  
7 process, shall be available to the Commissioner for the collection of  
8 contributions, interest, and penalties under this chapter.

9 (c) An employer failing, for any two calendar quarters during the  
10 preceding 20 calendar quarters, to make return or to pay contributions required  
11 under this chapter, and who has not ceased to be an employer as provided in  
12 section 1323 of this ~~title~~ subchapter, may be required by the Commissioner to  
13 furnish a good and sufficient bond conditioned upon the payment of ~~such the~~  
14 delinquent contributions, together with interest and penalty from the due date  
15 ~~thereof of the delinquent contributions~~, and containing ~~such any~~ any terms ~~as may~~  
16 ~~be determined~~ required by the Commissioner. An employer who fails to  
17 furnish ~~such a~~ a bond when required by the Commissioner may be enjoined  
18 from employing individuals in employment, as defined by this chapter, upon  
19 complaint of the Commissioner in the Superior Court of any county in which  
20 the employer is doing business, until the contributions due, together with  
21 interest and penalty, are paid to the Commissioner.

1 (d) In the event of an employer's dissolution, adjudicated insolvency,  
2 adjudicated bankruptcy, receivership, assignment for benefit of creditors, or  
3 judicially confirmed extension proposals or composition, claims ~~or~~ for  
4 contributions due under this chapter and for interest ~~thereon then or thereafter~~  
5 ~~due under this chapter~~ on the unpaid contributions shall be a lien upon ~~such the~~ the  
6 employer's assets and shall have priority over all other claims except expenses  
7 of administration, taxes, wage claims, and prior liens valid under the laws of  
8 this State.

9 \* \* \*

10 Sec. 188. 21 V.S.A. § 1330 is amended to read:

11 § 1330. ASSESSMENT PROVIDED

12 When any employer fails to pay any contributions or payments required  
13 under this chapter, the Commissioner shall make an assessment of  
14 contributions against ~~such the~~ the employer together with applicable interest and  
15 penalty ~~thereon~~. After making the assessment, ~~due notice shall be given~~  
16 ~~thereof~~, the Commissioner shall give notice to the employer by ordinary or  
17 certified mail, ~~to the employer~~ and the assessment shall be final unless the  
18 employer petitions for a hearing on ~~such the~~ the assessment ~~within the time~~  
19 ~~hereinafter specified~~ pursuant to section 1331 of this subchapter.

1 Sec. 189. 21 V.S.A. § 1331 is amended to read:

2 § 1331. NOTICE; HEARING

3 (a) Any employer against whom an assessment is made may, within 30  
4 days after the date thereof of the assessment, file with the Commissioner a  
5 petition for a hearing before a referee appointed for ~~such~~ that purpose, ~~which~~.  
6 The petition shall set forth specifically and in detail the grounds upon which it  
7 is claimed the assessment is erroneous.

8 (b) Hearing or hearings on the assessment shall be held by the referee at  
9 ~~such~~ times and places ~~as may be provided by~~ the rules ~~and regulations~~ of the  
10 Board and due notice of the time and place of ~~such~~ the hearing or hearings  
11 shall be given by ordinary or certified mail to the petitioner.

12 (c) After the hearing ~~as above provided~~, the petitioner shall be promptly  
13 notified by ordinary or certified mail of the findings of fact, conclusions, and  
14 decision of the referee.

15 (d) The decision of the referee shall be final unless the employer or  
16 Commissioner makes application for review ~~thereof~~ of the decision by the  
17 Board within 30 days after the date thereof of the decision or unless the Board,  
18 on its own motion within said the same period, initiates a review ~~thereof~~ of the  
19 decision.

1 Sec. 190. 21 V.S.A. § 1332 is amended to read:

2 § 1332. REVIEW BY BOARD; SUPREME COURT APPEAL

3 (a) The Board, upon an application filed or on its own motion, within the  
4 time specified in section 1331 of this subchapter, shall, on notice to interested  
5 parties, review the decision of the referee.

6 (b) Before rendering its decision, the Board may order the taking of  
7 additional evidence by the referee or, in its discretion, the Board may hear  
8 additional evidence to be made a part of the record in the case.

9 (c) Upon the basis of evidence previously submitted in the case and ~~such~~  
10 any additional evidence as the Board may take or direct to be taken, the Board  
11 may affirm, modify, or reverse the findings and conclusions of the referee and  
12 shall render its decision ~~thereon~~.

13 (d) The parties shall be promptly notified by ordinary or certified mail of  
14 the findings of fact, conclusions, and decision of the Board. The decision of  
15 the Board shall be final unless ~~an appeal is taken therefrom~~ it is appealed to the  
16 Supreme Court.

17 Sec. 191. 21 V.S.A. § 1334 is amended to read:

18 § 1334. JUDGMENT; EXCEPTION

19 \* \* \*

20 (b) The Commissioner may file in the Superior Court for the county  
21 ~~wherein~~ in which the employer resides, or the Washington Superior Court if

1 the employer is a nonresident, a certified copy of an assessment for  
2 contributions from which an appeal has not been taken within the time allowed  
3 therefor, ~~whereupon such.~~ The court, after due notice to all interested parties  
4 interested, shall summarily render a final judgment in accordance ~~therewith~~  
5 with the assessment. ~~Sueh~~ The judgment shall have the same effect, and all  
6 proceedings in relation ~~thereto~~ to the judgement shall ~~thereafter~~ be the same, as  
7 though ~~sueh~~ the judgment had been rendered in an action duly heard and  
8 determined by ~~sueh~~ the court, provided, however, there shall not be an appeal  
9 ~~therefrom~~ from the judgment except on matters of law heard and determined in  
10 ~~sueh~~ the court.

11 (c) When an assessment has been made under section 1330 of this ~~title~~  
12 subchapter from which a timely appeal has not been taken or when any appeal  
13 taken has been finally determined under sections 1331 and 1332 of this ~~title~~  
14 subchapter, the Commissioner may, as an additional or alternate remedy to  
15 other remedies and proceedings authorized by this chapter, issue a warrant  
16 directed to the sheriff of any county of this State. The warrant shall command  
17 the sheriff to levy upon and sell the real and personal property of any person  
18 liable for unpaid contributions, payments, interest, penalties, and costs due  
19 under this chapter, for payment of the amount due and the cost of executing  
20 the warrant, and to return the warrant to the Commissioner and to pay ~~him or~~  
21 ~~her~~ the Commissioner the money collected by virtue of the warrant within 60



1 days after receipt of the warrant. The sheriff shall within five days after  
2 receipt of the warrant file with the county clerk a copy of the warrant, and the  
3 clerk shall then enter in the judgment docket the name of the person liable, the  
4 amount of the contributions, payments, interest, penalties, and costs for which  
5 the warrant is issued and the date when the copy is filed. The levy and sale  
6 shall be effected in the manner prescribed for levy of execution. If a warrant is  
7 returned not fully satisfied, the Commissioner may ~~from time to time~~ issue  
8 new warrants for the balance due in accordance with the procedure ~~described~~  
9 hereinabove set forth in this subsection.

10 Sec. 192. 21 V.S.A. § 1336 is amended to read:

11 § 1336. LIEN<sub>2</sub>; FEE<sub>2</sub>; FORECLOSURE

12 (a)(1) All contributions, interest, penalties, and costs thereon due and  
13 payable by an employer under the provisions of this chapter shall be a lien  
14 upon the real estate of ~~sueh~~ the employer from the date a lien for ~~sueh~~ the  
15 contributions, interest, penalties, and costs is entered in the land records of the  
16 town in which is located real estate of the employer.

17 (2) A lien for ~~sueh~~ contributions, penalties, interest, and costs shall be  
18 created upon the personal property or franchises of the employer if ~~sueh~~ the  
19 lien is recorded in the town clerk's office of the town in which the employer  
20 resides; ~~and, if.~~ If the employer is a corporation or a co-partnership, then ~~sueh~~  
21 the lien on the franchises or personal property of ~~sueh~~ the employer shall be

1 recorded in the town clerk's office in the town in which ~~such~~ the employer has  
2 its principal place of business in the State.

3 (3) Liens created under this section shall show the name of the  
4 employer, and the amount of contributions, and other indebtedness due to the  
5 Commissioner of Labor.

6 (4) A lien created under this section shall be a lien prior to all other  
7 liens except liens created for taxes due the State of Vermont, the federal  
8 government, or a town or municipality in this State and wage claims. ~~Such~~ A  
9 lien created under this section shall not be a prior lien to liens on record prior  
10 to the recording of the lien provided for ~~herein~~ by this section.

11 (b) There shall be paid to the town clerk by the Commissioner for  
12 recording each ~~such~~ lien, and the discharge of a recorded lien, the fees  
13 prescribed in 32 V.S.A. § 1671. The fees shall be added to the amount due  
14 from the employer under the lien.

15 (c) An employer upon whose property a lien is created as provided ~~herein~~  
16 in this section shall be given ~~due~~ notice ~~thereof~~ of the lien by ordinary or  
17 certified mail within five days after the creation of ~~such~~ the lien.

18 (d) When the contributions, interest, penalties, and costs, secured by a lien  
19 in accordance with this section, remains unpaid for 90 days after the creation  
20 of ~~such~~ the lien, ~~such~~ the lien on personal property may be foreclosed in the  
21 same manner as provided by law for the foreclosure of mortgages on personal

1 property; and ~~such~~ a lien on real property may be foreclosed in the same  
2 manner as provided by law for the foreclosure of mortgages on real property.  
3 The ~~foregoing~~ remedy provided by this section shall be in addition, or as an  
4 alternative, to the remedy provided by section 1329 of this ~~title~~, subchapter for  
5 the collection of unpaid contributions.

6 (e) In the event the employer files a written protest to the creation of the  
7 lien within 30 days after the date thereof the lien is created, assessment  
8 proceedings as provided in sections 1329–1334 of this ~~title~~ subchapter shall be  
9 had.

10 (f) If final judgment is in favor of the employer, the property of the  
11 employer shall be discharged from the lien. If final judgment is against the  
12 employer, the property under the lien shall be held to respond to the judgment  
13 rendered and may be taken in execution thereon unless the employer otherwise  
14 satisfies the execution and charges.

15 (g) The Commissioner shall issue and record a certificate of release of the  
16 lien if:

17 \* \* \*

18 (2) There is furnished to the Commissioner a bond with surety approved  
19 by the Commissioner in a penal sum sufficient to equal the amount of  
20 contributions due, together with interest, penalty, and costs, ~~said~~. The bond to  
21 shall be conditioned upon the payment of any judgment rendered in

1 proceedings regularly instituted by the Commissioner to enforce collection  
2 ~~thereof~~ of the amount due.

3 \* \* \*

4 Sec. 193. 21 V.S.A. § 1337 is amended to read:

5 § 1337. ADJUSTMENTS AND REFUNDS

6 (a) If not later than three years after the date on which any contributions or  
7 interest thereon became due, an employer who has paid ~~such~~ the contributions  
8 or interest thereon ~~shall make application~~ applies for an adjustment ~~thereof~~ of  
9 the contributions or interest in connection with subsequent contribution  
10 payments, or for a refund ~~thereof~~ of the amounts paid because ~~such~~ an  
11 adjustment cannot be made, and the Commissioner ~~shall determine~~ determines  
12 that ~~such~~ the payments or any portion ~~thereof~~ of the payments were  
13 erroneously collected, the Commissioner shall allow ~~such~~ the employer to  
14 make an adjustment ~~thereof~~ for the amounts erroneously collected, without  
15 interest, in connection with subsequent payments by ~~him or her~~ by the  
16 employer, or if ~~such~~ the adjustment cannot be made, shall refund ~~said~~ the  
17 amount without interest from the ~~fund~~ Fund.

18 (b) ~~For like cause and within the same period,~~ The Commissioner may  
19 make an adjustment or refund ~~may be so made~~ on the Commissioner's own  
20 initiative for the same reasons and within the time period set forth in  
21 subsection (a) of this section.

1 Sec. 194. 21 V.S.A. § 1337a is amended to read:

2 § 1337a. ADMINISTRATIVE DETERMINATION; HEARING ON

3 (a) Any employing unit aggrieved by an administrative determination  
4 affecting its rate of contributions, its rights to adjustment or refund on  
5 contributions paid, its coverage as an employer, or its termination of coverage  
6 may, within 30 days after the date thereof of the determination, file with the  
7 Commissioner a petition for a hearing ~~thereon, which~~ on the determination.  
8 The petition shall set forth specifically and in detail the grounds upon which it  
9 is claimed the administrative determination is erroneous. Hearing or hearings  
10 on ~~sueh~~ the petition shall be held by a referee appointed for ~~sueh~~ that purpose,  
11 at ~~sueh~~ times and places as ~~may be~~ provided by rules of the Board, ~~and due~~  
12 ~~notice.~~ Notice of the time and place of ~~sueh~~ the hearing or hearings shall be  
13 given by ordinary or certified mail to the petitioner.

14 (b) After a hearing ~~as provided in pursuant to~~ subsection (a) of this section,  
15 the petitioner shall be promptly notified by ordinary or certified mail of the  
16 findings of fact, conclusions, and decision of the referee. The decision of the  
17 referee shall be final unless the employing unit or Commissioner makes  
18 application for review ~~thereof of the decision~~ by the Board within 30 days  
19 after the date thereof of the decision or unless the Board, on its own motion  
20 within ~~said~~ the same period, initiates a review ~~thereof of the decision~~.

1 Sec. 195. 21 V.S.A. § 1338 is amended to read:

2 § 1338. WEEKLY BENEFITS

3 (a) Each eligible individual who is totally unemployed in any week shall be  
4 paid with respect to ~~such a~~ the week a weekly benefit amount determined as  
5 provided in this section.

6 \* \* \*

7 (d)(1) To qualify for benefits an individual must:

8 (A) have been paid in one quarter of ~~his or her~~ the individual's base  
9 period wages in employment with an employer or employers subject to this  
10 chapter that equal at least \$1,000.00; and

11 (B) have been paid in ~~his or her~~ the individual's base period  
12 additional wages in employment with an employer or employers subject to this  
13 chapter that equal or exceed 40 percent of the total wages paid in the highest  
14 quarter of ~~his or her~~ the individual's base period; and

15 (C) have earned subsequent to the beginning of ~~his or her~~ the  
16 individual's most recent benefit year wages in employment with an employer  
17 or employers subject to this chapter that equal or exceed four times ~~his or her~~  
18 the individual's weekly benefit amount as determined under subsection (e) of  
19 this section for that prior benefit year.

20 \* \* \*

1 (h) Effective ~~with the first calendar week of July, 1990, and with the first~~  
2 full calendar ~~weeks~~ week of each July ~~thereafter~~, the minimum quarterly wage  
3 requirement of subdivision (d)(1) of this section shall be adjusted by a  
4 percentage increase equal to the percentage increase, if any, in the State  
5 minimum wage effective during the prior calendar year. This adjusted  
6 minimum quarterly wage requirement shall be applicable to new claims for  
7 benefits with effective dates during or after the first full calendar week of each  
8 July 1990, ~~and the first full calendar weeks of each July thereafter.~~

9 (i)(1) An individual filing a new claim for unemployment compensation  
10 shall, at the time of filing of ~~sueh~~ the claim, be advised that:

11 \* \* \*

12 (2) Amounts deducted and withheld from unemployment compensation  
13 shall remain in the Unemployment Compensation Trust Fund until transferred  
14 to the federal and State taxing authority as a payment of income tax.

15 \* \* \*

16 Sec. 196. 21 V.S.A. § 1343 is amended to read:

17 § 1343. CONDITIONS

18 (a) An unemployed individual shall be eligible to receive benefits with  
19 respect to any week only if the Commissioner finds that the individual has met  
20 all of the following requirements ~~are met and the individual:~~





1 work that would have been considered suitable but for the illness or disability  
2 has been offered after the beginning of ~~such~~ the illness or disability.

3 \* \* \*

4 (6) Participates in reemployment services, such as job search assistance  
5 services, if ~~he or she~~ the individual has been determined to be likely to exhaust  
6 regular benefits and needs reemployment services pursuant to a profiling  
7 system established by the Commissioner.

8 (7) Is not self-employed or engaged in self-employment to the extent  
9 that it makes ~~him or her~~ the individual unavailable for work.

10 (8) Has given written notice of resignation to ~~his or her~~ the individual's  
11 employer and the employer subsequently made the termination of employment  
12 effective prior to the ~~date of termination~~ as separation date given in the notice.

13 Provided that the claimant could not establish good cause for leaving work  
14 pursuant to subdivision 1344(a)(2)(A) of this ~~title~~ subchapter and was not  
15 discharged for misconduct as provided in subdivision 1344(a)(1)(A) of this  
16 subchapter or for gross misconduct as provided in subdivision 1344(a)(2)(B)  
17 of this subchapter, in no case shall unemployment benefits awarded under this  
18 subdivision exceed four weeks or extend beyond the date of separation as  
19 provided in the employee's notice to the employer.

20 (b) Notwithstanding any other provisions of this chapter, any otherwise  
21 eligible claimant regularly attending a training course or program approved for

1 ~~him or her~~ the claimant by the Commissioner shall be deemed to be available  
2 for work and while attending the course and making satisfactory progress in  
3 the training shall not be denied benefits solely because of ~~his or her~~ attendance  
4 at the course or because of ~~his or her~~ the claimant's refusal of an offer of  
5 suitable work. Benefits paid to an eligible claimant regularly attending a  
6 training course or program approved pursuant to this subsection for any  
7 unemployment following ~~his or her~~ the claimant's refusal of an offer of  
8 suitable work, shall not be charged against the experience rating record of any  
9 employer, but shall be charged to the Fund.

10 (c) ~~After March 31, 1984 benefits~~ Benefits are payable on the basis of  
11 service in employment as defined in subdivisions 1301(6)(A)(ix) and (x) of  
12 ~~this title subchapter~~, in the same amount, on the same terms, and subject to the  
13 same conditions as benefits payable on the basis of other service subject to this  
14 chapter, except that:

15 (1) With respect to services performed in an instructional, research, or  
16 principal administrative capacity for an educational institution, benefits shall  
17 not be payable on the basis of such services for any week of unemployment  
18 commencing during the period between two successive academic years or  
19 terms (or, when an agreement provides instead for a similar period between  
20 two regular but not successive terms, during such period) or during a period of  
21 paid sabbatical leave provided for in the individual's contract, to any

1 individual if ~~such~~ the individual performs such services in the first of ~~such~~ the  
2 academic years or terms and if there is a contract or reasonable assurance that  
3 ~~such~~ the individual will perform services in any such capacity for any  
4 educational institution in the second of ~~such~~ the academic years or terms.

5 (2) With respect to services performed in any other capacity for an  
6 educational institution, benefits shall not be payable on the basis of such  
7 services to any individual for any week of unemployment that commences  
8 during a period between two successive academic years or terms if ~~such~~ the  
9 individual performs such services in the first of ~~such~~ the academic years or  
10 terms and there is a reasonable assurance that ~~such~~ the individual will perform  
11 such services for any educational institution in the second of ~~such~~ the  
12 academic years or terms, except that if benefits are denied to any individual  
13 under this subdivision and ~~such~~ the individual was not offered an opportunity  
14 to perform such services for the educational institution for the second of ~~such~~  
15 the academic years or terms, ~~such~~ the individual shall be entitled to a  
16 retroactive payment of the benefits for each week for which the individual  
17 filed a timely claim for benefits and for which benefits were denied solely by  
18 reason of this subdivision.

19 (3) With respect to any services described in subdivision (1) or (2) of  
20 this subsection, benefits shall not be payable on the basis of services in any  
21 such capacities to any individual for any week that commences during an

1 established and customary vacation period or holiday recess if ~~such~~ the  
2 individual performs such services in the period immediately before ~~such~~ the  
3 vacation period or holiday recess, and there is a reasonable assurance that ~~such~~  
4 the individual will perform such services in the period immediately following  
5 ~~such~~ the vacation period or holiday recess.

6 \* \* \*

7 (d) Notwithstanding any other provision of this chapter, any otherwise  
8 eligible claimant who was separated from employment due to an accident or  
9 injury resulting in a temporary total disability for which the claimant received  
10 workers' compensation benefits under chapter 9 of this title shall be entitled to  
11 receive, after the termination of the period of temporary total disability,  
12 benefits that would have been available at the time of separation from  
13 employment. Payment of benefits for any week under this section shall be  
14 made only if, at the time the claimant files the initial claim, ~~he or she~~ the  
15 claimant was not monetarily eligible for benefits under subsection 1338(d) of  
16 ~~this title~~ subchapter and the claim is filed within six months after the  
17 termination of the period of temporary total disability.

18 (e) ~~After December 31, 1977, benefits~~ Benefits shall not be paid to any  
19 individual on the basis of any services, substantially all of which consist of  
20 participating in sports or athletic events or training or preparing to so  
21 participate, for any week that commences during the period between two

1 successive sport seasons, or similar periods, if ~~such~~ the individual performed  
2 such services in the first of ~~such~~ the seasons, or similar periods, and there is a  
3 reasonable assurance that ~~such~~ the individual will perform such services in the  
4 later of ~~such~~ the seasons, or similar periods.

5 (f)(1) ~~After December 31, 1977, benefits~~ Benefits shall not be payable on  
6 the basis of services performed by an alien unless ~~such~~ the alien is an  
7 individual who was lawfully admitted for permanent residence at the time the  
8 services were performed, was lawfully present for purposes of performing the  
9 services, or was permanently residing in the United States under color of law  
10 at the time the services were performed, including an alien who was lawfully  
11 present in the United States as a result of the application of the provisions of  
12 ~~section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act~~  
13 8 U.S.C. § 1182(d)(5). Provided, that any modifications to the provisions of  
14 ~~section 26 U.S.C. § 3304(a)(14) of the Federal Unemployment Tax Act~~ as  
15 provided by ~~Public Law~~ Pub. L. No. 94-566 that specify other conditions or  
16 other effective date than stated ~~herein~~ in this section for the denial of benefits  
17 based on services performed by aliens and which modifications are required to  
18 be implemented under ~~State~~ state law as a condition for full tax credit against  
19 the tax imposed by the Federal Unemployment Tax Act, shall be deemed  
20 applicable under the provisions of this section.

21 \* \* \*

1 Sec. 197. 21 V.S.A. § 1347 is amended to read:

2 § 1347. NONDISCLOSURE OR MISREPRESENTATION

3 (a) Any person who fails, without good cause, to make reasonable ~~effort~~  
4 efforts to secure suitable work when directed to do so by the employment  
5 office or the Commissioner and has received any amount as benefits under this  
6 chapter with respect to weeks for which the person is determined to be  
7 ineligible ~~for such~~ because of the failure, and any person who by nondisclosure  
8 or misrepresentation by ~~him or her~~ the person, or by another, of a material fact  
9 (irrespective of whether ~~such~~ the nondisclosure or misrepresentation was  
10 known or fraudulent) has received any amount as benefits under this chapter  
11 while any conditions for the receipt of benefits imposed by this chapter were  
12 not fulfilled in ~~his or her~~ the person's case or while ~~he or she~~ the person was  
13 disqualified from receiving benefits, shall be liable for ~~such~~ the amount.

14 Notice of determination in such cases shall specify that the person is liable to  
15 repay to the Fund the amount of overpaid benefits, the basis of the  
16 overpayment, and the week or weeks for which ~~such~~ the benefits were paid.

17 The determination shall be made within three years ~~from~~ after the date of ~~such~~  
18 the overpayment.

19 (b) Any person who receives remuneration described in subdivision  
20 1344(a)(5) of this ~~title~~ subchapter that is allocable in whole or in part to prior  
21 weeks during which ~~he or she~~ the person received any amounts as benefits

1 under this chapter shall be liable for all such amounts of benefits or those  
2 portions of ~~such~~ the amounts equal to the portions of ~~such~~ the remuneration  
3 properly allocable to the weeks in question. Notice of determination in such  
4 cases shall specify that the person is liable to repay to the Fund the amount of  
5 overpaid benefits, the basis of the overpayment, and the week or weeks for  
6 which ~~such~~ the benefits were paid. The determination shall be made within  
7 three years ~~from~~ after the date of ~~such~~ the overpayment or within one year  
8 ~~from~~ after the date of receipt of the remuneration, whichever period is longer.

9 (c) The person liable under this section shall repay ~~such~~ the amount to the  
10 Commissioner for the Fund. In addition to the repayment, if the  
11 Commissioner finds that a person intentionally misrepresented or failed to  
12 disclose a material fact with respect to ~~his or her~~ the person's claim for  
13 benefits, the person shall pay an additional penalty of 15 percent of the amount  
14 of the overpaid benefits. Any additional penalty amount collected shall be  
15 deposited in the Fund. ~~Such~~ The amount may be collectible by civil action in  
16 the Superior Court, in the name of the Commissioner.

17 (d) In any case in which under this section a person is liable to repay any  
18 amount to the Commissioner for the Fund, the Commissioner may withhold, in  
19 whole or in part, any future benefits payable to ~~such~~ the person, and credit  
20 ~~such~~ the withheld benefits against the amount due from ~~such~~ the person until it  
21 is repaid in full, less any penalties assessed under subsection (c) of this section.





1 the claimant's last employer, all other interested parties, and the  
2 Commissioner.

3 (2) Any interested party may, within 30 days after notice thereof of the  
4 determination, file an appeal from the determination with an appeals referee  
5 employed by the Commissioner. ~~Such~~ The appeal shall, ~~after notice to the~~  
6 ~~claimant, his or her last employer, and all other interested parties,~~ be heard  
7 within 30 days after it is filed at a place as convenient to the parties as, in the  
8 judgment of the referee, is practical, ~~within 30 days after such appeal is filed~~  
9 ~~with the referee; after.~~ Notice of the hearing shall be provided to the claimant,  
10 the claimant's last employer, and all other interested parties. After the hearing,  
11 the determination shall be sustained, modified, or set aside by the referee as  
12 may be warranted. Prompt notice in writing of the decision of the referee and  
13 the reasons ~~therefor~~ for it shall be given to the claimant, the claimant's last  
14 employer, and all other interested parties.

15 (b) The authorized representative of the Commissioner may, for good  
16 cause, at any time within one year after date of the original determination,  
17 reconsider an award of benefits or the denial of a claim ~~therefor~~ for benefits,  
18 and may issue a redetermination ~~which~~ that may award, terminate, continue,  
19 increase, or decrease ~~such~~ the benefits. ~~Such~~ The redetermination shall not  
20 affect any benefits paid before the date ~~thereof~~ of the determination under  
21 authority of the prior determination in the absence of nondisclosure or

1 misrepresentation of a material fact. Prompt notice in writing of ~~such~~ the  
2 redetermination and the reasons ~~therefor~~ for it shall be given to the claimant,  
3 ~~his or her~~ the claimant's last employer, and all other interested parties ~~any of~~  
4 ~~whom~~. All parties shall have the same right to appeal and the same procedure  
5 shall be followed as provided for in case of appeal from the original  
6 determination.

7 Sec. 199. 21 V.S.A. § 1349 is amended to read:

8 § 1349. APPEALS TO BOARD; SUPREME COURT APPEAL

9 (a) Within 30 days after the date thereof of the referee's decision pursuant  
10 to section 1348 of this chapter, an interested party may appeal from the  
11 decision of the referee to the Board, by filing ~~a written request therefor~~ an  
12 appeal in the manner prescribed by ~~regulations~~ the rules of the Board.

13 (b) The appeal shall be heard by the Board within a reasonable time after  
14 the appeal is filed and after notice to the claimant and ~~his or her~~ the claimant's  
15 last employer, ~~within a reasonable time after notice of the appeal is filed, and~~  
16 ~~the~~.

17 (c) The Board may affirm, modify, or reverse the decision of the referee  
18 solely on the basis of evidence in the record transferred to it by the referee, or  
19 upon the basis of evidence in the record and ~~such~~ any additional evidence ~~as it~~  
20 ~~may direct~~ the Board directs to be taken.

1       (d) Upon motion made by the Commissioner, ~~a review may be initiated by~~  
2       the Board ~~of~~ may review a decision of the referee or a benefit determination.

3       (e) The Board shall make its findings of fact and conclusions ~~thereon~~.  
4       Prompt notice of the findings of fact, ruling of law, conclusions, and decision  
5       of the Board shall be given ~~as hereinabove provided~~ to the interested parties.

6       (f) The decision shall be final unless an appeal to the Supreme Court is  
7       taken. Testimony given at any hearing upon a disputed claim shall be  
8       recorded, but the record need not be transcribed unless ordered.

9       Sec. 200. 21 V.S.A. § 1351 is amended to read:

10       § 1351. PROCEDURE

11       The manner in which disputed claims shall be presented and the conduct of  
12       hearings before the Commissioner, a referee, and the Board shall be governed  
13       by ~~suitable rules and regulations established~~ adopted by the Board. The  
14       Commissioner, the referee, and the Board shall not be bound by common law  
15       or statutory rules of evidence or by technical or formal rules of procedure  
16       except as provided in this chapter, but may conduct a hearing or trial in such  
17       manner as to ascertain the substantial rights of the parties.

18       Sec. 201. 21 V.S.A. § 1357 is amended to read:

19       § 1357. NOTICES; FORM AND SERVICE

20       Notices required under the provisions of this chapter, unless otherwise  
21       provided ~~herein~~ by the provisions of this chapter or by rules ~~of court~~

1 ~~promulgated~~ adopted by the Supreme Court, shall be deemed sufficient if  
2 given in writing and delivered to the person entitled ~~thereto~~ to it by an agent of  
3 the Commissioner, or sent by ordinary or certified mail to the last address of  
4 the person appearing ~~upon~~ in the records of the Commissioner. The manner of  
5 service shall be certified by the agent of the Commissioner making the service.  
6 Regardless of the manner of service and unless otherwise provided, appeal  
7 periods shall commence to run from the date of the determination or decision  
8 rendered. ~~In the event that~~ If a person to whom a notice has been sent files  
9 with the Commissioner within 60 days ~~from~~ after the date of ~~said~~ the notice a  
10 sworn statement to the effect that the notice was not received, or if the  
11 Commissioner is satisfied that the addressee did not receive the notice, a new  
12 notice shall be sent to that person and the appeal period shall commence to run  
13 from the date on which the new notice is sent.

14 Sec. 202. 21 V.S.A. § 1358 is amended to read:

15 § 1358. UNEMPLOYMENT COMPENSATION TRUST FUND;

16 ESTABLISHMENT AND CONTROL

17 (a) There is hereby established as a special fund, to The Unemployment  
18 Compensation Trust Fund is established. The Fund shall be kept separate and  
19 apart from all other public monies or funds of this State, an Unemployment  
20 Compensation Fund, which and shall be administered by the Commissioner  
21 exclusively for the purposes of this chapter.

1 (b) ~~This~~ The Fund shall consist of:

2 (1) all contributions collected under this chapter;

3 (2) interest earned upon any monies in the Fund;

4 (3) any property or securities acquired through the use of monies  
5 belonging to the Fund;

6 (4) all earnings of such ~~such~~ the property or securities;

7 (5) all money credited to this State's account in the Unemployment  
8 Trust Fund pursuant to ~~section 903 of the Social Security Act as amended~~  
9 42 U.S.C. § 1103; and

10 (6) all other monies received for the Fund from any other source.

11 (c) All monies in the Fund shall be mingled and undivided.

12 Sec. 203. 21 V.S.A. § 1359 is amended to read:

13 § 1359. ADMINISTRATION OF UNEMPLOYMENT COMPENSATION

14 TRUST FUND

15 (a) The Fund shall be administered in trust and used solely to pay benefits  
16 and refunds upon vouchers drawn on the Fund by the Commissioner pursuant  
17 to this chapter and to such rules as the Board is authorized to adopt, except that  
18 money credited to this State's account under ~~Section 903 of the Social Security~~  
19 ~~Act, as amended,~~ 42 U.S.C. § 1103 shall be used exclusively as provided in  
20 subsection ~~(b)~~(d) of this section.

21 (b) There shall be maintained within the Fund three separate fund accounts:

- 1 (1) a clearing account;
- 2 (2) an Unemployment Trust Fund account; and
- 3 (3) a benefit account.

4 (c) All monies payable to the Fund ~~upon receipt thereof~~ shall be  
5 immediately deposited in the clearing account upon receipt, and, after  
6 clearance ~~thereof~~, shall, except that the monies may be expended for the  
7 payment of refunds under this chapter, be deposited immediately with the U.S.  
8 Secretary of the Treasury to the credit of the Unemployment Trust Fund  
9 account of the State of Vermont in the Unemployment Trust Fund established  
10 and maintained pursuant to ~~the act of Congress designated as the Social~~  
11 Security Act, as amended. The Commissioner shall requisition from the  
12 Vermont Unemployment Trust Fund account ~~such amounts from time to time~~  
13 as that are necessary for and to be used solely in the payment of benefits and  
14 refunds under this chapter. The requisitioned sums shall be deposited in the  
15 benefit account. Any monies so withdrawn shall not be used for expenses of  
16 administration or any purpose other than the payment of benefits and refunds  
17 under this chapter. Requirements with respect to specific appropriation or  
18 other formal release by State officers of monies belonging to the State shall not  
19 be applicable to withdrawals from the Fund.

1        ~~(b)~~(d) Money credited to the account of this State in the Unemployment  
2        Trust Fund by the U.S. Secretary of the Treasury ~~of the United States of~~  
3        ~~America under section 903 of the Social Security Act, as amended:~~

4            (1) ~~may~~ May not be requisitioned from this State's account or used  
5        except for the payment of benefits and for the payment of expenses incurred  
6        for the administration of this chapter. ~~Such~~ The money may be requisitioned  
7        under subsection (a) of this section for the payment of benefits. That money  
8        may also be requisitioned and used for the payment of expenses incurred for  
9        the administration of this chapter but only under a specific appropriation by  
10       the ~~Legislature~~ General Assembly and only if the expenses are incurred and the  
11       money is requisitioned after the enactment of an appropriation law ~~which~~ that:

12            (A) specifies the purpose for which the money is appropriated and  
13        the amount appropriated ~~therefor~~ for that purpose;

14            (B) limits the period within which the money may be obligated to a  
15        period ending not more than two years after the date of the enactment of the  
16        appropriation law; and

17            (C) limits the amount ~~which~~ that may be obligated during any 12-  
18        month period beginning on July 1 and ending on the next June 30, ~~including~~  
19        ~~the 12-month period which began on July 1, 1968 and ends on June 30, 1969,~~  
20        to an amount ~~which~~ that does not exceed the amount by which:

1 (i) the aggregate of the amounts credited to the account of this  
2 State under ~~Section 903 of the Social Security Act, as amended, 42 U.S.C.~~  
3 § 1103 during the same 12-month period and the 14 preceding 12-month  
4 periods, exceeds;

5 (ii) the aggregate of the amount obligated for administration and  
6 paid out for benefits and charged against the amounts credited to the account  
7 of this State during those 15 12-month periods.

8 (2) ~~which~~ That is obligated for administration or paid out for benefits  
9 shall be charged against equivalent amounts ~~which~~ that were first credited and  
10 ~~which~~ that are not already so charged; except that no amount obligated for  
11 administration during a 12-month period specified ~~herein~~ in this section may  
12 be charged against any amount credited during such a 12-month period earlier  
13 than the 14th preceding such period. Amounts credited to this State's account  
14 in the Unemployment Trust Fund under ~~Section 903 of the Social Security~~  
15 ~~Act, as amended, which has 42 U.S.C. § 1103 that have~~ been appropriated for  
16 expenses of administration shall be excluded from the Unemployment  
17 Compensation Trust Fund balance for the purposes of section 1326 of this title.

18 ~~(e)~~(e) Money appropriated as provided ~~herein~~ in this section for the  
19 payment of expenses of administration shall be requisitioned as needed for the  
20 payment of obligations incurred under the appropriation and, upon requisition,  
21 shall be deposited in the Unemployment Compensation Administration Fund



1 from which those payments shall be made. Money so deposited shall, until  
2 expended, remain a part of the Unemployment Compensation Trust Fund and,  
3 if it will not be expended, shall be returned promptly to the account of this  
4 State in the Unemployment Trust Fund.

5 Sec. 204. 21 V.S.A. § 1361 is amended to read:

6 § 1361. MANAGEMENT OF FUNDS UPON DISCONTINUANCE OF  
7 UNEMPLOYMENT TRUST FUND

8 The provisions of sections 1358–1360 of this ~~title~~ subchapter to the extent  
9 that they relate to the federal Unemployment Trust Fund, shall be operative  
10 only so long as ~~such~~ the federal Unemployment Trust Fund continues to exist  
11 and so long as the U.S. Secretary of the Treasury continues to maintain for this  
12 State a separate book account of all Funds deposited ~~therein~~ in the federal  
13 Unemployment Trust Fund by this State for benefit purposes, together with  
14 this State’s proportionate share of the earnings of ~~such~~ the Unemployment  
15 Trust Fund, from which only the Commissioner of Labor is permitted to make  
16 withdrawals. If and when ~~such Unemployment Trust Fund shall~~ federal law  
17 ~~no longer be required by the laws of the United States~~ requires the federal  
18 Unemployment Trust Fund to be maintained as ~~aforsaid~~ as a condition of  
19 approval of this chapter as provided in Title III of the Social Security Act, then  
20 all monies, properties, or securities ~~therein~~ in the Fund, belonging to the  
21 Unemployment Compensation Trust Fund of this State, shall be transferred to

1 the treasurer of the Unemployment Compensation Trust Fund, who shall hold,  
2 invest, transfer, sell, deposit, and release ~~such~~ the monies, properties, or  
3 securities in a manner approved by the Commissioner and appropriate for trust  
4 funds, subject to all claims for benefits under this chapter.

5 Sec. 205. 21 V.S.A. § 1362 is amended to read:

6 § 1362. UNEMPLOYMENT COMPENSATION ADMINISTRATION

7 FUND

8 ~~There is hereby created the~~ The Unemployment Compensation  
9 Administration Fund is created to consist of all monies received by the State or  
10 by the Commissioner for the administration of this chapter. ~~This special~~ The  
11 fund shall be a special fund managed pursuant to 32 V.S.A. chapter 7,  
12 subchapter 5. The Fund shall be handled through the State Treasurer as other  
13 State monies are handled, but it shall be expended solely for the purposes and  
14 in the amounts found necessary by the Secretary of Labor for the proper and  
15 efficient administration of ~~such~~ this chapter and its balance shall not lapse at  
16 any time but shall remain continuously available to the Commissioner for  
17 expenditures consistent ~~herewith~~ with the provisions of this section. All  
18 federal monies allotted or apportioned to the State by the Secretary of Labor,  
19 or other agency, for the administration of this chapter shall be paid into the  
20 Unemployment Compensation Administration Fund and are hereby  
21 appropriated to ~~such~~ the Fund.

1 Sec. 206. 21 V.S.A. § 1363 is amended to read:

2 § 1363. EXPENDITURES

3 All monies made available by or received by the State for the State  
4 employment service, as provided in chapter 15 of this title, shall be paid to and  
5 expended from the Unemployment Compensation Administration Fund, and a  
6 special employment service account shall be maintained for that purpose as a  
7 part of said the Fund. For the purpose of establishing and maintaining free  
8 public employment offices, the Commissioner is authorized to enter into  
9 agreements with the Railroad Retirement Board or any other agency of the  
10 United States charged with the administration of an unemployment  
11 compensation law, with any political subdivision of this State or with any  
12 private, nonprofit organization, and as a part of any such agreement, the  
13 Commissioner may accept monies, services, or quarters as a contribution to the  
14 employment service account.

15 Sec. 207. 21 V.S.A. § 1364 is amended to read:

16 § 1364. REPLACEMENT

17 This State shall replace any monies received ~~after July 1, 1941,~~ from the  
18 Secretary of Labor under Title III of the Social Security Act, ~~any~~  
19 ~~unencumbered balances in the Unemployment Compensation Administration~~  
20 ~~Fund as of that date,~~ any monies thereafter granted to this State pursuant to the  
21 provisions of the Wagner-Peyser Act, and any monies made available by the

1 State or its political subdivisions and matched by ~~such~~ monies granted to this  
2 State pursuant to the provisions of the Wagner-Peyser Act, ~~which~~ that the  
3 Secretary of Labor finds after reasonable notice and opportunity for hearing to  
4 the Commissioner have, because of any action or contingency, been lost or  
5 ~~have been~~ expended for purposes other than, or in amounts in excess of, those  
6 found necessary by the Secretary of Labor for the proper administration of this  
7 chapter. In the event that there are insufficient funds in the Contingent Fund as  
8 provided in section 1365 of this ~~title~~ subchapter, ~~such~~ the monies shall be  
9 promptly replaced by monies appropriated for ~~such~~ the purpose from the  
10 general funds of this State to the Unemployment Compensation  
11 Administration Fund for expenditure as provided in sections 1362 and 1363 of  
12 this ~~title~~ subchapter. The Commissioner shall promptly report to the  
13 Governor, and the Governor to the General Assembly, the amount required for  
14 ~~such~~ the replacement.

15 Sec. 208. 21 V.S.A. § 1365 is amended to read:

16 § 1365. CONTINGENT FUND

17 (a) There is ~~hereby~~ created a special fund to be known as the Contingent  
18 Fund. All interest, fines, and penalties collected under the provisions of ~~the~~  
19 ~~unemployment compensation law after April 1, 1947~~ this chapter, together  
20 with any voluntary contributions tendered as a contribution to this Fund, shall  
21 be paid into this Fund. ~~Such~~ The monies shall not be expended or available

1 for expenditures in any manner ~~which~~ that would permit their substitution for,  
2 or a corresponding reduction in, federal funds ~~which~~ that would in the absence  
3 of ~~such~~ the monies be available to finance expenditures for the administration  
4 of the unemployment compensation law.

5 (b) ~~But nothing~~ Nothing in this chapter shall prevent ~~such~~ the monies from  
6 being used as a revolving fund to cover expenditures, necessary and proper  
7 under the law for which federal funds have been duly requested but not yet  
8 received, subject to the charging of ~~such~~ the expenditures against ~~such~~ the  
9 funds when received.

10 (c) The monies in this Fund shall be used by the Commissioner for the  
11 payment of costs of administration ~~which~~ that are found not to have been  
12 properly and validly chargeable against federal grants, or other funds, received  
13 for or in the Unemployment Compensation Administration Fund ~~on or after~~  
14 January 1, 1947. No expenditure of the Fund shall be made unless and until  
15 the Commissioner finds that no other funds are available or can properly be  
16 used to finance ~~such~~ the expenditures.

17 (d) The State Treasurer shall co-sign all expenditures from this Fund  
18 authorized by the Commissioner.

19 (e) The monies in this Fund are ~~hereby specifically made~~ available to  
20 replace, within a reasonable time, any monies received by this State pursuant  
21 to ~~section 302 of the federal Social Security Act, as amended, which~~ 42 U.S.C.

1     § 502 that because of any action or contingency, have been lost or have been  
2     expended for purposes other than, or in amounts in excess of, those necessary  
3     for the proper administration of the unemployment compensation law.

4     (f) The monies in this Fund shall be continuously available to the  
5     Commissioner for expenditure in accordance with the provisions of this  
6     section and shall not lapse at any time or be transferred to any other fund  
7     except as ~~herein~~ provided pursuant to this section.

8     (g) ~~Provided, however, that on~~ On December 31 of each year, all monies in  
9     excess of \$10,000.00 in this Fund shall be transferred to the Unemployment  
10    Compensation Trust Fund. On or before March 31 of each year, an audit of  
11    this Fund ~~will~~ shall be completed and a report of that audit ~~will~~ shall be made  
12    public.

13    (h) In the event that a refund of interest, a fine, or a penalty is found  
14    necessary, and ~~such~~ the interest, fine, or penalty has been deposited in the  
15    Contingent Fund, ~~such~~ the refund shall be made from the Contingent Fund.

16    Sec. 209. 21 V.S.A. § 1367a is amended to read:

17    § 1367a. CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT  
18            BENEFITS

19    (a) An individual filing a new claim for unemployment compensation  
20    shall, at the time of filing ~~such~~ the claim, disclose whether or not the  
21    individual owes child support obligations as defined under subsection (f) of

1 this section. If ~~any such~~ the individual discloses that ~~he or she~~ the individual  
2 owes child support obligations and is determined to be eligible for  
3 unemployment compensation, the Commissioner shall notify the state or local  
4 child support enforcement agency enforcing ~~such~~ the obligation that the  
5 individual has been determined to be eligible for unemployment compensation.

6 (b) Notwithstanding the provisions of sections 1366 and 1367 of this ~~title~~  
7 subchapter, the Commissioner shall deduct and withhold from any  
8 unemployment compensation payable to an individual who owes child support  
9 obligations as defined under subsection (f) of this section:

10 \* \* \*

11 (2) the amount ~~(, if any),~~ determined pursuant to an agreement  
12 submitted to the Commissioner under ~~Section 454(20)(B)(i) of the Social~~  
13 ~~Security Act~~ 42 U.S.C. § 654(19)(B)(i) by the state or local child support  
14 enforcement agency, unless subdivision (3) of this subsection is applicable; or

15 (3) any amount otherwise required to be so deducted and withheld from  
16 such unemployment compensation pursuant to legal process ~~(, as that term is~~  
17 ~~defined in Section 462(e) of the Social Security Act)~~ 42 U.S.C. § 659(i)(5),  
18 properly served upon the Commissioner.

19 \* \* \*

20 (d) Any amount deducted and withheld under subsection (b) of this section  
21 shall for all purposes be treated as if it were paid to the individual as

1 unemployment compensation and paid by ~~such~~ the individual to the state or  
2 local child support enforcement agency in satisfaction of the individual's child  
3 support obligations.

4 (e) For purposes of this section, the term "unemployment compensation"  
5 means any compensation payable under the state law ~~(~~ including amounts  
6 payable by the commissioner pursuant to an agreement under any federal law  
7 providing for compensation, assistance, or allowances with respect to  
8 unemployment).

9 (f) ~~The term~~ As used in this section, "child support obligations" is ~~defined~~  
10 ~~for purposes of these provisions as including only~~ means obligations which  
11 that are being enforced pursuant to a plan described in ~~Section 454 of the~~  
12 ~~Social Security Act which~~ 42 U.S.C. § 654 that has been approved by the  
13 Secretary of Health and Human Services under part D of Title IV of the Social  
14 Security Act.

15 (g) ~~The term~~ As used in this section, "state or local child support  
16 enforcement agency" ~~as used in this section~~ means any agency of a state or  
17 political subdivision ~~thereof~~ of a state operating pursuant to a plan described in  
18 subsection (f) of this section.

19 (h) The Commissioner shall implement the provisions of this section only  
20 if appropriate arrangements have been made for full reimbursement by the  
21 state or local child support enforcement agency for all administrative costs



1 incurred by the Commissioner under this section ~~which~~ that are attributable to  
2 child support obligations being enforced by the state or local child support  
3 enforcement agency.

4 Sec. 210. 21 V.S.A. § 1368 is amended to read:

5 § 1368. FALSE STATEMENTS TO INCREASE PAYMENTS

6 A person shall not ~~willfully and~~ intentionally make a false statement or  
7 representation to obtain or increase any benefit or other payment under this  
8 chapter, either for ~~himself, herself,~~ the employee or any other person.

9 Sec. 211. 21 V.S.A. § 1369 is amended to read:

10 § 1369. FALSE STATEMENTS TO AVOID UNEMPLOYMENT

11 PROGRAM OBLIGATIONS

12 A person who ~~willfully~~ intentionally makes a material false statement or  
13 representation to avoid becoming or remaining subject to this chapter, or to  
14 avoid or reduce a contribution or other payment required of an employer under  
15 this chapter for either ~~herself or himself~~ themselves or for any other person,  
16 after notice and opportunity for hearing, may be assessed an administrative  
17 penalty of not more than \$5,000.00.

18 Sec. 212. 21 V.S.A. § 1370 is amended to read:

19 § 1370. FURNISHING REPORTS

20 A person shall not ~~willfully~~ intentionally fail or refuse to furnish any  
21 reports ~~duly~~ required under this chapter or to submit ~~his or her~~ the person's

1 records to inspection when ~~duly~~ required under this chapter, or to make or  
2 require any deduction from wages to pay all or any portion of the contributions  
3 required from employers.

4 Sec. 213. 21 V.S.A. § 1372 is amended to read:

5 § 1372. VIOLATION BY CORPORATE AGENT

6 If the employer in question is a corporation, any official or agent ~~thereof~~ of  
7 the corporation responsible for ~~such a~~ falsehood, failure, or refusal mentioned  
8 in sections 1369–1371 of this ~~title~~ subchapter shall be subject to the penalties  
9 provided in section 1373 of this ~~title~~ subchapter.

10 Sec. 214. 21 V.S.A. § 1373 is amended to read:

11 § 1373. GENERAL PENALTY; ~~CIVIL~~ ADMINISTRATIVE

12 A person who violates a provision of this chapter or any lawful rule ~~or~~  
13 ~~regulation~~ of the Board, for which no other penalty is provided, shall be  
14 assessed an administrative penalty of not more than \$5,000.00.

15 Sec. 215. 21 V.S.A. § 1374 is amended to read:

16 § 1374. REPRESENTATION IN COURT

17 The Attorney General shall represent the Commissioner and State in any  
18 court action relating to this chapter or to its administration and enforcement,  
19 except as other counsel may be designated by the Commissioner with the  
20 approval of the Attorney General; provided, however, in prosecutions under

1 this chapter the State's Attorney of the county ~~wherein such~~ in which the  
2 offense occurs shall represent the State as in other causes.

3 Sec. 216. 21 V.S.A. § 1376 is amended to read:

4 § 1376. LIMITATION OF LIABILITY OF STATE

5 Benefits shall be deemed to be due and payable under this chapter only to  
6 the extent provided in this chapter and to the extent that monies are available  
7 ~~therefor~~ for the payment of benefits to the credit of the Unemployment  
8 Compensation Trust Fund. Neither the State nor the Commissioner shall be  
9 liable for any amount in excess of such sums.

10 Sec. 217. 21 V.S.A. § 1377 is amended to read:

11 § 1377. RIGHTS ~~HEREUNDER~~ SUBJECT TO LEGISLATIVE CONTROL

12 All the rights, privileges, or immunities conferred by this chapter or by acts  
13 done pursuant ~~hereto~~ to this chapter shall exist subject to the power of the  
14 General Assembly to amend or repeal this chapter at any time; and there shall  
15 be no vested rights of any kind against ~~such~~ the amendment or repeal or the  
16 termination of this chapter or the subdivisions of any of its provisions by its  
17 own terms.

18 Sec. 218. 21 V.S.A. § 1378 is amended to read:

19 § 1378. REQUIREMENTS FOR OBTAINING LICENSE OR

20 GOVERNMENTAL CONTRACT



1 the agency to the employing unit, up to the amount certified by the  
2 Commissioner. The Commissioner may treat any such payment as if it were a  
3 payment received from the employing unit.

4 (e) No agency of the State shall make final payment of any amount owed  
5 under a contract that contemplates the employment of any employing unit  
6 within the State or the use of any property within the State, or otherwise  
7 release any employing unit from the obligations of any such contract, unless  
8 ~~such~~ the employing unit shall first obtain a certificate issued by the  
9 Commissioner that the employing unit is in good standing with respect to or in  
10 full compliance with a plan to pay any and all contributions or payments in  
11 lieu of contributions due as of the date of issuance of the certificate.

12 (f) Upon written request by the Commissioner and after notice and hearing  
13 to the employing unit as required under any applicable provision of law, an  
14 agency shall revoke or suspend any license or other authority to conduct a  
15 trade or business (including a license to practice a profession), issued to any  
16 employing unit if the agency finds that contributions or payments in lieu of  
17 contributions have not been paid and the employing unit's liability for  
18 contributions or payments in lieu of contributions is not under appeal. For  
19 purposes of such findings, the written representation to that effect by the  
20 Commissioner to the agency shall constitute prima facie evidence ~~thereof~~ that  
21 contributions have not been paid and the employing unit's liability is not under

1 appeal. The Commissioner shall have the right to intervene in any hearing  
2 conducted with respect to ~~such a~~ license revocation or suspension. Any  
3 findings made by the agency with respect to ~~such a~~ license revocation or  
4 suspension shall be made only for the purposes of ~~such the~~ proceeding and  
5 shall not be relevant to or introduced in any other proceeding at law, except for  
6 any appeal from ~~such a~~ license revocation or suspension. Any license or  
7 certificate of authority suspended or revoked under this section shall not be  
8 reissued or renewed until the agency receives a certificate issued by the  
9 Commissioner that the applicable employing unit is in good standing with  
10 respect to any and all contributions or payments in lieu of contributions  
11 payable to the Commissioner as of the date of issuance of ~~such the~~ certificate.  
12 Any person aggrieved by the decision of the agency may appeal ~~therefrom~~  
13 from the decision in accordance with the provisions of 3 V.S.A. chapter 25.

14 \* \* \*

15 Sec. 219. 21 V.S.A. § 1383 is amended to read:

16 § 1383. SEVERABILITY OF PROVISIONS

17 It is ~~hereby declared to be~~ the purpose and intention of the General  
18 Assembly that the provisions of this chapter are severable and that the  
19 invalidity or ineffectiveness of any provision or provisions of ~~such this~~ chapter  
20 shall not affect the validity or operative force of the remainder of the chapter,  
21 except only that it is the legislative intent that the whole chapter shall fail if

1 any one or more of the following and only of the following provisions, are  
2 finally determined to be invalid and ineffective:

3 \* \* \*

4 (2) the requirement contained in section 1359 of this ~~title~~ subchapter  
5 providing for the deposit with the U.S. Secretary of the Treasury ~~of the United~~  
6 States of all monies received in the Unemployment Compensation Trust Fund  
7 and the use of monies requisitioned from the U.S. Secretary of the Treasury;

8 \* \* \*

9 (5) the provisions of sections 1386–1388 of this ~~title~~ subchapter with  
10 respect to suspension or termination of the operation of this chapter or parts  
11 ~~thereof of this chapter~~ in the event of modification or invalidity of ~~the Act of~~  
12 Congress ~~designated as~~ 42 U.S.C. chapter 7, the Social Security Act.

13 Sec. 220. 21 V.S.A. § 1384 is amended to read:

14 § 1384. CONSTRUCTION

15 (a) This chapter is ~~declared to be~~ enacted in correlation with Titles III and  
16 IX of ~~the Act of Congress approved August 14, 1935, designated as the Social~~  
17 Security Act, 42 U.S.C. chapter 7, and with the Federal Unemployment Tax  
18 Act, 26 U.S.C. chapter 23, and the expediency of certain provisions of this  
19 chapter depend as ~~hereinafter set forth~~ upon the scope and operation within  
20 this State of the provisions of ~~said titles and of said act as originally enacted or~~

1 as hereafter amended Titles III and IX of the Social Security Act and the  
2 Federal Unemployment Act as set forth in this section.

(b) If the Federal Unemployment Tax Act shall be is interpreted or extended to impose within this State a tax with respect to employing units having in their employ less than four persons, or with respect to employing units having in their employ individuals who are not now in “employment” as defined in subdivision 1301(6)(C) of this ~~title~~ subchapter, the Governor by ~~proclamation within 10 days of after the effective date of said the extension~~ *proclamation within 10 days of the effective date of said the interpretation or extension* shall ~~so declare and thereupon and thereafter~~ issue a declaration that:

3 (1) the word “employer” and the words “individual in employment,” as  
4 used in this chapter shall ~~extend to and include in the first instance,~~ all  
5 employing units having in their employ ~~such~~ the applicable smaller number of  
6 persons and the individuals in their employ; ~~and in the second instance~~

7 (2) all employing units having in their employ individuals who  
8 ~~thereafter shall be~~ are newly defined as being in “employment” and the  
9 individuals in their employ.

10 (c) ~~Said~~ The affected persons shall be treated as individuals in the employ  
11 of ~~said~~ the employer with respect to contributions and eligibility for benefits  
12 under this chapter.



1 Sec. 221. 21 V.S.A. § 1385 is amended to read:

2 § 1385. CONTINGENT PROVISIONS

3 If the Federal Unemployment Tax Act ~~has been or shall be~~ is amended,  
4 interpreted, or extended so that employing units not ~~heretofore~~ previously  
5 included under the definition of “employer,” as that term is used in this  
6 chapter, are included under ~~such~~ the definition after ~~said~~ the Act of Congress is  
7 so amended, interpreted, or extended, then, subject to other provisions of this  
8 chapter, benefits shall become payable to any individual on the basis of wages  
9 earned in the employ of ~~such~~ the newly defined employer, and ~~such~~ the wages  
10 shall be available to any individual for determining ~~his or her~~ the individual’s  
11 eligibility for benefits after the effective date of ~~such~~ the extension, or after the  
12 date when ~~such~~ the newly defined employer’s approved election to be so  
13 defined ~~shall have~~ has made ~~him or her~~ the employer subject to this chapter,  
14 and the benefit year of ~~such~~ the individual shall ~~have begun~~ subsequent to  
15 begin after the date ~~such~~ the newly defined employer became subject to this  
16 chapter.

17 Sec. 222. 21 V.S.A. § 1386 is amended to read:

18 § 1386. OPERATION DEPENDENT UPON FEDERAL ACT

19 (a) ~~It is hereby declared to be the legislative judgment~~ The General  
20 Assembly finds that the expediency and beneficial operation of this chapter are

1 dependent upon the effective operation within this State of certain sections of  
2 the Federal Unemployment Tax Act, ~~and amendments thereto:~~

3 (1) ~~section 3301 of said Act~~ 26 U.S.C. § 3301, imposing an excise tax  
4 upon employers as defined in ~~said~~ the Act;

5 (2) ~~section 26 U.S.C. § 3302 allowing against said credits against the~~  
6 federal tax credits for contributions ~~exacted of~~ paid by employers ~~for~~ into an  
7 unemployment fund ~~whether or not exacted in full of the particular taxpayer~~  
8 under certain circumstances under the unemployment compensation law of a  
9 state;

10 (3) ~~section 26 U.S.C. § 3303~~ prescribing the conditions upon which ~~said~~  
11 certain credits under 26 U.S.C. § 3302 may be allowed ~~in addition to actual~~  
12 payments by said taxpayer;

13 (4) ~~sections 26 U.S.C. §§ 3303 and 3304~~ requiring the certification ~~for~~  
14 the purpose of said credits of state law for certain credits under 26 U.S.C.  
15 § 3302 and prescribing the conditions ~~precedent of such~~ for certification.

16 (b) ~~If any of said sections shall be~~ identified in subsection (a) of this  
17 section is repealed, amended, suspended, or finally declared invalid ~~so as to~~  
18 deprive in a manner that deprives a contributor under this act chapter of credits  
19 against the ~~excise tax against him or her under said section~~ tax imposed  
20 pursuant to 26 U.S.C. § 3301 of the Federal Unemployment Tax Act, then any  
21 contribution required by this chapter, to the extent that ~~by reason of said~~ the

1 repeal, amendment, suspension, or declared invalidity of ~~said the~~ federal act, a  
2 contributor is law deprived the contributor of the benefit of ~~such the~~ credit,  
3 shall be suspended as provided in section 1387 of this title.

4 Sec. 223. 21 V.S.A. § 1387 is amended to read:

5 § 1387. SUSPENSION OF CONTRIBUTIONS

6 ~~Whenever~~ If the Governor shall ~~determine~~ determines that the conditions of  
7 for the suspension of the contributions required by this chapter, ~~as~~  
8 ~~hereinbefore defined,~~ pursuant to section 1386 of this subchapter exist by  
9 ~~reason~~ because of any repeal, amendment, suspension, or declared invalidity of  
10 the federal Social Security Act, 42 U.S.C. chapter 7, or the Federal  
11 Unemployment Tax Act, 26 U.S.C. chapter 23, ~~he or she~~ the Governor shall ~~so~~  
12 ~~declare by~~ issue a proclamation and ~~thereupon the suspension hereinbefore~~  
13 ~~provided~~ regarding the suspension of contributions pursuant to section 1386 of  
14 this subchapter and the suspension shall become effective and continue for a  
15 period of two years ~~from said~~ after the date of the proclamation, subject to  
16 ~~such legislative amendment, modification, or repeal as may be enacted within~~  
17 ~~said~~ legislation amending, modifying, or repealing the proclamation during  
18 that period.

19 Sec. 224. 21 V.S.A. § 1388 is amended to read:

20 § 1388. INVALIDITY OF ACTS



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(ii) the 13th consecutive week of ~~such~~ the period;

(I) ~~However, no~~ No extended benefit period may begin by reason of a State “on” indicator before the 14th week following the end of a prior extended benefit period ~~which~~ that was in effect with respect to this State.

(2) State “on” indicator.

(A) There is a State “on” indicator for a week ~~beginning after~~ beginning after ~~September 25, 1982 and before March 7, 1993,~~ if the Commissioner determines, in accordance with the regulations of the U.S. Secretary of Labor ~~of the United States,~~ that, for the period consisting of ~~such~~ that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter:

(i) equaled or exceeded six percent; or

(ii) equaled or exceeded five percent and equaled or exceeded 120 percent of the average of those rates for the corresponding 13-week period ending in each of the two preceding calendar years.

(B) There is a State “on” indicator for a week ~~beginning after March 6, 1993,~~ if:

~~(i) The requirements of either subdivision (A)(i) or (ii) of this subdivision (2) are satisfied; or~~

1                   (ii) ~~The~~ the seasonally adjusted average rate of total  
2 unemployment in this State (~~seasonally adjusted~~) for the period consisting of  
3 the most recent three months for which data for all states are published before  
4 the close of ~~such~~ the week:

5                   ~~(H)(i)~~ equaled or exceeded 6.5 percent; and

6                   ~~(H)(ii)~~ equaled or exceeded 110 percent of ~~such~~ the average rate  
7 for either ~~(, or both),~~ of the corresponding three-month periods ending in the  
8 two preceding calendar years.

9                   (3) State “off” indicator. There is a State “off” indicator for a week if  
10 the requirements of both subdivisions (A) and (B) of this subdivision are  
11 satisfied.

12                   (A) ~~There is a State “off” indicator for a week beginning after~~  
13 ~~September 25, 1982 and before March 7, 1993, if the~~ The Commissioner  
14 determines, in accordance with the regulations of the U.S. Secretary of Labor  
15 ~~of the United States,~~ that, for the period consisting of that week and the  
16 immediately preceding 12 weeks, the rate of insured unemployment, not  
17 seasonally adjusted, under this chapter was:

18                   (i) less than five percent; or

19                   (ii) less than six percent and less than 120 percent of the average  
20 of those rates for the corresponding 13-week period ending in each of the  
21 preceding two calendar years.

1           (B) ~~There is a State “off” indicator for a week beginning after March~~  
2           ~~6, 1993, if there would be a State “off” indicator pursuant to subdivision~~  
3           ~~(3)(A) of this section and the~~ The requirements of either subdivision  
4           ~~(2)(B)(ii)(I) (2)(B)(i) or (H)(ii)~~ of this section are not satisfied.

5           (4) “Rate of insured unemployment” and “rate of total unemployment.”

6           (A) “Rate of insured unemployment,” ~~for purposes of~~ as used in  
7           subdivisions (2)(A) and (3)(A) of this section, means the percentage derived  
8           by dividing the average weekly number of individuals filing claims for regular  
9           benefits in this State for weeks of unemployment with respect to the most  
10          recent 13-consecutive-week period, as determined by the Commissioner on the  
11          basis of ~~his or her~~ the Commissioner’s reports to the U.S. Secretary of Labor  
12          ~~of the United States~~, by the average monthly employment covered under this  
13          chapter for the first four of the most recent six completed calendar quarters  
14          ending before the end of the 13-week period.

15          (B) ~~For purposes of~~ As used in subdivisions (2)(B) and (3)(B) of this  
16          section, determinations of the “rate of total unemployment” in this State for  
17          any period ~~(, and of any seasonal adjustment),~~ shall be made by the U.S.  
18          Secretary of Labor ~~of the United States~~.

19          (5) “Regular benefits” mean benefits payable to an individual under this  
20          chapter or under any other ~~State~~ state’s law, including benefits payable ~~to~~  
21          ~~federal civilian employees and to ex-servicemen~~ for federal service pursuant to

1 ~~chapter 85 of Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, other than extended  
2 benefits.

3 (6) “Extended benefits” mean benefits, including benefits payable to  
4 ~~federal civilian employees and to ex-servicemen~~ for federal service pursuant to  
5 ~~chapter 85 of Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, payable to an  
6 individual under the provisions of this section for weeks of unemployment in  
7 ~~his or her~~ the individual’s eligibility period.

8 (7) “Eligibility period” of an individual means the period consisting of  
9 weeks in ~~his or her~~ the individual’s benefit year ~~which~~ that begin in an  
10 extended benefit period and, if ~~his or her~~ the individual’s benefit year ends  
11 within the extended benefit period, any weeks ~~thereafter which~~ after the  
12 individual’s benefit year that begin in that period.

13 (8) “Exhaustee” means an individual who, with respect to any week of  
14 unemployment in ~~his or her~~ the individual’s eligibility period:

15 (A) has received, prior to ~~such~~ that week, all of the regular benefits  
16 that were available to ~~him or her~~ the individual under this chapter or any other  
17 state law, including dependent’s allowances and benefits payable to ~~federal~~  
18 ~~civilian employees and ex-servicemen~~ for federal service under ~~chapter 85 of~~  
19 ~~Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, in ~~his or her~~ the individual’s  
20 current benefit year that includes the week; provided that, for the purposes of  
21 this subdivision, an individual shall be deemed to have received all of the



1 regular benefits that were available to ~~him or her~~ the individual although as a  
2 result of a pending appeal with respect to wages or employment that were not  
3 considered in the original monetary determination in ~~his or her~~ the individual's  
4 benefit year, ~~he or she~~ the individual may subsequently be determined to be  
5 entitled to added regular benefits; or

6 (B) ~~his or her~~ the individual's benefit year having expired prior to the  
7 week, has no, or insufficient, wages or employment on the basis of which ~~he or~~  
8 ~~she~~ the individual could establish a new benefit year that would include that  
9 week; and

10 (C) the individual has no right to unemployment benefits or  
11 allowances, ~~as the case may be~~, under the Railroad Unemployment Insurance  
12 Act, and ~~such~~ other federal laws ~~as are~~ specified in regulations issued by the  
13 U.S. Secretary of Labor of the United States; and has not received and is not  
14 seeking unemployment benefits under the unemployment compensation law of  
15 Canada; but if ~~he or she~~ the individual is seeking such benefits and the  
16 appropriate agency finally determines that ~~he or she~~ the individual is not  
17 entitled to benefits under ~~such~~ the law ~~he or she~~ the individual is considered an  
18 exhaustee.

19 (9) "State law" means the unemployment insurance law of any state,  
20 approved by the U.S. Secretary of Labor of the United States under section  
21 26 U.S.C. § 3304 of the Internal Revenue Code of 1986.

1           (10) “Suitable work” means, with respect to any individual, any work  
2       ~~which~~ that is within the individual’s capabilities; except that, if the individual  
3       furnished evidence satisfactory to the Commissioner that the individual’s  
4       prospects for obtaining work in ~~his or her~~ the individual’s customary  
5       occupation within a reasonably short period are good, the determination of  
6       whether any work is suitable work with respect to the individual shall be made  
7       in accordance with the provisions of subdivision 1344(a)(2) of this ~~title~~  
8       chapter.

9       Sec. 226. 21 V.S.A. § 1423 is amended to read:

10       § 1423. ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS

11       (a) An individual shall be eligible to receive extended benefits with respect  
12       to any week of unemployment in ~~his or her~~ the individual’s eligibility period  
13       only if the Commissioner finds that with respect to ~~such~~ the week:

14           (1) ~~he or she~~ the individual is an “exhaustee” ~~as defined in section 1421~~  
15       ~~of this title;~~

16           (2) ~~he or she~~ the individual has satisfied the requirements of this chapter  
17       for the receipt of regular benefits that are applicable to individuals claiming  
18       extended benefits, including not being subject to a disqualification for the  
19       receipt of benefits;

20           (3) ~~For eligibility periods based upon benefit years beginning on and~~  
21       ~~after January 3, 1988 and before March 7, 1993,~~ the total wages paid which

1 ~~that established that~~ the benefit year ~~must~~ equal or exceed one and one-half  
2 times the wages paid in the highest quarter of that base period; ~~and~~

3 (4) ~~For eligibility periods based upon benefit years beginning on and~~  
4 ~~after March 7, 1993,~~ the total wages paid ~~which~~ that established that the  
5 benefit year ~~must~~ exceed 40 times the individual's most recent weekly benefit  
6 amount.

7 (b) Except as provided in subsection (c) of this section, an individual shall  
8 not be eligible for extended benefits for any week if:

9 (1) extended benefits are payable for ~~such~~ the week pursuant to an  
10 interstate claim filed in any state under the interstate benefit payment plan, and

11 (2) no extended benefit period is in effect for ~~such~~ the week in ~~such~~ that  
12 state.

13 \* \* \*

14 Sec. 227. 21 V.S.A. § 1423a is amended to read:

15 § 1423a. DISQUALIFICATIONS

16 (a) Notwithstanding any other provision of this subchapter, if so found by  
17 the Commissioner, payment of extended compensation shall not be made to  
18 any individual for any week of unemployment in ~~his or her~~ the individual's  
19 eligibility period during which the individual:

20 (1) ~~during which he or she~~ fails to accept any offer of suitable work; ~~or~~

1           (2) fails to apply for any suitable work to which ~~he or she~~ the individual  
2 was referred by the Commissioner; or

3           (3) ~~during which he or she~~ fails to actively engage in seeking work.

4           (b) If any individual is ineligible for extended compensation for any week  
5 by reason of a failure described in subsection (a) of this section, the individual  
6 shall be ineligible to receive extended compensation for any week which  
7 begins during a period ~~which~~ that:

8           (1) begins with the week following the week in which ~~such~~ the failure  
9 occurs; and

10           (2) does not end until ~~such~~ the individual has been employed during at  
11 least four weeks ~~which~~ that begin after ~~such~~ the failure and the total of the  
12 remuneration earned by the individual for being so employed is not less than  
13 the product of six multiplied by the individual's average weekly benefit  
14 amount as determined for ~~his or her~~ the individual's benefit year.

15           (c) Extended compensation shall not be denied under subsection (a) of this  
16 section to any individual for any week by reason of a failure to accept an offer  
17 of, or apply for, suitable work if:

18           (1) if the gross average weekly remuneration payable to that individual  
19 for the position does not exceed the sum of:

20           (A) the individual's average weekly benefit amount as determined  
21 for ~~his or her~~ the individual's benefit year, plus

1 (B) the amount, if any, of supplemental unemployment compensation  
2 benefits, as defined in ~~section 26 U.S.C. § 501(c)(17)(D) of the Internal~~  
3 ~~Revenue Code of 1986~~, payable to that individual for that week;

4 (2) if the position was not offered to the individual in writing and was  
5 not listed with the State employment service;

6 (3) if the failure would not result in a denial of compensation under the  
7 provisions of subdivision 1344(a)(2) of this ~~title~~ chapter to the extent that  
8 those provisions are not inconsistent with the provisions of subdivision  
9 1421(10) of this ~~title~~ subchapter and subsection (d) of this section; or

10 (4) if the position pays wages less than the higher of:

11 (A) the minimum wage provided by ~~section 6(a)(1) of the Fair Labor~~  
12 ~~Standards Act of 1938~~ 29 U.S.C. § 206(a)(1), without regard to any  
13 exemption; or

14 (B) any applicable state or local minimum wage.

15 (d) For purposes of this subsection, an individual shall be treated as  
16 actively engaged in seeking work during any week if:

17 \* \* \*

18 (2) the individual provides tangible evidence to the Commissioner that  
19 ~~he or she~~ the individual has engaged in such an effort during that week.

20 (e) No provision of section 1344 ~~which~~ of this chapter that terminates a  
21 disqualification for voluntarily leaving employment, being discharged for

1 misconduct, or refusing suitable employment shall apply for purposes of  
2 determining eligibility for extended compensation unless that termination is  
3 based upon employment subsequent to the date of the disqualification.

4 Sec. 228. 21 V.S.A. § 1426(b) is amended to read:

5 (b) Computations required by the provisions of section 1421 of this ~~title~~  
6 subchapter shall be made by the Commissioner, in accordance with regulations  
7 prescribed by the U.S. Secretary of Labor ~~of the United States~~.

8 Sec. 229. 21 V.S.A. § 1427 is amended to read:

9 § 1427. AMENDMENTS TO THE FEDERAL-STATE EXTENDED  
10 UNEMPLOYMENT COMPENSATION ACT OF 1970

11 To the extent that the Federal-State Extended Unemployment Compensation  
12 Act of 1970 ~~has been or may be, Pub. L. No. 91-373, is amended so as to~~  
13 authorize this State to pay benefits for an extended benefit period in a manner  
14 other than provided by this title, then, and in such cases, all the terms and  
15 conditions contained in the amended provisions of ~~such~~ the federal law shall  
16 become a part of this title to the extent necessary to authorize the payment of  
17 benefits to eligible individuals as permitted under ~~such~~ those provisions,  
18 provided that the federal share continues to be at least 50 percent of the  
19 extended benefits paid to individuals under the extended benefits program.

20 Sec. 230. 21 V.S.A. § 1452 is amended to read:

21 § 1452. CRITERIA FOR APPROVAL

1 (a) An employer wishing to participate in an STC program shall submit a  
2 Department of Labor electronic application or a signed written short-time  
3 compensation plan to the Commissioner for approval. The Commissioner may  
4 approve an STC plan only if the following criteria are met:

5 \* \* \*

6 (5) The plan certifies that the aggregate reduction in work hours is in  
7 lieu of layoffs of one or more workers ~~which~~ that would have resulted in an  
8 equivalent reduction in work hours and ~~which~~ that the Commissioner finds  
9 would have caused an equivalent dollar amount to be payable in  
10 unemployment compensation.

11 \* \* \*

12 (7) The identified workweek reduction is applied consistently  
13 throughout the duration of the plan unless otherwise approved by the  
14 Department. ~~The plan shall not subsidize seasonal employers during the off-~~  
15 ~~season.~~

16 \* \* \*

17 (9) The plan ~~will~~ shall not subsidize seasonal employers during the off-  
18 season, nor subsidize employers who have traditionally used part-time  
19 employees or intermittent employment.

20 (10) The employer agrees to maintain records relative to the plan for a  
21 period of three years and furnish reports relating to the proper conduct of the

1 plan and agrees to allow the Commissioner or ~~his or her~~ the Commissioner's  
2 authorized representatives access to all records necessary to verify the plan  
3 prior to approval and, after approval, to monitor and evaluate application of  
4 the plan.

5 (11) The plan certifies that the collective bargaining agent or agents for  
6 the employees, if any, have agreed to participate in the program. If there is no  
7 bargaining unit, the employer specifies how ~~he or she~~ it will notify the  
8 employees in the affected group and work with them to implement the  
9 program once the plan is approved.

10 \* \* \*

11 (b) In the event of any conflict between any provision of sections 1451–  
12 1460 of this ~~title~~ subchapter, or the ~~regulations implemented~~ rules adopted  
13 pursuant to these sections, and applicable federal law, the federal law shall  
14 prevail and the provision shall be deemed invalid.

15 Sec. 231. 21 V.S.A. § 1453 is amended to read:

16 § 1453. APPROVAL OR REJECTION; RESUBMISSION

17 The Commissioner shall approve or reject a plan in writing within 30 days  
18 ~~of its receipt~~ after receiving it, and in the case of rejection shall state the  
19 reasons ~~therefor~~ for the rejection. The reasons for rejection shall be final and  
20 nonappealable, but the employer shall be allowed to submit another plan for



1 approval, that addresses the reasons that led to the rejection of the original  
2 plan.

3 Sec. 232. 21 V.S.A. § 1455 is amended to read:

4 § 1455. REVOCATION

5 (a) The Commissioner may revoke approval of a plan for good cause. The  
6 revocation order shall be in writing and shall specify the date the revocation is  
7 effective and the reasons ~~therefor~~ for revocation.

8 \* \* \*

9 (c) ~~Such~~ The action may be taken at any time by the Commissioner on ~~his~~  
10 ~~or her~~ the Commissioner's own motion. The Commissioner shall review the  
11 operation of each qualified employer plan at least once during the first three  
12 months that the plan is in effect to ~~assure~~ ensure its compliance with the  
13 requirements of this subchapter. In addition, the Commissioner shall  
14 investigate any written complaint about the operation of the approved plan and  
15 determine in writing whether or not good cause exists for revocation. ~~Such~~  
16 The determination to investigate is not appealable.

17 (d) An employer may appeal a revocation decision by the Commissioner  
18 and ~~such~~ the appeal shall be treated as a “contested case” under the  
19 Administrative Procedure Act.

20 Sec. 233. 21 V.S.A. § 1458 is amended to read:

21 § 1458. SHORT-TIME COMPENSATION BENEFITS

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\* \* \*

(e) Provisions of this subchapter and Vermont Employment Security Board rules applicable to unemployment compensation claimants shall apply to STC claimants to the extent that they are not inconsistent with this subchapter. An individual who files a new initial claim for STC benefits shall be provided, if eligible ~~therefor~~ for STC benefits, a monetary determination of entitlement to STC benefits and shall serve a waiting week as required under § subdivision 1343(a)(4) of this ~~title~~ chapter.

(f)(1) If an individual works in the same week for both the short-time employer and another employer and ~~his or her~~ the individual's combined hours of work for both employers are equal to or greater than 81 percent of the usual hours of work with the short-time employer, ~~he or she~~ the individual shall not be entitled to benefits under these short-time provisions or the unemployment compensation provisions.

(2) If an individual works in the same week for both the short-time employer and another employer and ~~his or her~~ the individual's combined hours of work for both employers are equal to or less than 80 percent of the usual hours of work for the short-time employer, the benefit amount payable for that week shall be the weekly unemployment compensation amount reduced by the same percentage that the combined hours are of the usual hours of work. A

1 week for which benefits are paid under this provision shall count as a week of  
2 short-time compensation.

3 (3) An individual who does not work during a week for the short-time  
4 employer, and is otherwise eligible, shall be paid ~~his or her~~ the individual's  
5 full weekly unemployment compensation benefit amount under the provisions  
6 of the regular unemployment compensation program. Such a week shall not  
7 be counted as a week for which short-time compensation benefits were  
8 received.

9 \* \* \*

10 Sec. 234. 21 V.S.A. § 1502 is amended to read:

11 § 1502. DEFINITIONS

12 As used in this chapter:

13 \* \* \*

14 (6) "Employee" includes any employee, and is not limited to the  
15 employees of a particular employer unless this chapter explicitly states  
16 otherwise, and includes any individual whose work has ceased as a  
17 consequence of, or in connection with, any current labor dispute or because of  
18 any unfair labor practice and who has not obtained any other regular and  
19 substantially equivalent employment, but does not include an individual;

20 \* \* \*

21 (B) employed by ~~his or her~~ the individual's parent or spouse;

1 (C) employed in the domestic service of any family or person at his  
2 ~~or her~~ the person's home;

3 \* \* \*

4 (F) employed by an employer subject to the Railway Labor Act as  
5 ~~amended from time to time~~, 45 U.S.C. §§ 151–165; or

6 \* \* \*

7 (7) “Employer” means any person employing five or more employees  
8 and any person acting as an agent of an employer, employing five or more  
9 employees, directly or indirectly, but does not include:

10 (A) ~~The~~ the United States or any wholly owned government  
11 corporation or any federal reserve bank;

12 (B) ~~This~~ this State or any political subdivision ~~thereof~~ of this State or  
13 any incorporated or interstate school district;

14 (C) ~~Any~~ any person subject to the Railway Labor Act, ~~as amended~~  
15 ~~from time to time~~. 45 U.S.C. §§ 151–165;

16 (D) ~~Any~~ any labor organization (~~other than when acting as an~~  
17 ~~employer~~), or anyone acting in the capacity of officer or agent of ~~such~~ a labor  
18 organization; or

19 (E) ~~A~~ a person operating a hospital or a nursing home, if no part of  
20 the net earnings inures to the benefit of a private individual or shareholder.

21 \* \* \*

1 (11) “Professional employee” means:

2 \* \* \*

3 (B) any employee who:

4 \* \* \*

5 (ii) is performing related work under the supervision of a

6 professional person to qualify ~~himself or herself~~ to become a professional

7 employee as defined in subdivision (A) of this subdivision (11).

8 \* \* \*

9 (13) “Supervisor” means an individual having authority, in the interest

10 of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge,

11 assign, reward, or discipline other employees or responsibly to direct them, or

12 to adjust their grievances, or effectively to recommend such action, if ~~in~~

13 ~~connection with the foregoing~~ the exercise of such the authority is not of a

14 merely routine or clerical nature but requires the use of independent judgment.

15 \* \* \*

16 Sec. 235. 21 V.S.A. § 1504 is amended to read:

17 § 1504. GENERAL DUTIES

18 (a) All employers, and their officers, agents, and employees or

19 representatives shall exert every reasonable effort to make and maintain

20 agreements concerning rates of pay, rules, wages, hours of employment, and

21 conditions of work, and to settle all disputes, whether arising out of the

1 application of those agreements or growing out of any dispute between the  
2 employer and the employer's employees ~~thereof~~.

3 (b) All labor disputes between employers and their employees shall, upon  
4 the request of either party, be considered within 15 days ~~of~~ after the request, or  
5 ~~at such times as may be~~ a time that is mutually agreed to, and, if possible,  
6 settled, with all expedition, in conference between representatives designated  
7 and authorized ~~to~~ confer, by the employer or by the employer's employees  
8 ~~thereof~~ who are interested in the dispute. However, this obligation does not  
9 compel either party to agree to a proposal or make a concession.

10 Sec. 236. 21 V.S.A. § 1505 is amended to read:

11 § 1505. APPLICATION

12 This chapter shall not apply to any employer or any labor dispute ~~which~~  
13 that affects commerce within the meaning of the National Labor Relations Act,  
14 ~~as amended~~ 29 U.S.C. § 151–169, unless the National Labor Relations Board  
15 shall have ceded jurisdiction ~~thereof~~ to the Board pursuant to ~~section 10(a) of~~  
16 ~~the Act~~ 29 U.S.C. § 160 or shall have declined to assert jurisdiction ~~thereof~~  
17 pursuant to ~~section 14(e) of the Act~~ 29 U.S.C. § 164(c).

18 Sec. 237. 21 V.S.A. § 1543 is amended to read:

19 § 1543. APPROPRIATE UNIT; BASIS FOR DETERMINATION

20 (a) The Board shall decide in each case whether, in order to ~~assure~~ ensure  
21 the employees have the fullest freedom in exercising the rights guaranteed by

1 this Act, the unit appropriate for the purpose of collective bargaining is the  
2 employer unit, craft unit, plant unit, or a subdivision thereof. However, the  
3 Board shall not decide that:

4 \* \* \*

5 Sec. 238. 21 V.S.A. § 1544 is amended to read:

6 § 1544. RULES AND REGULATIONS

7 (a) The Board shall have authority ~~from time to time to make adopt,~~  
8 amend, and rescind ~~such rules and regulations, not inconsistent with this~~  
9 ~~chapter,~~ as may be necessary to carry out the provisions of this chapter.

10 \* \* \*

11 Sec. 239. 21 V.S.A. § 1581 is amended to read:

12 § 1581. PETITIONS FOR ELECTION; FILING<sub>;2</sub>; INVESTIGATIONS<sub>;2</sub>;

13 HEARINGS<sub>;2</sub>; DETERMINATIONS

14 (a) A petition may be filed with the Board, in accordance with ~~regulations~~  
15 ~~prescribed rules adopted~~ by the Board:

16 \* \* \*

17 (c) In determining whether or not a question of representation exists, it  
18 shall apply the same ~~regulations and rules of decision~~ regardless of the identity  
19 of the persons filing the petition or the kind of relief sought.

1 (d) Nothing in this chapter prohibits the waiving of hearings by stipulation  
2 for a consent election in conformity with ~~regulations and rules of decision~~ of  
3 the Board.

4 \* \* \*

5 Sec. 240. 21 V.S.A. § 1582 is amended to read:

6 § 1582. ELECTION; ELIGIBILITY TO VOTE; RUNOFF ELECTIONS

7 An election shall not be directed in any bargaining unit or any subdivision  
8 within which, in the preceding 12 months, a valid election has been held.  
9 Employees engaged in an economic strike who are not entitled to  
10 reinstatement are eligible to vote, under ~~regulations~~ rules of the Board  
11 consistent with the provisions of this Act chapter, in any election conducted  
12 within 12 months after the beginning of the strike. In any election where none  
13 of the choices on the ballot receive a majority, a runoff shall be conducted by  
14 the Board. The ballot shall provide for a selection between the two choices  
15 receiving the largest and second largest number of valid votes cast in the  
16 election.

17 Sec. 241. 21 V.S.A. § 1621 is amended to read:

18 § 1621. UNFAIR LABOR PRACTICES

19 (a) It shall be an unfair labor practice for an employer:

20 \* \* \*

21 (b) It shall be an unfair labor practice for a labor organization or its agents:





1 any picketing or other publicity for the purpose of truthfully advising the  
2 public (~~including consumers~~), that an employer does not employ members of,  
3 or have a contract with, a labor organization, unless an effect of the picketing  
4 is to induce any individual employed by any other person in the course of his  
5 ~~or her~~ the individual's employment, not to pick up, deliver, or transport any  
6 goods or not to perform any services. This subdivision (b)(7) shall not be  
7 construed to permit any act which would otherwise be an unfair labor practice  
8 under this subsection.

9 (8) Compulsory membership; employees' rights. A labor organization  
10 entering into an agreement requiring a person's membership ~~therein~~ in the  
11 labor organization as a condition of employment by the employer shall not:

12 (A) discriminate against a person seeking or holding membership  
13 ~~therein~~ in the labor organization on account of race, color, disability, religion,  
14 creed, sex, sexual orientation, gender identity, age, or national origin;

15 \* \* \*

16 (C) cause the discharge from employment of employees who refuse  
17 membership ~~therein~~ in the labor organization because of religious beliefs.

18 (c) It shall be an unfair labor practice for any labor organization and any  
19 employer to enter into any contract or agreement, express or implied, ~~whereby~~  
20 under which the employer ceases or refrains or agrees to cease or refrain from  
21 handling, using, selling, transporting, or otherwise dealing in any of the

1 products of any other employer, or to cease doing business with any other  
2 person, and any contract or agreement entered into before or after enactment  
3 of this chapter containing such an agreement shall be to that extent  
4 unenforceable and void.

5 \* \* \*

6 (e)(1) For the purposes of this section, to bargain collectively is the  
7 performance of the mutual obligation of the employer and the representative of  
8 the employees to meet at reasonable times and confer in good faith with  
9 respect to wages, hours, and other terms and conditions of employment, or the  
10 negotiation of an agreement, or any question arising ~~thereunder~~ under the  
11 agreement, and the execution of a written contract incorporating any  
12 agreement reached is requested by either party; but the failure or refusal of  
13 either party to agree to a proposal, or to change or withdraw a lawful proposal,  
14 or to make a concession shall not constitute, or be evidence direct or indirect  
15 of, a breach of this obligation.

16 \* \* \*

17 \* \* \* Title 22 \* \* \*

18 Sec. 242. 22 V.S.A. chapter 2 is amended to read:

19 CHAPTER 2. INTERSTATE LIBRARY COMPACT

20 \* \* \*

21 § 23. INTERSTATE LIBRARY DISTRICTS—ARTICLE III



1 libraries, the value and significance of particular items ~~therein~~ in libraries, and  
2 the use ~~thereof~~ of items.

3 2.(2) Accept for any of its purposes under this compact any and all  
4 donations and grants of money, equipment, supplies, materials, and services,  
5 (conditional or otherwise), from any state of the United States or any  
6 subdivision or agency ~~thereof~~ of a state, or interstate agency, or from any  
7 institution, person, firm, or corporation, and receive, utilize, and dispose of the  
8 same.

9 3.(3) Operate mobile library units or equipment for the purpose of  
10 rendering bookmobile service within the district.

11 4.(4) Employ professional, technical, clerical, and other personnel and  
12 fix terms of employment, compensation, and other appropriate benefits; and,  
13 where desirable, provide for the in-service training of ~~such~~ the personnel.

14 5.(5) Sue and be sued in any court of competent jurisdiction.

15 6.(6) Acquire, hold, and dispose of any real or personal property or any  
16 interest or interests ~~therein~~ in property as may be appropriate to the rendering  
17 of library service.

18 7.(7) Construct, maintain, and operate a library, including any  
19 appropriate branches ~~thereof~~ of a library.

20 8.(8) Do such other things as may be incidental to or appropriate for the  
21 carrying out of any of the ~~foregoing~~ powers enumerated in this subsection.

1 § 24. INTERSTATE LIBRARY DISTRICTS; GOVERNING BOARD—

2 ARTICLE IV

3 (a) An interstate library district ~~which~~ that establishes, maintains, or  
4 operates any facilities or services in its own right shall have a governing board  
5 ~~which~~ that shall direct the affairs of the district and act for it in all matters  
6 relating to its business. Each participating public library agency in the district  
7 shall be represented on the governing board ~~which~~ that shall be organized and  
8 conduct its business in accordance with ~~provision therefor~~ in the library  
9 agreement. But in no event shall a governing board meet less often than twice  
10 a year.

11 (b) Any private library agency or agencies party to a library agreement  
12 establishing an interstate library district may be represented on or advise with  
13 the governing board of the district in ~~such~~ any manner as the library agreement  
14 may provide.

15 § 25. STATE LIBRARY AGENCY COOPERATION—ARTICLE V

16 Any two or more state library agencies of two or more of the party states  
17 may undertake and conduct joint or cooperative library programs, render joint  
18 or cooperative library services, and enter into and perform arrangements for  
19 the cooperative or joint acquisition, use, housing, and disposition of items or  
20 collections of materials ~~which~~ that, by reason of expense, rarity, specialized  
21 nature, or infrequency of demand ~~therefor~~, would be appropriate for central

1 collection and shared use. Any such programs, services, or arrangements may  
2 include provision for the exercise on a cooperative or joint basis of any power  
3 exercisable by an interstate library district and an agreement embodying any  
4 such program, service, or arrangement shall contain provisions covering the  
5 subjects detailed in Article VI [section 26 of this title] of this compact for  
6 interstate library agreements.

7 § 26. LIBRARY AGREEMENTS—ARTICLE VI

8 (a) In order to provide for any joint or cooperative undertaking pursuant to  
9 this compact, public and private library agencies may enter into library  
10 agreements. Any agreement executed pursuant to the provisions of this  
11 compact shall, as among the parties to the agreement:

12 ~~1.~~(1) Detail the specific nature of the services, programs, facilities,  
13 arrangements, or properties to which it is applicable.

14 ~~2.~~(2) Provide for the allocation of costs and other financial  
15 responsibilities.

16 ~~3.~~(3) Specify the respective rights, duties, obligations, and liabilities of  
17 the parties.

18 ~~4.~~(4) Set forth the terms and conditions for duration, renewal,  
19 termination, abrogation, disposal of joint or common property, if any, and all  
20 other matters ~~which~~ that may be appropriate to the proper effectuation and  
21 performance of the agreement.

1 (b) No public or private library agency shall undertake to exercise itself, or  
2 jointly with any other library agency, by means of a library agreement any  
3 power prohibited to such the agency by the constitution or statutes of its state.

4 \* \* \*

5 § 27. APPROVAL OF LIBRARY AGREEMENTS—ARTICLE VII

6 (a) Every library agreement made pursuant to this compact shall, prior to  
7 and as a condition precedent to its entry into force, be submitted to the  
8 attorney general of each state in which a public library agency party ~~thereto~~ to  
9 the agreement is situated, who shall determine whether the agreement is in  
10 proper form and compatible with the laws of ~~his or her~~ the state. The  
11 attorneys general shall approve any agreement submitted to them unless they  
12 shall find that it does not meet the conditions set forth ~~herein~~ in this compact  
13 and shall detail in writing addressed to the governing bodies of the public  
14 library agencies concerned the specific respects in which the proposed  
15 agreement fails to meet the requirements of law. Failure to disapprove an  
16 agreement submitted ~~hereunder~~ pursuant to this section within 90 days of its  
17 submission shall constitute an approval thereof of the agreement.

18 (b) In the event that a library agreement made pursuant to this compact  
19 shall deal in whole or in part with the provisions of services or facilities with  
20 regard to which an officer or agency of the state government has constitutional  
21 or statutory powers of control, the agreement shall, as a condition precedent to



1 its entry into force, be submitted to the state officer or agency having ~~such the~~  
2 power of control and shall be approved or disapproved by ~~him or her the~~  
3 officer or ~~it~~ agency as to all matters within ~~his or her the officer~~ or its the  
4 agency's jurisdiction in the same manner and subject to the same requirements  
5 governing the action of the attorneys general pursuant to paragraph (a) of this  
6 article. This requirement of submission and approval shall be in addition to  
7 and not in substitution for the requirement of submission to and approval by  
8 the attorneys general.

9 § 28. OTHER LAWS APPLICABLE—ARTICLE VIII

10 Nothing in this compact or in any library agreement shall be construed to  
11 supersede, alter, or otherwise impair any obligation imposed on any library by  
12 otherwise applicable law, nor to authorize the transfer or disposition of any  
13 property held in trust by a library agency in a manner contrary to the terms of  
14 ~~such the~~ trust.

15 § 29. APPROPRIATION AND AID—ARTICLE IX

16 (a) Any public agency party to a library agreement may appropriate funds  
17 to the interstate library district established ~~thereby~~ by the agreement in the  
18 same manner and to the same extent as to a library wholly maintained by it  
19 and, subject to the laws of the state in which ~~such the~~ public library agency is  
20 situated, may pledge its credit in support of an interstate library district  
21 established by the agreement.

1 (b) Subject to the provisions of the library agreement pursuant to which it  
2 functions and the laws of the states in which ~~such~~ the district is situated, an  
3 interstate library district may claim and receive any state and federal aid which  
4 may be available to library agencies.

5 § 30. COMPACT ADMINISTRATOR—ARTICLE X

6 Each state shall designate a compact administrator with whom copies of all  
7 library agreements to which ~~his or her~~ the state or any public library agency  
8 ~~thereof of the state~~ is party shall be filed. The administrator shall have such  
9 other powers as may be conferred upon ~~him or her~~ the administrator by the  
10 laws of ~~his or her~~ the state and may consult and cooperate with the compact  
11 administrators of other party states and take ~~such~~ the steps as may effectuate  
12 the purposes of this compact. If the laws of a party state so provide, ~~such~~ the  
13 state may designate one or more deputy compact administrators in addition to  
14 its compact administrator.

15 § 31. ENTRY INTO FORCE AND WITHDRAWAL—ARTICLE XI

16 (a) This compact shall enter into force and effect immediately upon its  
17 enactment into law by any two states. Thereafter, it shall enter into force and  
18 effect as to any other state upon the enactment ~~thereof of the compact~~ by ~~such~~  
19 that state.

20 (b) This compact shall continue in force with respect to a party state and  
21 remain binding upon ~~such~~ the state until six months after ~~such~~ the state has

1 given notice to each other party state of the repeal ~~thereof~~ of the compact.  
2 ~~Such~~ The withdrawal shall not be construed to relieve any party to a library  
3 agreement entered into pursuant to this compact from any obligation of that  
4 agreement prior to the end of its duration as provided ~~therein~~ in the agreement.

5 § 32. CONSTRUCTION AND SEVERABILITY—ARTICLE XII

6 This compact shall be liberally construed so as to effectuate the purposes  
7 ~~thereof~~ of the compact. The provisions of this compact shall be severable and  
8 if any phrase, clause, sentence, or provision of this compact is declared to be  
9 contrary to the constitution of any party state or of the United States or the  
10 applicability ~~thereof~~ of the compact to any government, agency, person, or  
11 circumstance is held invalid, the validity of the remainder of this compact and  
12 the applicability ~~thereof~~ of the compact to any government, agency, person, or  
13 circumstance shall not be affected thereby. If this compact shall be held  
14 contrary to the constitution of any party state ~~party thereto~~, the compact shall  
15 remain in full force and effect as to the remaining states and in full force and  
16 effect as to the state affected as to all severable matters.

17 \* \* \*

18 § 41. TOWN PARTICIPATION RESTRICTED

19 No town of this State may be a party to a library agreement ~~which~~ that  
20 provides for the construction or maintenance of a library under Article III,  
21 subdivision (c-7) [section 23(c)~~7~~(7). of this title] of the compact, nor pledge its

1 credit in support of ~~such a~~ the library, or contribute to the capital financing  
2 ~~thereof of the library~~, except after compliance with any laws applicable to  
3 towns relating to or governing capital outlays and the pledging of credit.

4 § 42. STATE LIBRARY AGENCY DEFINED

5 As used in the compact, “state library agency,” with reference to this State,  
6 means, the ~~department~~ Department of ~~libraries~~ Libraries and any department of  
7 ~~state~~ State government providing library services.

8 \* \* \*

9 Sec. 243. 22 V.S.A chapter 3 is amended to read:

10 CHAPTER 3. PUBLIC LIBRARIES

11 \* \* \*

12 § 102. GENERAL AUTHORITY; PROCEDURE

13 \* \* \*

14 (b) The trustees may make, sign and acknowledge, and file in the office of  
15 the Secretary of State a statement in writing setting forth the intent of the  
16 trustees to form a corporation, a copy of the will or instrument by which the  
17 endowment of ~~such~~ the library is provided, the name adopted for the  
18 corporation, which shall not be the name of a corporation already existing, and  
19 the name of the municipality in which the library and the principal place of  
20 business of the corporation will be located, the managers who may be  
21 designated trustees, managers, or directors of ~~such~~ the corporation, and the

1 names of the trustees, managers, or directors who are to constitute the original  
2 board and who shall hold office until their successors are elected and qualified  
3 as provided in section 106 of this title.

4 \* \* \*

5 § 103. POWERS GENERALLY

6 An organization formed under the provisions of section 102 of this title  
7 shall be a body corporate and politic to be known by the name stated in its  
8 certificate. It shall have and possess the ordinary rights and incidents of a  
9 corporation, and shall be capable of taking, holding, and disposing of real and  
10 personal estate for the purposes of its organization. The provisions of a will,  
11 deed, or other instrument by which an endowment of a library is provided, and  
12 accepted by the trustees, managers, or directors shall, as to ~~such~~ the  
13 endowment, be a part of the organic and fundamental law of ~~such~~ the  
14 corporation.

15 § 104. PUBLIC LIBRARIES; TRUSTEES, MANAGERS, OR DIRECTORS

16 The trustees, managers, or directors of ~~such~~ the corporation shall compose  
17 its members and shall not be more than 15 nor less than five in number.

18 \* \* \*

19 § 106. VACANCIES

20 (a) ~~They~~ The trustees, managers, or directors may fill by election vacancies  
21 occurring in their number.

1           (b) When a trustee, manager, or director is elected to fill a vacancy, a  
2           certificate under the seal of the corporation, giving the name of the person  
3           elected, shall be recorded in the office of the county clerk where the articles of  
4           incorporation are recorded.

5           § 107. BYLAWS

6           ~~They~~ The trustees, managers, or directors may make bylaws for the  
7           management of ~~such~~ the corporation and library. The bylaws shall set forth  
8           the officers of the corporation and define and prescribe their respective duties.

9           § 108. EMPLOYMENT OF AGENTS AND EMPLOYEES

10          ~~They~~ The trustees, managers, or directors may appoint and employ from  
11          time to time agents and employees as they may deem necessary for the  
12          efficient administration and conduct of the library and all the affairs of ~~such~~  
13          the corporation.

14          § 109. EXEMPTION FROM TAXATION

15          When the instrument providing the endowment declares that the institution  
16          shall be a free public library, ~~such~~ the library and other property of the  
17          corporation shall be forever exempt from taxation.

18          § 110. MERGER

19          Two or more library corporations in the same municipality or in different  
20          municipalities may, by a majority vote of the members of all the corporations,  
21          at meetings warned for that purpose, unite and assume the corporate name of

1 any one of the corporations. The plan of incorporation shall contain  
2 ~~regulations~~ articles necessary to carry out the provisions of this chapter.

3 \* \* \*

4 Sec. 244. 22 V.S.A. § 172 is amended to read:

5 § 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS

6 \* \* \*

7 (b) Unless authorized by other provisions of law, the library's officers,  
8 employees, and volunteers shall not disclose the records except:

9 \* \* \*

10 (4) to custodial parents or guardians of patrons under age 16 years of  
11 age; or

12 \* \* \*

13 Sec. 245. 22 V.S.A. chapter 5 is amended to read:

14 CHAPTER 5. VERMONT HISTORICAL SOCIETY

15 § 281. MEMBERS AND TRUSTEES EX OFFICIO

16 The Secretary of State and the State Librarian, by virtue of their offices,  
17 shall be members of the Vermont Historical Society and of the Board of  
18 Trustees ~~thereof~~ of the Society.

19 § 282. DIRECTOR

20 \* \* \*

1 (b) The Director shall have charge of the collections of the Society and  
2 ~~such~~ any historical objects, books, and documents of the State as shall be  
3 placed ~~therewith~~ with the Society for use.

4 \* \* \*

5 § 284. DISPOSITION OF BOOKS, COLLECTIONS, AND PROPERTY

6 If the Society is ever dissolved, the Society's books, collections, and  
7 property ~~thereof~~ shall become the property of the State. ~~Such~~ The Society  
8 shall not sell or dispose of any part of its books or collections, except by way  
9 of exchange or to further the objects of the Society and then only upon the  
10 vote of the Board of Trustees of the Society. Any sale or disposal ~~thereof~~ of  
11 books or collections contrary to the provisions of this section shall be void.

12 \* \* \*

13 Sec. 246. 22 V.S.A. § 605 is amended to read:

14 § 605. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF  
15 LIBRARIES

16 The duties and functions of the Department of Libraries shall be to provide,  
17 administer, and maintain:

18 (1) A law library to serve the Supreme Court, the Attorney General,  
19 other members of the Judiciary, the legal profession, members of the  
20 ~~Legislature~~ General Assembly, officials of State government, and the general  
21 public.



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\* \* \*

(4) A general library collection of a sufficient size and scope to reinforce and supplement the resources of local and regional libraries. All materials of the Department of Libraries shall be available for free circulation to all citizens, institutions, and organizations under ~~regulations of~~ procedures adopted by the State Librarian except that the State Librarian may restrict rare or reference-type materials to one location. The Department shall arrange, classify, and catalog all materials in its custody and provide for their safekeeping and shall rebind books as needed. The Department shall provide service to other libraries in the State, schools, and individuals and may provide service by mail or book wagon or otherwise.

\* \* \*

Sec. 247. 22 V.S.A. § 632 is amended to read:

§ 632. REQUIREMENTS

A town, city, or incorporated village shall not be entitled to the benefits of section 631 of this ~~title, subchapter~~ unless such the following conditions are met:

(1) the town, city, or village has elected a Board of Library Trustees as provided in chapter 3 of this title and;

1           (2) the town, city, or village has voted to instruct ~~such~~ its Trustees to  
2 ~~make application therefor~~ apply to the State Librarian for the benefits set forth  
3 in section 631 of this subchapter; and ~~unless such~~

4           (3) the Trustees have provided, in a manner satisfactory to the Board of  
5 Libraries, for the care, custody, and distribution of the books furnished under  
6 this subchapter.

7 Sec. 248. 22 V.S.A. § 634 is amended to read:

8 § 634. AID TO FREE PUBLIC LIBRARIES

9           The State Librarian may assist free public or other nonprofit libraries ~~which~~  
10 that formulate and implement plans for the systematic and effective  
11 coordination of libraries and library services. Grants may be made in  
12 accordance with standards of the service, consistent with ~~the Federal Library~~  
13 ~~Services and Construction Act, chapter 16 of Title 20, U.S. Code as amended~~  
14 20 U.S.C. chapter 72, subchapter II.

15 Sec. 249. 22 V.S.A. § 701(7) is amended to read:

16           (7) “Secretary” means the Secretary of ~~the Agency of Commerce and~~  
17 Community Development.

18 Sec. 250. 22 V.S.A. § 723(c) is amended to read:

19           (c) The State Historic Preservation Officer and the Division shall adopt a  
20 procedure for the efficient review in accordance with this chapter and the  
21 National Historic Preservation Act, 16 U.S.C. chapter 1A, subchapter II, of

1 undertakings related to the provision of broadband services, and shall take all  
2 feasible steps to effect such efficient review. Unless contrary to federal  
3 requirements, any review of pole attachments shall be conducted using a  
4 systemic approach. ~~As used in this subsection, “broadband” means high-speed~~  
5 ~~Internet access that meets the minimum technical objectives adopted by the~~  
6 ~~Department of Public Service pursuant to 30 V.S.A. § 8077(a).~~

7 Sec. 251. 22 V.S.A. § 724(c) is amended to read:

8 (c) Use for intended purposes. The Division for Historic Preservation shall  
9 ensure that donations and gifts are used for the purposes intended.

10 Sec. 252. 22 V.S.A. § 741(a) is amended to read:

11 (a) There is established a the Vermont Advisory Council on Historic  
12 Preservation. The Council shall consist of seven members, appointed by the  
13 Governor, at least four of whom shall fulfill the professional requirements of  
14 the National Historic Preservation Act.

15 Sec. 253. 22 V.S.A. § 743 is amended to read:

16 § 743. COOPERATION OF AGENCIES

17 An agency, department, division, or commission shall:

18 \* \* \*

19 (2) Initiate measures and procedures to provide for the maintenance,  
20 through preservation, rehabilitation, or restoration, of properties under its  
21 ownership that are listed on the State or National Register; the measures and

1 procedures shall comply with applicable standards prescribed by the State  
2 Division for Historic Preservation ~~Division~~.

3 (3) Develop plans for the maintenance, through preservation,  
4 rehabilitation, or restoration, of historic properties under their ownership in a  
5 manner that is compatible with preservation objectives and ~~which~~ that does not  
6 result in an unreasonable economic burden to public interest.

7 (4) Institute procedures to ~~assure~~ ensure that its plans, programs, codes,  
8 and ~~regulations~~ rules contribute to the preservation and enhancement of sites,  
9 structures, and objects of historical, architectural, archaeological, or cultural  
10 significance.

11 Sec. 254. 22 V.S.A. § 764 is amended to read:

12 § 764. PERMITS FOR EXPLORATION

13 The State Historic Preservation Officer, with the advice of the State  
14 Archaeologist, may issue permits for exploration and field investigations to be  
15 undertaken on State lands or within the boundaries of designated State  
16 archaeological landmarks to an amateur or professional whom the State  
17 Historic Preservation Officer deems properly qualified to conduct the activity,  
18 subject to such rules ~~and regulations~~ as the Division may prescribe, with a  
19 view toward disseminating the knowledge gained through ~~his or her~~ the State  
20 Historic Preservation Officer's activities; and, provided that a summary report  
21 of the undertakings, containing relevant maps, documents, drawings, and

1 photographs be submitted to the Division; and, provided further, that all  
2 specimens so collected under permit shall be the permanent property of the  
3 State and that the State Archaeologist shall make prior arrangements for the  
4 disposition of specimens derived from the activities in an appropriate  
5 institution of the State or for the loan of the specimens to qualified institutions  
6 in or out of the State.

7 Sec. 255. 22 V.S.A. § 767(3) is amended to read:

8 (3) The Division shall initiate actions within 60 days ~~of~~ following  
9 notification under subdivision (1) of this subsection and within such time as  
10 agreed upon in other cases. The responsible agency is authorized and directed  
11 to expend agency funds for the purpose of recovering the data, including  
12 analysis and publications, and the costs shall be included as part of the  
13 contractor's costs if the adverse effect is caused by work being done under  
14 contract to a State agency.

15 Sec. 256. 22 V.S.A. § 781 is amended to read:

16 § 781. ~~RULES AND REGULATIONS~~

17 The custodian of underwater historic properties shall be the Division, which  
18 shall administer the preservation and protection of these properties in  
19 accordance with this chapter. The Division may prescribe such rules ~~and~~  
20 ~~regulations~~ as are necessary to preserve, protect, and recover any or all  
21 underwater historic properties.

1 Sec. 257. 22 V.S.A. § 782 is amended to read:

2 § 782. ISSUANCE OF PERMITS

3 Any qualified person desiring to conduct any type of exploration or  
4 recovery operations, in the course of which any underwater historic property  
5 or part thereof may be removed, displaced, or destroyed, shall first make  
6 application to the State Historic Preservation Officer for a permit to conduct  
7 the operations. The State Historic Preservation Officer, with the advice of the  
8 State Archaeologist, may grant the applicant a permit for such a period of time  
9 and under such conditions as ~~he or she~~ the State Historic Preservation Officer  
10 may deem to be in the best ~~interest~~ interests of the State. The permit may  
11 provide for the fair compensation to the permittee in terms of a percentage of  
12 the reasonable cash value of the objects recovered or a fair share of the objects  
13 recovered, the fair compensation or share to be determined by the State  
14 Archaeologist. Superior title to all objects recovered shall be retained by the  
15 State unless or until they are released to the permittee by the State  
16 Archaeologist. All exploration and recovery operations undertaken under a  
17 permit issued under this section shall be carried out under the general  
18 supervision of the State Archaeologist and in such manner that the maximum  
19 amount of historic, scientific, archaeological, and educational information may  
20 be recovered and preserved in addition to the physical recovery of items.  
21 Permits may be renewed upon or prior to expiration. Holders of permits shall

1 be responsible for obtaining permission of any federal agencies having  
2 jurisdiction prior to conducting any recovery operations.

3 Sec. 258. 22 V.S.A. § 952 is amended to read:

4 § 952. VERMONT WEB PORTAL; VERMONT WEB PORTAL BOARD;  
5 MEMBERSHIP

6 (a) There is created the Vermont web portal that shall be governed by a  
7 Board consisting of 12 members as follows:

8 \* \* \*

9 (10) one member of the House of Representatives who is also a member  
10 of the ~~Legislative Information Technology Committee~~ Joint Information  
11 Technology Oversight Committee, appointed by the Speaker of the House, and  
12 one member of the Vermont Senate who is also a member of the ~~Legislative~~  
13 ~~Information Technology Committee~~ Joint Information Technology Oversight  
14 Committee, appointed by the Committee on Committees.

15 \* \* \*

16 Sec. 259. 22 V.S.A. § 953(c)(2) is amended to read:

17 (2) The Governor's approval shall be final unless within 30 days of  
18 following receipt of the information a member of the Joint Fiscal Committee  
19 requests the charge be placed on the agenda of the Joint Fiscal Committee or,  
20 when the General Assembly is in session, be held for legislative approval. In  
21 the event of such request, the charge shall not be accepted until approved by

1 the Joint Fiscal Committee or the ~~Legislature~~ General Assembly. During the  
2 legislative session, the Joint Fiscal Committee shall file a notice with the  
3 House Clerk and Senate Secretary for publication in the respective calendars  
4 of any charge approval requests that are submitted by the Administration.  
5 Beginning on July 1, 2012, and every three years thereafter, all web portal fees  
6 shall be included in the annual consolidated Executive Branch fee report  
7 pursuant to 32 V.S.A. § 605.

8 \* \* \* Title 23 \* \* \*

9 Sec. 260. 23 V.S.A. § 110(a) is amended to read:

10 (a) Whenever any check issued in payment of any fee or for any other  
11 purpose is tendered to the Department of Motor Vehicles and payment is not  
12 honored by the bank on which the check is drawn, the Commissioner shall  
13 send a written notice of its nonpayment to the maker or person presenting the  
14 check and if the check is not immediately made good ~~forthwith, he or she~~ the  
15 Commissioner shall suspend the license or registration of the person or  
16 persons. In no case shall the license or registration be reinstated until  
17 settlement has been made in full. Settlement in full shall also include the  
18 payment of any penalties assessed by the State Treasurer.



1 Sec. 261. 23 V.S.A. § 204 is amended to read:

2 § 204. SURRENDER OF LICENSE OR REGISTRATION

3 (a) A person whose license to operate a motor vehicle, nondriver  
4 identification card, or motor vehicle registration has been issued in error shall  
5 immediately surrender ~~forthwith his or her~~ the license or registration upon  
6 demand of the Commissioner or ~~his or her~~ the Commissioner's authorized  
7 inspector or agent. The demand shall be made in person or by notice in  
8 writing sent by first-class mail to the last known address of the person.

9 (b) The Commissioner or ~~his or her~~ the Commissioner's authorized  
10 inspector or agent and all enforcement officers are authorized to take  
11 possession of any certificate of title, nondriver identification card, registration,  
12 or license issued by this or any other jurisdiction that has been revoked,  
13 canceled, or suspended, or that is fictitious, stolen, or altered.

14 \* \* \*

15 Sec. 262. 23 V.S.A. § 301 is amended to read:

16 § 301. PERSONS REQUIRED TO REGISTER

17 Residents, except as provided in chapter 35 of this title, shall annually  
18 register motor vehicles owned or leased for a period of more than 30 days and  
19 operated by them, unless currently registered in Vermont. Notwithstanding  
20 this section, a resident who has moved into the State from another jurisdiction  
21 shall register ~~his or her~~ the resident's motor vehicle within 60 days ~~of~~ after

1 moving into the State. ~~A person~~ An individual shall not operate a motor  
2 vehicle nor draw a trailer or semi-trailer on any highway unless ~~such~~ the  
3 vehicle is registered as provided in this chapter. Vehicle owners who have  
4 apportioned power units registered in this State under the International  
5 Registration Plan are exempt from the requirement to register their trailers in  
6 this State.

7 Sec. 263. 23 V.S.A. § 303(a) is amended to read:

8 (a) The Commissioner or ~~his or her~~ the Commissioner's duly authorized  
9 agent shall register a motor vehicle, trailer, or semi-trailer ~~when~~ upon  
10 application ~~therefor~~, on a form prescribed by the Commissioner that is filed  
11 with the Commissioner, showing ~~such~~ the motor vehicle to be properly  
12 equipped and in good mechanical condition, ~~is filed with him or her, and~~  
13 accompanied by the required registration fee and evidence of the applicant's  
14 ownership of the vehicle in ~~such~~ the form as the Commissioner may  
15 reasonably require. Except for State or municipal vehicles, registrants and  
16 titled owners shall be identical.

17 Sec. 264. 23 V.S.A. § 304(b)(2)(D) is amended to read:

18 (D) When an individual's membership in a qualifying organization  
19 ceases or is terminated, the individual shall immediately surrender any special  
20 registration plates issued under this subsection to the Commissioner ~~forthwith~~.  
21 However, a retired member of the Vermont National Guard may renew or,

1 upon payment of a \$10.00 fee, acquire, the special guard plates after  
2 notification of eligibility for retired pay has been received.

3 Sec. 265. 23 V.S.A. § 307(b) is amended to read:

4 (b) In case of the loss, mutilation, or destruction of a certificate, the owner  
5 of the vehicle described in it shall ~~forthwith~~ immediately notify the  
6 Commissioner and remit a fee of \$20.00, upon receipt of which the  
7 Commissioner shall furnish the owner with a duplicate certificate.

8 Sec. 266. 23 V.S.A. § 381 is amended to read:

9 § 381. FEES TURNED OVER TO STATE TREASURER

10 (a) Except as otherwise provided, all fees for registering motor vehicles,  
11 licensing operators, and all other motor vehicle fees shall be collected by the  
12 Commissioner and ~~forthwith~~ immediately paid into the State Treasury or  
13 deposited to ~~such a~~ a bank to the credit of the State Treasurer as ~~he or she~~ the  
14 State Treasurer may direct.

15 \* \* \*

16 Sec. 267. 23 V.S.A. § 415(a) is amended to read:

17 (a) In addition to any other provision of law relating to registration of  
18 motor trucks with a gross weight of 18,000 pounds or over and powered by  
19 gasoline or any other nondiesel fuel, or fees paid ~~therefor~~ for the registration  
20 of motor trucks with a gross weight of 18,000 pounds or over and powered by  
21 gasoline or any other nondiesel fuel, a person owning or operating a motor

1 truck upon the highways of the State, registered in this State, shall apply to the  
2 Commissioner of Motor Vehicles for a nondiesel fuel user's license for each  
3 ~~such~~ motor truck to be so operated. Application shall be made upon a form  
4 prescribed by ~~such~~ the Commissioner and shall set forth ~~such~~ the information  
5 as the Commissioner may require. The application shall be accompanied by a  
6 license fee of \$6.50 for each motor truck listed in the application. However,  
7 any license issued under this section prior to July 1, 1990 shall remain in effect  
8 for the term of the issuance. The Commissioner shall issue a license and an  
9 identification tag, plate, or sticker for each ~~such~~ motor truck, which tag, plate,  
10 or sticker shall be of ~~such~~ the size and design and contain ~~such~~ the information  
11 as the Commissioner shall prescribe. Except as otherwise provided, any such  
12 license and tag, plate, or sticker shall become void on January 1 next following  
13 the date of issue. Such licenses shall be carried in the motor truck, and the tag,  
14 plate, or sticker shall be affixed to ~~said~~ the motor truck and visible and legible  
15 at all times ~~be visible and legible~~. This section shall not apply to motor trucks  
16 owned by federal, State, provincial, or municipal governments nor to motor  
17 trucks, otherwise required to be licensed under this section, that are being  
18 operated under the provisions of ~~sections~~ section 463 or 516 of this title.

19 Sec. 268. 23 V.S.A. § 462(a) is amended to read:

20 (a) The Commissioner may cancel, revoke, or suspend the registration of a  
21 dealer under the provisions of this chapter or section 3204, 3305, or 3504 of

1 this title whenever, after the dealer has been afforded the opportunity of a  
2 hearing before the Commissioner or upon conviction in any court in any  
3 jurisdiction, it appears that the dealer has willfully violated any vehicle or  
4 motorboat law of this State or any lawful ~~regulation~~ rule of the Commissioner  
5 applying to dealers, or when it appears that the dealer has engaged in  
6 fraudulent or unlawful practices related to the purchase, sale, or exchange of  
7 vehicles or motorboats. A dealer whose registration has been canceled,  
8 revoked, or suspended shall ~~forthwith~~ immediately return to the Commissioner  
9 the registration certificate and any and all number plates ~~or~~, numbers, or decals  
10 furnished ~~him or her~~ to the dealer by the Commissioner, and the privilege to  
11 operate, purchase, sell, or exchange vehicles or motorboats under ~~his or her~~ the  
12 dealer's number shall cease. An application for a new dealer's registration for  
13 that dealer will not be considered until a revocation period has been served.

14 Sec. 269. 23 V.S.A. § 495 is amended to read:

15 § 495. SUSPENSION OF REGISTRATION

16 The Commissioner may cancel a registration certificate issued to a  
17 transporter whenever, after hearing before the Commissioner or upon  
18 conviction in any court in this State, the Commissioner finds that the  
19 transporter has violated any motor vehicle law in this State or any lawful  
20 ~~regulation~~ rule of the Commissioner applying to transporters. A transporter  
21 whose certificate has been ~~cancelled~~ canceled shall ~~forthwith~~ immediately

1 return to the Commissioner the registration certificate and the number plates  
2 furnished ~~him or her~~ to the transporter by the Commissioner.

3 Sec. 270. 23 V.S.A. § 601(a)(1) is amended to read:

4 (a)(1) Except as otherwise provided by law, a resident shall not operate a  
5 motor vehicle on a highway in Vermont unless ~~he or she~~ the resident holds a  
6 valid license issued by the State ~~of Vermont~~. A new resident who has moved  
7 ~~into the State~~ to Vermont from another jurisdiction and who holds a valid  
8 license to operate motor vehicles under section 208 of this title shall procure a  
9 Vermont license within 60 days ~~of~~ after moving to ~~the State~~ Vermont. Except  
10 as provided in subsection 603(d) of this title, licenses shall not be issued to  
11 nonresidents.

12 Sec. 271. 23 V.S.A. § 606 is amended to read:

13 § 606. AGE LIMIT

14 An operator's license shall not be issued to ~~any person~~ an individual under  
15 18 years of age. ~~Any person~~ An individual who has previously held a junior  
16 operator's license in Vermont prior to application for a license under this  
17 section shall have held that license for a minimum of six months or until 18  
18 years of age ~~18~~ and maintained a record without any suspensions, revocations,  
19 or recalls for the six-month period preceding licensure under this section.

1 Sec. 272. 23 V.S.A. § 611 is amended to read:

2 § 611. POSSESSION OF LICENSE CERTIFICATE

3 Every licensee shall have ~~his or her~~ the licensee's operator's license  
4 certificate in ~~his or her~~ the licensee's immediate possession at all times when  
5 operating a motor vehicle. However, ~~a person~~ a licensee cited with violating  
6 this section or section 610 of this ~~title~~ subchapter shall not be convicted if ~~he~~  
7 ~~or she~~ the licensee sends a copy of or produces to the issuing enforcement  
8 agency within seven business days ~~of~~ after the traffic stop an operator's license  
9 certificate that was valid or had expired within 14 days prior to the traffic stop.

10 Sec. 273. 23 V.S.A. § 613 is amended to read:

11 § 613. REPLACEMENT LICENSE

12 (a) In case of the loss, mutilation, or destruction of a license or error in a  
13 license, the licensee shall ~~forthwith~~ immediately notify the Commissioner who  
14 shall furnish ~~such~~ the licensee with a replacement on receipt of \$24.00.

15 (b) A replacement license shall not be issued to any ~~person~~ individual who  
16 has surrendered ~~his or her~~ the individual's license to another jurisdiction in  
17 connection with obtaining a license in that jurisdiction.

18 Sec. 274. 23 V.S.A. § 671(a) is amended to read:

19 (a) In ~~his or her~~ the Commissioner's discretion, the Commissioner may  
20 suspend indefinitely or for a definite time the license of an operator, or the  
21 right of an unlicensed individual to operate a motor vehicle, after opportunity

1 for a hearing upon not less than 15 days' notice, if the Commissioner has  
2 reason to believe that the holder ~~thereof~~ of the license or right to operate is an  
3 individual who is incompetent to operate a motor vehicle or is operating  
4 improperly so as to endanger the public. If, upon receipt of such notice, the  
5 individual requests a hearing, ~~such~~ the suspension shall not take effect unless  
6 the Commissioner, after hearing, determines that the suspension is justified. If  
7 the Commissioner imposes a suspension, ~~he or she~~ the Commissioner may  
8 order the license delivered to ~~him or her~~ the Commissioner. Not less than six  
9 months from the date of suspension and after each subsequent six months  
10 ~~thereafter~~, an individual upon whom such suspension has been imposed may  
11 apply for reinstatement of ~~his or her~~ the individual's license or right to operate  
12 or for a new license. Upon receipt of such application, the Commissioner shall  
13 ~~thereupon~~ cause an investigation to be made and, if so requested, conduct a  
14 hearing to determine whether such suspension should be continued in effect.

15 Sec. 275. 23 V.S.A. § 672 is amended to read:

16 § 672. SUSPENDING OR REVOKING RIGHT OF NONRESIDENT

17 OPERATOR

18 (a) The Commissioner may suspend or revoke the right of any nonresident  
19 operator to operate a motor vehicle in this State for the same causes and under  
20 the same conditions and in the same manner that ~~he or she~~ the Commissioner  
21 could suspend or revoke the license of any resident operator. ~~Thereupon~~ Upon



1 suspension or revocation, the right of ~~such~~ the nonresident operator to operate  
2 any motor vehicle in this State shall terminate, and ~~he or she~~ the nonresident  
3 operator shall be subject to the same penalties as a resident operator who  
4 operates after the suspension or revocation of ~~his or her~~ the resident operator's  
5 license.

6 (b) Whenever a nonresident operator has ~~his or her~~ the nonresident  
7 operator's right to operate a motor vehicle in this State suspended or revoked,  
8 the Commissioner shall mail a copy of the notice of suspension or revocation  
9 as well as a copy of the court document resulting in the suspension or  
10 revocation to the state or province of residence or licensing.

11 Sec. 276. 23 V.S.A. § 722 is amended to read:

12 § 722. RECOMMENDATION OF A COURT

13 When a motor vehicle operator is convicted of a violation of chapter 13,  
14 subchapters 1 through 5 ~~of chapter 13~~ of this title involving the operation of a  
15 motor vehicle in motion, the judge of the court in which the conviction was  
16 obtained may recommend, in writing, to the Commissioner ~~of Motor Vehicles~~  
17 that the operator be required to attend a driver retraining course. The judge  
18 may delay sentencing the operator until ~~he or she has had~~ the judge receives an  
19 answer to his or her the judge's recommendation from the Commissioner. If  
20 advised by the Commissioner that the operator has been ordered to take a  
21 driver retraining program, the judge may further delay sentencing the operator

1 for a period not to exceed 90 days. If the judge receives evidence that the  
2 operator has satisfactorily completed a driver retraining course, ~~he or she~~ the  
3 judge may then consider all the facts and circumstances of the case and either  
4 impose a penalty and costs or waive all or any part of the penalty and costs,  
5 making a note of the action on the original warrant. In such cases, the court  
6 shall in no way be relieved of the duty of immediately filing ~~forthwith~~ upon  
7 conviction the report required under section 1709 of this title.

8 Sec. 277. 23 V.S.A. § 731(b) is amended to read:

9 (b) It is the intent of the General Assembly that revenue from fee increases  
10 specified in ~~this act~~ 1990 Acts and Resolves No. 286 shall be used for  
11 administration of the motorcycle rider training program and expenses relating  
12 to the program, including instructor training, licensing improvement, alcohol  
13 and drug education, public awareness, a driver improvement program for  
14 motorcyclists, technical assistance, program promotion, and other motorcycle  
15 safety programs. Funds may also be used for reimbursement of persons with  
16 course sites.

17 Sec. 278. 23 V.S.A. § 751(b)(1)(B) is amended to read:

18 (B) confirms that the individual is at least 18 years of age and, if the  
19 individual is 18 years of age, that ~~he or she~~ the individual has at least one year  
20 of driving experience or has been issued a commercial ~~driver~~ driver's license;  
21 and

1 Sec. 279. 23 V.S.A. § 800(c) is amended to read:

2 (c) Every operator of a vehicle required to be registered shall have proof of  
3 financial responsibility as required by subsection (a) of this section when  
4 operating ~~such a~~ a vehicle on the highways of this State. A person may prove  
5 financial responsibility using a portable electronic device; however, use of a  
6 device for this purpose does not in itself constitute consent for an enforcement  
7 officer to access other contents of the device. An operator cited for violating  
8 this subsection shall not be convicted if ~~he or she~~ the operator sends or  
9 produces to the issuing enforcement agency within seven business days ~~of~~ after  
10 the traffic stop proof of financial responsibility that was in effect at the time of  
11 the traffic stop.

12 Sec. 280. 23 V.S.A. § 802(c) is amended to read:

13 (c) When a resident of Vermont, or ~~a person~~ an individual holding a  
14 Vermont operator's license, as a result of a motor vehicle crash in any other  
15 state has been required to furnish ~~such~~ the other state with evidence of future  
16 financial responsibility and because of failure to do so ~~has had his or her~~ the  
17 individual's operating privilege has been suspended or revoked ~~therefor~~, upon  
18 being notified by the proper official of such other jurisdiction of ~~such~~ the  
19 suspension or revocation, the Commissioner ~~of Motor Vehicles~~ shall suspend  
20 the Vermont operator's license or right of ~~such person~~ the individual to operate  
21 motor vehicles, and ~~such~~ the suspension shall remain in effect until the ~~person~~

1 ~~suspended shall furnish~~ individual furnishes the Commissioner with  
2 satisfactory evidence that ~~he or she~~ the individual has complied with the  
3 requirement to furnish such ~~the~~ other state with evidence of future financial  
4 responsibility.

5 Sec. 281. 23 V.S.A. § 806 is amended to read:

6 § 806. ADDITIONAL EVIDENCE

7 Additional evidence of financial responsibility shall be furnished to the  
8 Commissioner, at any time, upon ~~his or her~~ the Commissioner's request  
9 therefor.

10 Sec. 282. 23 V.S.A. § 941(g) is amended to read:

11 (g) Within 30 days ~~of~~ after receipt of a written request by a person  
12 reasonably claiming the right to recover damages after a crash involving  
13 owners or operators of motor vehicles for bodily injury, sickness, or disease,  
14 including death, or for property damages resulting from the ownership,  
15 maintenance, or use of a motor vehicle, an insurer that may be liable to satisfy  
16 part or all of the claim under a policy subject to this chapter shall provide a  
17 statement, by a duly authorized agent of the insurer, setting forth the names of  
18 the insurer and insured, and the limits of liability coverage.

19 Sec. 283. 23 V.S.A. § 1001(b) is amended to read:

20 (b) The Commissioner may adopt rules uniform with the regulations of the  
21 federal agency having jurisdiction over motor vehicles subject to federal law

1 so far as the ~~regulations~~ rules are applicable to the vehicles or to vehicles of  
2 the same type not subject to federal law, or to both.

3 Sec. 284. 23 V.S.A. § 1042(c) is amended to read:

4 (c) Any decision of the Secretary made under this section may be appealed,  
5 in writing, to the Transportation Board within 30 days ~~of~~ after the Secretary's  
6 decision. The Transportation Board shall decide the question within 45 days  
7 ~~of~~ after receipt of the appeal, and may take evidence or testimony.

8 Sec. 285. 23 V.S.A. § 1203(g) is amended to read:

9 (g) The Office of the Chief Medical Examiner shall report in writing to the  
10 Department of Motor Vehicles the death of any ~~person~~ individual as the result  
11 of a crash involving a vehicle and the circumstances of ~~such~~ the crash within  
12 five days ~~of~~ after such death.

13 Sec. 286. 23 V.S.A. § 1205 is amended to read:

14 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

15 \* \* \*

16 (b) Form of officer's affidavit. A law enforcement officer's affidavit in  
17 support of a suspension under this section shall be in a standardized form for  
18 use throughout the State and shall be sufficient if it contains the following  
19 statements:

20 \* \* \*



1 (g) Preliminary hearing. The preliminary hearing shall be held within  
2 21 days ~~of~~ after the alleged offense. Unless impracticable or continued for  
3 good cause shown, the date of the preliminary hearing shall be the same as the  
4 date of the first appearance in any criminal case resulting from the same  
5 incident for which the person received a citation to appear in court. The  
6 preliminary hearing shall be held in accordance with procedures prescribed by  
7 the Supreme Court.

8 (h) Final hearing.

9 (1) If the defendant requests a hearing on the merits, the court shall  
10 schedule a final hearing on the merits to be held within 21 days ~~of~~ after the  
11 date of the preliminary hearing. In no event may a final hearing occur more  
12 than 42 days after the date of the alleged offense without the consent of the  
13 defendant or for good cause shown. The final hearing may only be continued  
14 by the consent of the defendant or for good cause shown. The issues at the  
15 final hearing shall be limited to the following:

16 \* \* \*

17 Sec. 287. 23 V.S.A. § 1206(a) is amended to read:

18 (a) First conviction—generally. Except as otherwise provided, upon  
19 conviction of ~~a person~~ an individual for violating a provision of section 1201  
20 of this ~~title~~ subchapter, or upon final determination of an appeal, the court  
21 shall immediately forward the conviction report ~~forthwith~~ to the Commissioner

1 of Motor Vehicles. The Commissioner shall immediately suspend the ~~person's~~  
2 operator's operating license or nonresident operating privilege or the privilege  
3 of an unlicensed operator to operate a vehicle, as applicable, for a period of  
4 90 days and until the ~~defendant~~ operator complies with section 1209a of this  
5 title.

6 Sec. 288. 23 V.S.A. § 1208 is amended to read:

7 § 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

8 (a) Second conviction. Upon a second conviction of a ~~person~~ an individual  
9 violating a provision of section 1201 of this title and upon final determination  
10 of an appeal, the court shall immediately forward the conviction report  
11 ~~forthwith~~ to the Commissioner of Motor Vehicles. The Commissioner shall  
12 immediately suspend the ~~person's~~ operator's operating license or nonresident  
13 operating privilege or the privilege of an unlicensed operator to operate a  
14 vehicle, as applicable, for 18 months and until the ~~defendant~~ operator complies  
15 with section 1209a of this title. However, during the suspension, an eligible  
16 ~~person~~ operator may operate under the terms of an ignition interlock RDL or  
17 ignition interlock certificate issued pursuant to section 1213 of this title.

18 (b) Third conviction. Upon a third or subsequent conviction of a ~~person~~ an  
19 individual violating a provision of section 1201 of this title and upon final  
20 determination of any appeal, the court shall immediately forward the  
21 conviction report ~~forthwith~~ to the Commissioner of Motor Vehicles. The



1 Commissioner shall immediately revoke the ~~person's operator's~~ operating  
2 license or nonresident operating privilege or the privilege of an unlicensed  
3 operator to operate a motor vehicle, as applicable, for life. However, during  
4 this lifetime revocation, an eligible ~~person~~ operator may operate under the  
5 terms of an ignition interlock RDL or ignition interlock certificate issued under  
6 section 1213 of this title.

7 Sec. 289. 23 V.S.A. § 1213c(n)(2) is amended to read:

8 (2) If the State has not commenced a prosecution for a second or  
9 subsequent violation of section 1201 of this title within 90 days ~~of~~ after the  
10 detention, arrest, lodging, or release upon citation, the person may sell,  
11 transfer, or encumber the subject vehicle.

12 Sec. 290. 23 V.S.A. § 1227(d) is amended to read:

13 (d) To inspect a school bus, a certified inspection mechanic shall not be  
14 required to have a commercial ~~driver~~ driver's license if ~~he or she~~ the  
15 mechanic:

16 \* \* \*

17 Sec. 291. 23 V.S.A. § 1246 is amended to read:

18 § 1246. RESTRICTIONS

19 ~~A person shall not use on a vehicle of any kind operated~~ An individual shall  
20 not operate a motor vehicle on the highway during the period stated in section  
21 1243 of this title subchapter if the motor vehicle utilizes any lighting device of

1 over four candle power equipped with a reflector, unless ~~such~~ the device, and  
2 the lens used ~~therein~~ within the device, and ~~such~~ the candle power is approved  
3 by the Commissioner of Motor Vehicles, nor unless the same device shall be so  
4 designed, deflected, or arranged that produce a beam of reflected light  
5 ~~therefrom~~ that, when measured 75 feet or more ahead of the lamps, shall not  
6 rise more than six inches above the height of the bulb in ~~such~~ the lamp and in  
7 no event more than 42 inches from the level surface on which the vehicle  
8 stands under all conditions of load. When vehicles are approaching each other  
9 from opposite directions, spotlights shall not be used except when projecting  
10 their rays directly on the ground and at a distance not exceeding 30 feet in  
11 front of the vehicle.

12 Sec. 292. 23 V.S.A. § 1258 is amended to read:

13 § 1258. CHILD RESTRAINT SYSTEMS; ~~PERSONS~~ INDIVIDUALS

14 UNDER 18 YEARS OF AGE ~~18~~

15 (a) No ~~person~~ individual shall operate a motor vehicle, other than a type I  
16 school bus, in this State upon a public highway unless every occupant under  
17 18 years of age ~~18~~ is properly restrained in a federally approved child  
18 passenger restraining system as defined in 49 C.F.R. § 571.213, as may be  
19 amended, or a federally approved safety belt, as follows:

20 \* \* \*

1 Sec. 293. 23 V.S.A. § 1281 is amended to read:

2 § 1281. ADDITIONAL EQUIPMENT

3 In addition to other equipment required by this title, any school bus as  
4 ~~described~~ defined in section 4 of this title shall be equipped as follows:

5 \* \* \*

6 (8) In addition to the foregoing, all motor vehicles in which the original  
7 seating equipment has been modified or added to must comply with the  
8 following:

9 \* \* \*

10 (B) A There must be a minimum of 36 inches of headroom for  
11 someone in a sitting position above the top of the undepressed cushion line of  
12 all the seats shall be provided.

13 (C) A There must be a minimum of 12 inches ~~shall be provided~~ from  
14 the top of the undepressed cushion line to the floor.

15 \* \* \*

16 Sec. 294. 23 V.S.A. § 1282(a) is amended to read:

17 (a) Before an individual may assume the duty of transporting school pupils  
18 in either a Type I or Type II school bus, ~~he or she~~ the individual shall as a  
19 minimum:

20 (1) For Type I, have a valid State of Vermont commercial ~~driver~~ driver's  
21 license with a passenger endorsement and a school bus driver's endorsement

1 or, for Type II, have a valid State of Vermont license with a school bus driver's  
2 endorsement or have a license from another jurisdiction valid for the class or  
3 type of vehicle to be driven.

4 \* \* \*

5 Sec. 295. 23 V.S.A. § 1396(c) is amended to read:

6 (c) Any decision of the Secretary made under this section may be appealed,  
7 in writing, to the Transportation Board within 30 days ~~of~~ after the Secretary's  
8 decision. The Transportation Board shall decide the question within 45 days  
9 ~~of~~ after receipt of the appeal and may take evidence or testimony. Except as  
10 otherwise provided, the designated legal load limit for the highway or bridge  
11 shall not be less than 20,000 pounds for a single traction engine, tractor, trailer,  
12 motor truck, or other motor vehicle for the State system or any class 1 or 2  
13 town highway nor less than 16,000 pounds for any other town highway.

14 Sec. 296. 23 V.S.A. § 1400(a) is amended to read:

15 (a) A person ~~or corporation~~ owning or operating a traction engine, tractor,  
16 trailer, motor truck, or other motor vehicle that desires to operate it over State  
17 highways or class 1 town highways in excess of the weight and size limits  
18 provided by this subchapter shall apply to the Commissioner for a permit. In  
19 ~~his or her~~ the Commissioner's discretion, with or without hearing, the  
20 Commissioner may issue to the person ~~or corporation~~ a permit authorizing the  
21 person to operate the traction engine, tractor, trailer, motor truck, or other

1 motor vehicle upon State highways and class 1 town highways as ~~he or she~~ the  
2 Commissioner may designate and containing the regulation subject to which  
3 the traction engine, tractor, trailer, motor truck, or other motor vehicle is to be  
4 operated. The permit shall not be granted until satisfactory proof is furnished  
5 to the Commissioner that the traction engine, tractor, trailer, motor truck, or  
6 other motor vehicle has been registered and the prescribed fee paid for a gross  
7 weight equal to a maximum legal load limit for its class. No additional  
8 registration fee shall be payable to authorize the use of the traction engine,  
9 tractor, trailer, motor truck, or other motor vehicle in accordance with the  
10 terms of the permit. The approval may be withdrawn for cause, and may be  
11 withdrawn without cause any time after March 31 next following the date of  
12 issuance. When approval is withdrawn for cause or on March 31, the  
13 Commissioner shall ~~forthwith~~ immediately revoke the permit; when approval  
14 is withdrawn otherwise, ~~he or she~~ the Commissioner shall revoke the permit  
15 within one month after withdrawal.

16 Sec. 297. 23 V.S.A. § 1452(d) is amended to read:

17 (d) Any bindings used ~~hereunder~~ for securing loads of wood or wood  
18 products as required under this section shall have a capacity of at least 2,750  
19 pounds working load limit as rated by the manufacturer.

1 Sec. 298. 23 V.S.A. § 1749 is amended to read:

2 § 1749. PENALTY

3 (a) The penalty that may be voluntarily paid by any ~~person~~ individual  
4 violating any ordinance regulating metered parking in the town shall be \$1.00.  
5 For other violations involving parking, a penalty not to exceed \$5.00 for the  
6 first violation and not to exceed \$15.00 for the second or subsequent ~~offense~~  
7 violation within 30 days ~~of~~ after the penalty for a previous violation ~~shall be~~  
8 ~~paid~~ is due. Other violations of the ordinances of the town shall be punished  
9 in the manner prescribed by law.

10 (b) Notwithstanding subsection (a) of this section, ~~a person~~ an individual  
11 violating a parking ordinance for ~~persons~~ individuals with disabilities may be  
12 ~~fined~~ assessed a civil penalty of not more than \$25.00 for each ~~offense~~  
13 violation.

14 Sec. 299. 23 V.S.A. § 2023(a) and (b) are amended to read:

15 (a) If an owner transfers ~~his or her~~ the owner's interest in a vehicle, other  
16 than by the creation of a security interest, ~~he or she~~ the owner shall, at the time  
17 of delivery of the vehicle, execute an assignment and warranty of title to the  
18 transferee in the space provided ~~therefor~~ on the certificate or as the  
19 Commissioner prescribes, and of the odometer reading or hubometer reading  
20 or clock meter reading of the vehicle at the time of delivery in the space  
21 provided ~~therefor~~ on the certificate, and cause the certificate and assignment to

1 be mailed or delivered to the transferee or to the Commissioner. Where title to  
2 a vehicle is in the name of more than one person, the nature of the ownership  
3 must be indicated by one of the following on the certificate of title:

4 \* \* \*

5 (b) Upon request of the owner or transferee, a lienholder in possession of  
6 the certificate of title shall, unless the transfer was a breach of ~~his or her~~ the  
7 lienholder's security agreement, either deliver the certificate to the transferee  
8 for delivery to the Commissioner or, upon receipt of notice from the transferee  
9 of the owner's assignment, the transferee's application for a new certificate,  
10 and the required fee, mail or deliver the certificate, application, and fee to the  
11 Commissioner. The delivery of the certificate does not affect the rights of the  
12 lienholder under ~~his or her~~ the lienholder's security agreement. If a dealer  
13 accepts a vehicle with a preexisting security interest as part of the  
14 consideration for a sale or trade from the dealer, the dealer shall mail or  
15 otherwise tender payment to satisfy the security interest within five days of  
16 after the sale or trade.

17 Sec. 300. 23 V.S.A. § 2027(b) is amended to read:

18 (b) The Commissioner, upon receipt of an application for a new certificate  
19 of title by a transferee other than by voluntary transfer, with proof of the  
20 transfer, the required fee, and any other documents required by law, shall issue  
21 a new certificate of title in the name of the transferee as owner. If the

1 outstanding certificate of title is not delivered to ~~him or her~~ the Commissioner,  
2 the Commissioner shall ~~make demand therefor~~ the outstanding certificate of  
3 title from the holder thereof.

4 Sec. 301. 23 V.S.A. § 2043(1) is amended to read:

5 (1) The owner shall immediately execute the application, in the space  
6 provided ~~therefor~~ on the certificate of title or on a separate form the  
7 Commissioner prescribes, to name the lienholder on the certificate, showing  
8 the name and address of the lienholder and the date of ~~his or her~~ the  
9 lienholder's security agreement, and cause the certificate, the application, and  
10 the required fee to be delivered to the lienholder.

11 Sec. 302. 23 V.S.A. § 2045(b) is amended to read:

12 (b) Upon satisfaction of the security interest of a subordinate lienholder  
13 who does not possess the certificate of title, the subordinate lienholder shall,  
14 within 12 business days after a request for release of the security interest, fully  
15 execute a release in the form the Commissioner prescribes and deliver the  
16 release to the owner or the owner's designee. The lienholder in possession of  
17 the certificate of title shall either deliver the certificate to the owner or the  
18 owner's designee for delivery to the Commissioner or, if the lienholder in  
19 possession receives the release, mail or deliver it with the certificate to the  
20 Commissioner, who shall release the subordinate lienholder's rights on the  
21 certificate or issue a new certificate. A subordinate lienholder whose security



1 interest is fully satisfied but receives the certificate of title pursuant to  
2 subsection (a) of this section shall, within three business days ~~of~~ after its  
3 receipt, mail or deliver the title to the owner or the owner's designee.

4 Sec. 303. 23 V.S.A. § 2084(a) and (b) are amended to read:

5 (a) An enforcement officer, sheriff, or constable who learns of the theft of a  
6 vehicle not since recovered, or of the recovery of a vehicle whose theft or  
7 conversion ~~he or she~~ the enforcement officer, sheriff, or constable knows or  
8 has reason to believe has been reported to the Commissioner, shall ~~forthwith~~  
9 immediately report the theft or recovery to the Commissioner.

10 (b) An owner or a lienholder may report the theft of a vehicle, or its  
11 conversion if a crime, to the Commissioner, but the Commissioner may  
12 disregard the report of a conversion unless a warrant has been issued for the  
13 arrest of ~~a person~~ an individual charged with the conversion. ~~A person~~ An  
14 individual who has so reported the theft or conversion of a vehicle shall,  
15 ~~forthwith~~ immediately after learning of its recovery, report the recovery to the  
16 Commissioner.

17 Sec. 304. 23 V.S.A. § 2154(a)(1) and (2) are amended to read:

18 (1) If the abandoned motor vehicle is not identifiable by its registration  
19 plates or public vehicle identification number, and if no owner can be  
20 determined within 21 days ~~of~~ after the date of receipt of the abandoned motor

1 vehicle certification form, the Commissioner shall issue a certificate of  
2 abandoned motor vehicle with an appropriate title or salvage title.

3 (2) If the abandoned motor vehicle is identifiable by its registration  
4 plates or public vehicle identification number, the Department shall, within  
5 three business days ~~of~~ after receipt of the form for certification of abandoned  
6 motor vehicle, send notice to the last known registered owner and lienholder of  
7 the vehicle. The notice shall be sent by certified mail, return receipt requested,  
8 and shall advise the last known registered owner of the motor vehicle's  
9 location and a telephone number where additional information about the motor  
10 vehicle may be obtained. If the receipt is not returned to the Department  
11 within seven business days, the Commissioner shall, by first-class mail, send a  
12 second notice. Within 21 days ~~of~~ after sending the second notice, the last  
13 known registered owner or lienholder may reclaim and retrieve the motor  
14 vehicle by presenting to the Department satisfactory evidence of ownership  
15 and paying or arranging to pay any fees or charges authorized by section 2155  
16 of this title. If the last known registered owner or lienholder fails or refuses to  
17 reclaim the motor vehicle within 21 days ~~of~~ after the second mailing, the  
18 Commissioner shall issue a certificate of abandoned motor vehicle with  
19 appropriate title or salvage title.

1 Sec. 305. 23 V.S.A. § 3007(a) is amended to read:

2 (a) In addition to any other provision of law relating to registration of  
3 motor vehicles, or fees paid ~~therefor~~ for the registration of motor vehicles, a  
4 person owning or operating upon the highways of the State a motor truck that  
5 is registered in the State and uses fuel as defined in section 3002 of this title  
6 shall, for each motor truck to be so operated, apply to the Commissioner for a  
7 diesel fuel user's license, which shall be renewed at the time of renewal of the  
8 truck's registration. Application shall be made upon a form prescribed by the  
9 Commissioner and shall set forth ~~such~~ the information as the Commissioner  
10 may require. Applications filed at the time of the initial registration or  
11 renewal of a registration shall be accompanied by a \$6.50 annual license fee  
12 for each motor truck listed in the application, except that no fee shall be  
13 required for motor trucks with a gross weight of less than 26,001 pounds.

14 Sec. 306. 23 V.S.A. § 3011(c) and (d) are amended to read:

15 (c) If the liability upon a bond filed by a licensee with the Commissioner  
16 becomes discharged or reduced, whether by judgment rendered, payment  
17 made, or otherwise, or if in the opinion of the Commissioner any surety on a  
18 bond has become unsatisfactory or unacceptable, the Commissioner shall  
19 require the licensee to file a new bond with satisfactory sureties in the same  
20 amount and, upon failure to do so, the Commissioner shall ~~forthwith~~  
21 immediately revoke the license.

1 (d) If a licensee fails or refuses to increase the amount of a bond or file a  
2 bond as required by the Commissioner within 15 days after notice is mailed to  
3 ~~him or her, his or her~~ the licensee, then the licensee's license shall be revoked  
4 ~~forthwith~~ immediately.

5 Sec. 307. 23 V.S.A. § 3013(c) is amended to read:

6 (c) The Commissioner or ~~his or her~~ the Commissioner's agents may  
7 examine the books and records of any distributor, dealer, or user during the  
8 usual business hours of the day to verify the truth and accuracy of any  
9 statement, report, or return or to determine if the tax imposed by this chapter  
10 has been paid. If the books and records of a nonresident licensee are not  
11 available for examination in this State, the Commissioner may request ~~him or~~  
12 ~~her to~~ that the nonresident licensee furnish at ~~his or her~~ the Commissioner's  
13 office in Montpelier ~~such~~ the books and records ~~he or she~~ the Commissioner  
14 reasonably requires. If ~~such~~ the licensee shall be unable or unwilling to  
15 comply with the request, the Commissioner is authorized to charge ~~him or her~~  
16 the licensee a reasonable per diem fee and expenses for the auditor making  
17 ~~such~~ the examination out of state, which shall be payable within 30 days ~~of~~  
18 after the mailing of a bill by the Commissioner.

1 Sec. 308. 23 V.S.A. § 3015(4) is amended to read:

2 (4) All taxes, interest, user license fees, and penalties collected by the  
3 Department of Motor Vehicles under this chapter shall be ~~forthwith~~ paid  
4 immediately to the State Treasurer and credited to the Transportation Fund.

5 Sec. 309. 23 V.S.A. § 3016(a) is amended to read:

6 (a) If the Commissioner is not satisfied that the report filed or the amount  
7 of tax paid by a taxpayer is accurate, after investigating and finding such  
8 inaccuracy, ~~he or she~~ the Commissioner may make an additional assessment of  
9 taxes due from the taxpayer based upon ~~his or her~~ the Commissioner's  
10 investigation. In estimating the tax due from a licensed user, fuel consumption  
11 shall be computed at the rate of 10 miles per gallon for vehicles registered up  
12 to and including 10,000 pounds and at four miles per gallon for all vehicles  
13 registered over 10,000 pounds for any unreported Vermont mileage in excess  
14 of four percent of the operator's total Vermont mileage. Any tax assessed for  
15 mileage up to four percent of the operator's total Vermont mileage shall be  
16 assessed based on the operator's fuel consumption average for ~~his or her~~ the  
17 operator's entire fleet. A penalty equal to 10 percent and interest at the rate of  
18 one and one-half percent per month shall be payable on the additional  
19 assessment, with interest computed from the date the tax payment was due.  
20 The Commissioner shall give notice by mail to the taxpayer of the additional  
21 assessment, penalty, and interest and shall designate the error or reason for the

1 assessment. Payment shall be due within 30 days ~~of~~ after the date of mailing  
2 the notice. The Commissioner may, in ~~his or her~~ the Commissioner's  
3 discretion, waive all or any part of the penalty.

4 Sec. 310. 23 V.S.A. § 3017(b) is amended to read:

5 (b) In addition to the fee prescribed in subsection (a) of this section, any  
6 person who fails to pay any tax when due, except a tax assessed pursuant to  
7 sections 3016 and 3018 of this title, shall pay in addition to the tax interest  
8 calculated at one and one-half percent per month on the tax from the due date,  
9 until paid. In addition, if the taxpayer fails to pay the tax liability in full  
10 within 30 days, a penalty equal to five percent of the outstanding tax liability  
11 for each month or portion ~~thereof~~ of a month shall be paid; provided, however,  
12 that in no event shall the amount of the penalty imposed ~~hereunder~~ under this  
13 section exceed 25 percent of the tax liability unpaid on the prescribed date of  
14 payment. The Commissioner may remit all or any part of the penalty if ~~he or~~  
15 ~~she~~ the Commissioner is satisfied that the delay was excusable.

16 Sec. 311. 23 V.S.A. § 3018 is amended to read:

17 § 3018. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF  
18 TAX BY COMMISSIONER; PENALTY AND INTEREST

19 If any person neglects or refuses to file any report required by this chapter,  
20 the Commissioner shall make an estimate of the tax due, based upon  
21 information available to the Commissioner, for the period for which that

1 person failed to make the report and shall assess the tax due from the licensee,  
2 adding to the amount thus determined a penalty of 50 percent. In estimating  
3 the tax due from a licensed user, fuel consumption shall be computed at the  
4 rate of 10 miles per gallon for vehicles registered up to 10,000 pounds and  
5 four miles per gallon for those vehicles registered over 10,000 pounds. The  
6 assessment shall bear interest at the rate of one and one-half percent per month  
7 from the date the tax payment was due until paid. The Commissioner shall  
8 give the licensee notice by mail of the assessment and payment shall be due  
9 within 15 days ~~of~~ after the date of the mailing of the notice.

10 Sec. 312. 23 V.S.A. § 3024(b)(2) is amended to read:

11 (2) to violate any regulation issued by the Commissioner pursuant to the  
12 authority granted ~~hereunder~~ under this section; or

13 Sec. 313. 23 V.S.A. § 3105(b) is amended to read:

14 (b) The Commissioner or ~~his or her~~ the Commissioner's agents may  
15 examine the books and records of any distributor or dealer during the usual  
16 business hours of the day to verify the truth and accuracy of any statement,  
17 record, report, or return or to determine if the tax imposed by this chapter has  
18 been paid. If the books and records of a nonresident licensee are not available  
19 for examination in this State, the Commissioner may request ~~him or her to~~ that  
20 the nonresident licensee furnish at ~~his or her~~ the Commissioner's office in  
21 Montpelier ~~such~~ the books and records ~~he or she~~ the Commissioner reasonably

1 requires. If the licensee is unable or unwilling to comply with the request, the  
2 Commissioner is authorized to charge ~~him or her~~ the licensee a reasonable per  
3 diem fee and expenses for the auditor making the examination out of state,  
4 which shall be payable within 30 days ~~of~~ after the mailing of a bill by the  
5 Commissioner.

6 Sec. 314. 23 V.S.A. § 3110(a) is amended to read:

7 (a) If the Commissioner is not satisfied that the report filed or the amount  
8 of tax paid by a distributor is accurate, after investigating and finding such  
9 inaccuracy, ~~he or she~~ the Commissioner may make an additional assessment of  
10 taxes due from the distributor based upon ~~his or her~~ the Commissioner's  
11 investigation. A penalty equal to 10 percent and interest at the rate of one and  
12 one-half percent per month shall be payable on the additional assessment, with  
13 interest computed from the date the tax payment was due. The Commissioner  
14 shall give notice by mail to the distributor of the additional assessment.

15 Payment shall be due within 30 days ~~of~~ after the date of mailing the notice.

16 Sec. 315. 23 V.S.A. § 3111 is amended to read:

17 § 3111. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF  
18 TAX BY COMMISSIONER; PENALTY AND INTEREST

19 If a distributor neglects or refuses to file any report required by this chapter,  
20 the Commissioner shall make an estimate of the tax due, based upon  
21 information available to the Commissioner, for the period for which the



1 distributor failed to make the report, and shall assess the tax due from the  
2 licensee, adding to the amount thus determined a penalty of 50 percent. The  
3 assessment shall bear interest at the rate of one and one-half percent per month  
4 from the date the tax payment was due until paid. The Commissioner shall  
5 give the licensee notice by mail of the assessment and payment shall be due  
6 within 15 days ~~of~~ after the date of the mailing of the notice.

7 Sec. 316. 23 V.S.A. § 3117(c) and (d) are amended to read:

8 (c) If the liability upon a bond filed by a licensee with the Commissioner  
9 becomes discharged or reduced, whether by judgment rendered, payment  
10 made, or otherwise, or if in the opinion of the Commissioner any surety on a  
11 bond has become unsatisfactory or unacceptable, the Commissioner shall  
12 require the licensee to file a new bond with satisfactory sureties in the same  
13 amount and, upon failure to do so, the Commissioner shall ~~forthwith~~  
14 immediately revoke the license.

15 (d) If a licensee fails or refuses to increase the amount of a bond or file a  
16 bond as required by the Commissioner within 15 days after notice mailed to  
17 ~~him or her, such~~ the licensee, then the license shall be revoked ~~forthwith~~  
18 immediately.

19 Sec. 317. 23 V.S.A. § 3219(a) is amended to read:

20 (a) The Commissioner may impose an administrative penalty of not more  
21 than \$250.00 against VAST or its agent for each violation of this subchapter or

1 the rules adopted ~~thereunder~~ under this subchapter. A penalty arising from a  
2 single violation may be assessed against VAST or its agent, as may be  
3 appropriate, but not against both.

4 Sec. 318. 23 V.S.A. § 3305(g) is amended to read:

5 (g) The owner shall notify the Commissioner of the transfer of any part of  
6 ~~his or her~~ the owner's interest other than the creation of a security interest in a  
7 motorboat numbered in this State under subsections (a) and (b) of this section  
8 or of the destruction or abandonment of the motorboat, within 15 days ~~of~~ after  
9 the transfer, destruction, or abandonment. The transfer, destruction, or  
10 abandonment shall end the certificate of number for the motorboat except that  
11 in the case of a transfer of a part interest which does not affect the owner's  
12 right to operate the motorboat, the transfer shall not end the certificate of  
13 number.

14 Sec. 319. 23 V.S.A. § 3703 is amended to read:

15 § 3703. TEMPORARY AUTHORIZATION

16 Any International Registration Plan registrant based in this State may apply  
17 by mail and be issued temporary authorization to operate a vehicle not in the  
18 registrant's fleet for a period not to exceed 45 days for a fee of \$15.00. Any  
19 person to whom temporary authorization is issued shall submit an application  
20 by mail for permanent registration for the vehicle covered by the temporary  
21 authorization within 10 days ~~of~~ after the date of its issuance. Failure to submit

1 an application within the 10-day period may result in the suspension of the  
2 temporary authorization. The temporary authorization shall be kept with the  
3 vehicle while being operated.

4 Sec. 320. 23 V.S.A. § 3705(b) is amended to read:

5 (b) The Commissioner shall mail notice of any fees due to the registrant,  
6 and payment of these fees must be received within 15 days ~~of~~ after the date of  
7 the notice.

8 Sec. 321. 23 V.S.A. § 3823(b) is amended to read:

9 (b) A security interest is perfected by the delivery to the Commissioner of  
10 the existing certificate of title, if any, an application for a certificate of title  
11 containing the name and address of the lienholder and the date of ~~his or her~~ the  
12 lienholder's security agreement, and the required fee. It is perfected as of the  
13 time of its creation if delivery is completed within 20 days ~~thereafter~~ after the  
14 time of its creation, otherwise as of the time of the delivery.

15 Sec. 322. 23 V.S.A. § 3823(c)(1) is amended to read:

16 (1) If the parties understood at the time the security interest attached  
17 that the vessel, snowmobile, or all-terrain vehicle would be kept in this State  
18 and it was brought into this State within 30 days ~~thereafter~~ after the time the  
19 security interest attached for purposes other than transportation through this  
20 State, the validity of the security interest in this State is determined by the law  
21 of this State.

1 Sec. 323. 23 V.S.A. § 3831 is amended to read:

2 § 3831. REPORT OF THEFT; RECOVERY OF UNCLAIMED VESSEL,  
3 SNOWMOBILE, OR ALL-TERRAIN VEHICLE

4 (a) An enforcement officer, sheriff, or constable who learns of the theft of a  
5 vessel, snowmobile, or all-terrain vehicle not since recovered, or of the  
6 recovery of a vessel, snowmobile, or all-terrain vehicle whose theft or  
7 conversion ~~he or she~~ the enforcement officer, sheriff, or constable knows or  
8 has reason to believe has been reported to the Commissioner, shall ~~forthwith~~  
9 immediately report the theft or recovery to the Commissioner.

10 (b) An owner or a lienholder may report the theft of a vessel, snowmobile,  
11 or all-terrain vehicle, or its conversion if a crime, to the Commissioner, but the  
12 Commissioner may disregard the report of a conversion unless a warrant has  
13 been issued for the arrest of ~~a person~~ an individual charged with the  
14 conversion. ~~A person~~ An individual who has reported the theft or conversion  
15 of a vessel, snowmobile, or all-terrain vehicle shall, ~~forthwith~~ immediately  
16 after learning of its recovery, report the recovery to the Commissioner.

17 (c) An operator of a place of business for garaging, repairing, parking, or  
18 storing vessels, snowmobiles, or all-terrain vehicles for the public, in which a  
19 vessel, snowmobile, or all-terrain vehicle remains unclaimed for a period of  
20 30 days, shall, within five days after the expiration of that period, report the  
21 vessel, snowmobile, or all-terrain vehicle as unclaimed, to the Commissioner.

1 A vessel, snowmobile, or all-terrain vehicle left by its owner whose name and  
2 address are known to the operator or ~~his or her~~ the operator's employee is not  
3 considered unclaimed. ~~A person~~ An individual who fails to report a vessel,  
4 snowmobile, or all-terrain vehicle as unclaimed in accordance with this  
5 subsection forfeits all claims and liens for its garaging, parking, or storing and  
6 shall be fined not more than \$25.00 for each day ~~his or her~~ the individual's  
7 failure to report continues.

8 Sec. 324. 23 V.S.A. § 4108(d)(2)(B) is amended to read:

9 (B) was exempted from the commercial ~~driver~~ driver's license  
10 requirements in 49 C.F.R. § 383.3(c); and

11 Sec. 325. 23 V.S.A. § 4110(b) is amended to read:

12 (b) When a licensee or permittee changes the licensee's or permittee's  
13 name, mailing address, or residence or in the case of the loss, mutilation, or  
14 destruction of a license or permit, the licensee or permittee shall ~~forthwith~~  
15 immediately notify the Commissioner and apply in person for a duplicate  
16 license or permit in the same manner as set forth in subsection (a) of this  
17 section. The fee for a duplicate license or permit shall be \$18.00.

18 \* \* \* Title 24 \* \* \*

19 Sec. 326. 24 V.S.A. § 2792 is amended to read:

20 § 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

21 \* \* \*

1 (b) ~~[Repealed.]~~

2 (e) The State Board shall elect a chair and vice chair from among its  
3 membership.

4 ~~(d)~~(c) The Department shall provide staff and administrative support to the  
5 State Board, shall produce guidelines to direct municipalities seeking to obtain  
6 designation under this chapter, and shall pay per diem compensation for board  
7 members pursuant to 32 V.S.A. § 1010(b).

8 (e) ~~[Repealed.]~~

9 (f) ~~[Repealed.]~~

10 Sec. 327. 24 V.S.A. § 2793e(d) is amended to read:

11 (d) Designation process. ~~Upon~~ At the first meeting of the State Board held  
12 after 45 days ~~of~~ after receipt of a completed application, for designation of a  
13 neighborhood development area, the State Board, after opportunity for public  
14 comment, shall approve a neighborhood development area if the Board  
15 determines that the applicant has met the requirements of this section.

16 Sec. 328. 24 V.S.A. § 4303(8)(F)(i) is amended to read:

17 (i) Any project or improvement of a structure to comply with  
18 existing State or local health, sanitary, or safety code specifications that are  
19 solely necessary to ~~assure~~ ensure safe living conditions.

1 Sec. 329. 24 V.S.A. § 4442(d) is amended to read:

2 (d) Petition for popular vote. Notwithstanding ~~subdivision~~ subsection  
3 (c)(1) of this section, a vote by the legislative body on a bylaw, amendment, or  
4 repeal shall not take effect if five percent of the voters of the municipality  
5 petition for a meeting of the municipality to consider the bylaw, amendment,  
6 or repeal, and the petition is filed within 20 days of the vote. In that case, a  
7 meeting of the municipality shall be duly warned for the purpose of acting by  
8 Australian ballot upon the bylaw, amendment, or repeal.

9 \* \* \* Title 26 \* \* \*

10 Sec. 330. 26 V.S.A. § 376(c) is amended to read:

11 (c) After giving an opportunity for a hearing, the Board shall take  
12 disciplinary action described in subsection ~~1361(b)~~ 1374(b) of this title against  
13 a podiatrist or applicant found guilty of unprofessional conduct.

14 Sec. 331. 26 V.S.A. § 1836(b) is amended to read:

15 (b) The Director may adopt rules necessary for the protection of the public  
16 to ~~assure~~ ensure that an applicant whose license has lapsed or who has not  
17 worked for more than three years as an osteopathic physician is professionally  
18 qualified for license renewal. Conditions imposed under this subsection shall  
19 be in addition to the requirements of subsection (a) of this section.





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(b) Each contract awarded under this section for any State project with a construction cost exceeding \$100,000.00, a construction project with a construction cost exceeding \$200,000.00 that is authorized and at least 50 percent funded by a capital construction act pursuant to 32 V.S.A. § 701a, or a construction project with a construction cost exceeding \$200,000.00 that is at least 50 percent funded by the Cash Fund for Capital Infrastructure and Other Essential Investments established in 32 V.S.A. § ~~1001~~ 1001b shall provide that all construction employees working on the project shall be paid not less than the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey. As used in this section, “fringe benefits” means benefits, including paid vacations and holidays, sick leave, employer contributions and reimbursements to health insurance and retirement benefits, and similar benefits that are incidents of employment.

\* \* \*

Sec. 335. 29 V.S.A. § 182(4) is amended to read:

(4) “Plan” means ~~but shall not be limited to~~ all overall designs, including blueprints of floor plans, site plans, elevation drawings, and front left and right and detailed perspectives.



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\* \* \*

Sec. 337. 30 V.S.A. § 8(f) is amended to read:

(f) Notwithstanding subsection (c) of this section, the Chair may appoint a hearing officer to hear and finally determine any consumer complaint where the amount in controversy does not exceed \$2,000.00. Upon petition of a party, filed within 30 days of following the issuance of the hearing officer’s decision and order, or on its own motion, the Commission may determine that the hearing officer’s decision and order should be treated as a proposal for decision and order as provided in subsection (c) of this section. The Commission may grant ~~such~~ a request for good cause, including apparent error of fact, or procedural or substantive law, and may conduct additional evidentiary hearings or hear oral argument from the parties. If ~~such~~ the request is not timely made, or is not granted by the Commission, the decision and order of the hearing officer shall become the final decision and order of the Commission.

Sec. 338. 30 V.S.A. § 11 is amended to read:

§ 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF  
FACT

(a)(1) The forms, pleadings, and rules of practice and procedure before the Commission shall be prescribed by it.

\* \* \*



1 of a notice of appeal, as provided ~~herein~~, shall operate as a stay of enforcement  
2 of an order of the Commission unless the Commission or the Supreme Court  
3 grants a stay under the provisions of section 14 of this title chapter.

4 Sec. 340. 30 V.S.A. § 17 is amended to read:

5 § 17. FEES OF WITNESSES; DUTIES OF CLERK

6 The fees of witnesses before the Commission shall be the same as in the  
7 Superior Court. In all causes ~~in~~ on behalf of or for the convenience or safety  
8 of the public, and in the investigation of accidents, the fees of witnesses and  
9 the expense of summoning them shall be paid by the clerk of the Commission.

10 From time to time, the clerk shall make requisition on the Commissioner of  
11 Finance and Management for money to pay ~~such~~ the fees and expenses, and  
12 the Commissioner of Finance and Management shall issue warrants ~~therefor~~  
13 for them. The clerk shall quarterly, on February, May, August, and November  
14 1, render to the Commissioner of Finance and Management an account of ~~his~~  
15 ~~or her~~ receipts and disbursements under this section, and pay any unexpended  
16 balance into the State Treasury.

17 Sec. 341. 30 V.S.A. § 20(b) is amended to read:

18 (b) Proceedings, including appeals ~~therefrom~~, for which additional  
19 personnel may be retained are:

20 \* \* \*

1 Sec. 342. 30 V.S.A. § 21 is amended to read:

2 § 21. PARTICULAR PROCEEDINGS AND ACTIVITIES; ASSESSMENT  
3 OF COSTS

4 (a) An agency may allocate the portion of the expense incurred or  
5 authorized by it in retaining additional personnel pursuant to section 20 of this  
6 ~~title chapter~~ to the applicant or the company or companies involved. As used  
7 in this section, “agency” means an agency, board, commission, or department  
8 of the State enabled to authorize or retain personnel under section 20 of this  
9 ~~title chapter~~.

10 (1) The Commission shall upon petition of an applicant or company to  
11 which costs are proposed to be allocated, review and determine, after  
12 opportunity for hearing, having due regard for the size and complexity of the  
13 project, the necessity and reasonableness of ~~such~~ the costs, and may amend or  
14 revise ~~such~~ the allocations. Nothing in this section shall confer authority on  
15 the Commission to select or decide the personnel, the expenses of whom are  
16 being allocated, unless such personnel are retained by the Commission. Prior  
17 to allocating costs, the Commission shall make a determination of the purpose  
18 and use of the funds to be raised ~~hereunder~~, identify the recipient of the funds,  
19 provide for allocation of costs among companies to be assessed, indicate an  
20 estimated duration of the retention of personnel whose costs are being  
21 allocated, and estimate the total costs to be imposed. With the approval of the

1 Commission, ~~such~~ the estimates may be revised as necessary. From time to  
2 time during the progress of the work of ~~such~~ the additional personnel, the  
3 agency retaining the personnel shall render to the company detailed statements  
4 showing the amount of money expended or contracted for in the work of ~~such~~  
5 the personnel, which statements shall be paid by the applicant or the company  
6 into the State Treasury at ~~such~~ the time and in ~~such~~ the manner as the agency  
7 may reasonably direct.

8 \* \* \*

9 Sec. 343. 30 V.S.A. § 22(a) is amended to read:

10 (a) For the purpose of maintaining the Department of Public Service and  
11 Public Utility Commission, including expenses related to maintaining an  
12 adequate engineering, legal, and administrative force in the Department of  
13 Public Service and paying all the incidental expenses ~~incident~~ thereof,  
14 including rents, each person, partnership, association, or private or municipal  
15 corporation conducting a business subject to the supervision of the Department  
16 of Public Service and Public Utility Commission, including electric  
17 cooperatives, shall pay into the State Treasury on or before April 15 annually,  
18 in addition to the taxes now required by law to be paid, a tax, at the rate  
19 ~~hereinafter~~ named, according to the nature of the public service business  
20 engaged in by such person, partnership, association, or private or municipal  
21 corporation, based on the gross operating revenue received by such person,

1 partnership, association, or private or municipal corporation in the conduct of  
2 such business in the State during the year next preceding, as shown by the  
3 annual report filed on or before such date with the Department of Public  
4 Service on the form prescribed by it and containing such information as may  
5 be necessary to enable the Department to determine the amount of the tax  
6 payable.

7 Sec. 344. 30 V.S.A. § 23 is amended to read:

8 § 23. PUBLIC SERVICE RESERVE FUND

9 There is hereby created a fund to be known as the Public Service Reserve  
10 Fund for the purpose of providing the financial means for the Public Utility  
11 Commission and the Department of Public Service to employ legal counsel,  
12 official stenographers, and disinterested competent persons to examine into  
13 and testify in any matter involved in a hearing under sections 218, 225, 226,  
14 and 227 of this title other than the hearings referred to in sections 20 and 21 of  
15 this ~~title~~ chapter. Payments into the Public Service Reserve Fund shall be  
16 made as follows: All electric distribution companies, cooperative, municipal,  
17 and privately owned, which have been allocated a share of St. Lawrence power  
18 by the Department, shall pay into the State Treasury for such reserve on or  
19 before September 15, 1961 and September 15, 1962, in addition to the taxes  
20 now required by law to be paid, a tax to produce a total of \$37,500.00 in the  
21 aggregate for each such payment to be paid by each such company in



1 proportion to its purchase of St. Lawrence power, during the calendar years  
2 1959 and 1960. Thereafter, on June 30 of each year, there shall be deducted  
3 from the balance in the special fund for the maintenance of the Department's  
4 engineering and accounting force and personnel employed by the Commission  
5 the tax revenues payable under section 22 of this ~~title~~ chapter in that year, and  
6 the balance thus determined shall be transferred from the special fund for the  
7 maintenance of the engineering and accounting force to the Public Service  
8 Reserve Fund; provided, however, that, if at June 30 of any year the balance in  
9 ~~such~~ the public service reserve fund shall be in excess of \$100,000.00, the  
10 amount of ~~such~~ excess shall ~~forthwith~~ immediately be transferred to the  
11 General Fund.

12 Sec. 345. 30 V.S.A. § 25 is amended to read:

13 § 25. ASSESSMENT

14 When the Department of Public Service discovers from the examination of  
15 the return or otherwise that the revenue of any company, or any portion ~~thereof~~  
16 of it, has not been assessed, it may at any time within two years after the time  
17 when the return was due, assess the same and give notice to the company of  
18 ~~such~~ the assessment, and within 30 days ~~such~~ the company shall ~~thereupon~~  
19 have an opportunity to confer with the Department as to the proposed  
20 assessment. The limitation of two years to the assessment of ~~such~~ the tax or  
21 additional tax shall not apply to the assessment of additional taxes upon

1 fraudulent returns. After the expiration of 30 days ~~from such~~ following the  
2 notification, the Department shall reassess the revenue of ~~such~~ the company or  
3 any portion ~~thereof which~~ of it that it finds has not ~~theretofore~~ been assessed  
4 and shall give notice to the company so reassessed, of the amount of the tax  
5 and interest and penalties, if any, and the amount ~~thereof~~ shall be due and  
6 payable within 10 days ~~from~~ following the date of ~~such~~ notice. No additional  
7 tax amounting to less than \$1.00 shall be assessed.

8 Sec. 346. 30 V.S.A. § 27 is amended to read:

9 § 27. REVIEW

10 The assessment by the Commission or Department of Public Service of any  
11 tax or penalty under the provisions of sections 20–25 of this ~~title~~ chapter may  
12 be appealed to the Washington Superior Court. The appeal shall be filed  
13 within 90 days after the receipt by the company or its agent of written notice  
14 by the Commission or Department of its assessment. ~~Thereupon, appropriate~~  
15 Appropriate proceedings shall be ~~had~~ held and the relief, if any, to which the  
16 company may be found entitled may be granted and any taxes, interest, or  
17 penalties paid, and found by the Court to be illegally assessed, shall be ordered  
18 refunded to the company with interest at six percent per annum from the time  
19 of payment, with costs, and judgment entered accordingly.

1 Sec. 347. 30 V.S.A. § 30(h) is amended to read:

2 (h) In accordance with the process set forth in this subsection, the  
3 Department may issue an administrative citation to a person the Department  
4 believes after investigation violated section 246, 248, 248a, or 8010 of this  
5 title, any rule adopted pursuant to those sections, or any certificate of public  
6 good issued pursuant to those sections.

7 \* \* \*

8 (2) The Department shall initiate the process by issuing a draft  
9 administrative citation to the person and sending a copy to each municipality  
10 in which the person's facility is located, each adjoining property owner to the  
11 facility, the complainant if any, and, for alleged violations of the facility's  
12 certificate of public good, each party to the proceeding in which the certificate  
13 was issued.

14 \* \* \*

15 (ii) Within 15 days of following the close of the comment period,  
16 may file a revised draft citation with the Commission. The revised draft  
17 citation may be accompanied by a stipulation or agreed settlement between the  
18 person and the Department with a request for Commission approval.

19 (D) The Commission may on its own initiative open a proceeding to  
20 investigate the violation alleged in the draft citation. The Commission shall  
21 take any such action within 25 days of following the close of the public

1 comment period, or the filing of a revised draft citation, whichever is later.

2 ~~Such a~~ The Commission proceeding shall supersede the draft citation.

3 (3) If the Commission has not opened a proceeding pursuant to  
4 subdivision (2)(D) of this subsection, the Department may issue a final  
5 administrative citation to the person. Within 30 days of following receipt of a  
6 final administrative citation, the person shall respond in one of the following  
7 ways:

8 \* \* \*

9 Sec. 348. 30 V.S.A. § 32 is amended to read:

10 § 32. INJUNCTION PROCEEDINGS

11 Whenever the Department of Public Service is of the opinion that a  
12 company subject to its supervision is failing or omitting or is about to fail or  
13 omit to do anything required of it by law or by order of the Commission or is  
14 doing anything or permitting anything or is about to do anything or to permit  
15 anything to be done contrary to or in violation of law or of any order of the  
16 Commission, the Department of Public Service may commence an action or  
17 proceeding in the Superior Court for the purpose of having ~~such~~ the violations  
18 or threatened violations stopped and prevented by injunction. ~~Such~~ An action  
19 or proceeding shall begin by a petition alleging the violation complained of  
20 and praying for appropriate relief by way of injunction. It shall ~~thereupon~~ be  
21 the duty of the court to specify the time, not exceeding 21 days after service of

1 a copy of the petition, within which the company complained of must answer  
2 the petition, and the court may grant a temporary injunction in accordance  
3 with the laws of the State and rules in ~~such~~ the case made and provided. The  
4 obtaining of a temporary injunction shall constitute a waiver by the State of its  
5 sovereign immunity to pay the person enjoined damages as ~~such~~ the person  
6 may sustain by reason for ~~such~~ the injunction if the court shall eventually  
7 decide that the State was not equitably entitled ~~thereto~~ to it and the State shall  
8 be liable to pay to the person enjoined ~~such~~ the sums as would be payable by  
9 any other person in the premises. In case of default in answer, or after answer,  
10 the court shall immediately inquire into the facts and circumstances in ~~such~~ the  
11 manner as the court directs without other or formal pleadings and without  
12 respect to any technical requirement. ~~Such other~~ Other persons or  
13 corporations as it shall seem to the court necessary or proper to join as parties  
14 in order to make its order, judgment, or writs effective may be joined as parties  
15 upon application of counsel to the Department. The final judgment in any  
16 ~~such~~ action or proceeding shall either dismiss the action or proceeding or  
17 direct that an injunction be issued as prayed for in the petition or in such  
18 modified form as the court may determine will afford appropriate relief.

1 Sec. 349. 30 V.S.A. § 51 is amended to read:

2 § 51. RESIDENTIAL BUILDING ENERGY STANDARDS; STRETCH  
3 CODE

4 \* \* \*

5 (f) Certification.

6 (1) Issuance; recording. A certification may be issued by a builder, a  
7 licensed professional engineer, a licensed architect, or an accredited home  
8 energy rating organization. If certification is not issued by a licensed  
9 professional engineer, a licensed architect, or an accredited home energy rating  
10 organization, it shall be issued by the builder. Any certification shall certify  
11 that residential construction meets the RBES. The Department of Public  
12 Service will develop and make available to the public a certificate that lists key  
13 features of the RBES. Any person certifying shall use this certificate or one  
14 substantially like it to certify compliance with the RBES. Certification shall  
15 be issued by completing and signing a certificate and permanently affixing it to  
16 the outside of the heating or cooling equipment, to the electrical service panel  
17 located inside the building, or in a visible location in the vicinity of one of  
18 these three areas. The certificate shall certify that the residential building has  
19 been constructed in compliance with the requirements of the RBES. The  
20 person certifying under this subsection shall provide a copy of each certificate  
21 to the Department of Public Service and shall ~~assure~~ ensure that a certificate is

1 recorded and indexed in the town land records. A builder may contract with a  
2 licensed professional engineer, a licensed architect, or an accredited home  
3 energy rating organization to issue certification and to indemnify the builder  
4 from any liability to the owner of the residential construction caused by  
5 noncompliance with the RBES.

6 \* \* \*

7 (g) Action for damages.

8 (1) Except as otherwise provided in this subsection, a person aggrieved  
9 by noncompliance with this section may bring a civil action against a person  
10 who has the obligation of certifying compliance under subsection (e) of this  
11 section. ~~This action~~ The person may seek injunctive relief, damages, court  
12 costs, and attorney's fees. As used in this subdivision, "damages" means:

13 \* \* \*

14 Sec. 350. 30 V.S.A. § 53(e) is amended to read:

15 (e) Private right of action for damages against a certifier.

16 (1) Except as otherwise provided in this subsection, a person aggrieved  
17 by another person's breach of that other person's representations contained in  
18 a certification or supporting affidavit issued or received as provided under  
19 subsection (d) of this section, within 10 years after the earlier of completion of  
20 construction or occupancy of the affected commercial building or portion of  
21 that building, may bring a civil action in Superior Court against a person who

1 has an obligation of certifying compliance under subsection (d) of this section  
2 alleging breach of the representations contained in that person's certification.  
3 This action ~~The person~~ may seek injunctive relief, damages arising from the  
4 aggrieved party's reliance on the accuracy of those representations, court costs,  
5 and reasonable attorney's fees in an amount to be determined by the court. As  
6 used in this subdivision, "damages" includes costs incidental to increased  
7 energy consumption.

8 \* \* \*

9 Sec. 351. 30 V.S.A. § 102(c) is amended to read:

10 (c) For good cause, after an opportunity for hearing, the Commission may  
11 amend or revoke any certificate awarded under the provisions of this section.  
12 If any ~~such~~ certificate is revoked, the corporation shall no longer have  
13 authority to conduct any business that is subject to the jurisdiction of the  
14 Commission, whether or not regulation ~~thereunder~~ has been reduced or  
15 suspended under section 226a or 227a of this title.

16 Sec. 352. 30 V.S.A. § 106 is amended to read:

17 § 106. OWNERSHIP OF STOCK IN OTHER CORPORATIONS

18 When a corporation subject to the regulation of the Public Service  
19 Commission, prior to April 2, 1915, was authorized by its charter or otherwise  
20 to hold stock in another corporation, ~~such~~ the public service corporation may  
21 petition the Public Utility Commission for authority to increase the amount of



1 stock of ~~such~~ the other corporation ~~which~~ that may be owned by the  
2 petitioning corporation. If the Commission finds and adjudges that ~~such~~ an  
3 increase will promote the general good of the State, it may issue its certificate  
4 and order authorizing the same, and ~~thereupon~~ the charter or articles of  
5 incorporation shall be amended to conform to ~~such~~ the order.

6 Sec. 353. 30 V.S.A. § 107(e)(2) is amended to read:

7 (2) “Voting security” means any stock or security presently entitling the  
8 owner or holder ~~thereof~~ to vote in the direction or management of the affairs  
9 of a company or any security issued under or pursuant to any agreement, trust,  
10 or arrangement ~~whereby~~ where a trustee or trustees or agent or agents for the  
11 owner or holder of ~~such~~ a security are presently entitled to vote in the direction  
12 or management of the affairs of a company.

13 Sec. 354. 30 V.S.A. § 108(c) is amended to read:

14 (c)(1) A municipality shall not issue bonds or notes or pledge its net  
15 revenues under 24 V.S.A. chapter 53, respecting the ownership or operation of  
16 a gas or electric utility, unless the Public Utility Commission first finds, upon  
17 petition of the municipality and after notice and an opportunity for hearing,  
18 that the proposed action will be consistent with the general good of the State.

19 (2) If the Public Utility Commission does not issue its ruling within  
20 90 days of following the filing of the petition, as may be extended by consent  
21 of the municipality, the issuance of the proposed bonds or notes or pledge of

1 net revenues shall be deemed to be consistent with the general good of the  
2 State.

3 \* \* \*

4 Sec. 355. 30 V.S.A. § 110 is amended to read:

5 § 110. EMINENT DOMAIN; COMPANIES AUTHORIZED

6 When it is necessary for a corporation formed under this chapter or a  
7 foreign corporation under the jurisdiction of the Public Utility Commission to  
8 acquire property within this State, or some easement or other limited right in  
9 ~~such~~ property in order that it may render adequate service to the public in the  
10 conduct of its business, it may condemn ~~such~~ property or right, as provided in  
11 sections 111–124 of this ~~title~~ chapter. All other companies, as defined in  
12 sections 201 and 501 of this title, which are within the scope of sections 203  
13 and 501 of this title, shall have the same power of condemnation and be  
14 subject to the same procedure as ~~hereinafter~~ provided for condemnation by  
15 corporations subject to the jurisdiction of the Public Utility Commission.

16 Sec. 356. 30 V.S.A. § 112(a) is amended to read:

17 (a) When the Commission finds:

18 (1) ~~In~~ in the case of dams, that a certificate of public good authorizing  
19 the project as ~~herein~~ required, or a license from the Federal Power  
20 Commission has been granted; ~~and~~

1           (2) ~~That~~ that the condemnation of ~~such~~ property or right is necessary in  
2 order that the petitioner may render adequate service to the public in the  
3 conduct of the business which it is authorized to conduct, and in conducting  
4 which it will, according to the laws of this State, be under an obligation to  
5 serve the public on reasonable terms, and pursuant to the ~~regulations~~ rules of  
6 the Commission;

7           (3) ~~That~~ that the condemnation of the property or right will not unduly  
8 interfere with the orderly development of the region and scenic preservation;  
9 and

10           (4) ~~That~~ that the condemnation of ~~such~~ property or right is sought in  
11 order that the petitioner may render adequate service to the public in the  
12 conduct of such business, the Commission shall adjudge the petitioner entitled  
13 to condemn ~~such~~ property or right, shall assess the compensation to be paid  
14 ~~therefor~~, and shall determine the time and manner of such payment.

15 Sec. 357. 30 V.S.A. § 113 is amended to read:

16 § 113. COMPENSATION; WHERE PARTY CANNOT BE FOUND

17           When a person to whom ~~such~~ compensation ~~or any part thereof~~ is due  
18 cannot be found, ~~or~~ is under any legal disability, or is out of this State, the  
19 Commission may order ~~such~~ the compensation ~~or part thereof~~ to be deposited  
20 with the county clerk of the county ~~wherein~~ where the hearing was held. ~~Such~~

1     The money shall be invested and paid out according to orders made by a  
2     Superior judge.

3     Sec. 358. 30 V.S.A. § 123 is amended to read:

4     § 123. EXPENSE

5         The entire expense of whatever land may be necessary for the reinterment  
6     of ~~such~~ remains and the cost of removal and reerection of headstones or  
7     monuments shall be paid by the corporation acquiring ~~such~~ the burial ground  
8     and the easement ~~therein~~.

9     Sec. 359. 30 V.S.A. § 126 is amended to read:

10    § 126. SAVING CLAUSE; CORPORATIONS FORMED BEFORE APRIL 2,  
11         1915

12         All corporations formed prior to April 2, 1915, by special act or under the  
13     general laws of this State, that are conducting any business subject to  
14     regulation by the Public Utility Commission, shall, with respect to acts done  
15     after ~~such~~ that date, be deemed to be within the provisions of this chapter and  
16     the provisions of the general corporation law in like manner as a corporation  
17     formed under this chapter. However, a corporation ~~theretofore~~ formed shall  
18     not do any act in violation of any restriction contained in its charter. ~~The~~  
19     ~~foregoing provisions of this section shall be subject to the exceptions and~~  
20     ~~qualifications contained in 11 V.S.A. §§ 2 and 3, so far as the same may be~~  
21     ~~applicable to corporations formed under the provisions of this chapter.~~

1 Sec. 360. 30 V.S.A. § 127 is amended to read:

2 § 127. UTILITY POLES IN EASEMENTS ACROSS PRIVATE PROPERTY

3 (a) Utility easements and State rules regarding utility rights of way and  
4 pole attachments shall include, as an authorized utility use, the installation of  
5 fiber-optic cable for purposes of providing broadband service to the public or  
6 for providing utility network management and monitoring, or both. ~~Such~~ The  
7 use of the utility easement and right of way is generally of the type  
8 contemplated in utility easements, does not materially burden the landowner  
9 beyond what was intended in the conveyance or condemnation, serves the  
10 public good, and facilitates the construction of broadband networks as  
11 ~~contemplated in this act.~~

12 (b) This section shall apply to all utility easements and State rules in effect  
13 on or after ~~the effective date of this act~~ June 8, 2021. This section shall not  
14 apply to an easement that contains an express prohibition on the installation  
15 and operation of fiber-optic cable.

16 Sec. 361. 30 V.S.A. § 202(i) is amended to read:

17 (i) It shall be a goal of the Electrical Energy Plan to ~~assure~~ ensure, by  
18 2028, that at least 60 MW of power are generated within the State by  
19 combined heat and power (CHP) facilities powered by renewable fuels as  
20 defined in section 8002 of this title. In order to meet this goal, the Plan shall  
21 include incentives for development and strategies to identify locations in the

1 State that would be suitable for CHP. The Plan shall include strategies to  
2 ~~assure~~ ensure the consideration of CHP potential during any process related to  
3 the expansion of natural gas services in the State.

4 Sec. 362. 30 V.S.A. § 202e is amended to read:

5 § 202e. TELECOMMUNICATIONS AND CONNECTIVITY

6 \* \* \*

7 (c)(1) The Director may request from telecommunications service  
8 providers voluntary disclosure of information regarding deployment of  
9 broadband, telecommunications facilities, or advanced metering infrastructure  
10 that is not publicly funded. ~~Such~~ The information may include data  
11 identifying projected coverage areas, projected average speed of service,  
12 service type, and the anticipated date of completion in addition to identifying  
13 the location and routes of proposed cables, wires, and telecommunications  
14 facilities.

15 (2) The Director may enter into a nondisclosure agreement with respect  
16 to any voluntary disclosures under this subsection, and the information  
17 disclosed ~~pursuant thereto~~ shall remain confidential. Alternatively, entities  
18 that voluntarily provide information requested under this subsection may select  
19 a third party to be the recipient of ~~such~~ the information. The third party may  
20 aggregate information provided by the entities, but shall not disclose provider-  
21 specific information it has received under this subsection to any person,

1 including the Director. The third party shall only disclose the aggregated  
2 information to the Director. The Director may publicly disclose aggregated  
3 information based upon the information provided under this subsection. The  
4 confidentiality requirements of this subsection shall not affect whether  
5 information provided to any agency of the State or a political subdivision of  
6 the State pursuant to other laws is or is not subject to disclosure.

7 \* \* \*

8 Sec. 363. 30 V.S.A. § 203 is amended to read:

9 § 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES

10 The Public Utility Commission and the Department of Public Service shall  
11 have jurisdiction over the following described companies within the State,  
12 their directors, receivers, trustees, lessees, or other persons or companies  
13 owning or operating ~~such~~ the companies and of all plants, lines, exchanges,  
14 and equipment of ~~such~~ the companies used in or about the business carried on  
15 by them in this State as covered and included ~~herein~~ in this chapter. ~~Such~~ This  
16 jurisdiction shall be exercised by the Commission and the Department so far as  
17 may be necessary to enable them to perform the duties and exercise the powers  
18 conferred upon them by law. The Commission and the Department may, when  
19 they deem the public good requires, examine the plants, equipment, lines,  
20 exchanges, stations, and property of the companies subject to their jurisdiction  
21 under this chapter.

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\* \* \*

Sec. 364. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

\* \* \*

(b) Required rules. ~~The~~ Notwithstanding the provisions of section 218 of this title ~~notwithstanding chapter~~, the Public Utility Commission shall, under ~~3 V.S.A. §§ 803-804~~ 3 V.S.A. chapter 25, adopt rules applicable to companies subject to this chapter that:

\* \* \*

(3) regulate and prescribe reasonable procedures used by companies in disconnecting or reconnecting services and billing customers ~~in regard~~ thereto.

\* \* \*

(i) Pole attachments; broadband.

\* \* \*

(2) The rules adopted pursuant to this subsection shall specify that:

\* \* \*

(C) If the make-ready work is not completed within the applicable make-ready completion period, the pole owner, within 30 days ~~of~~ following the expiration of the make-ready completion period, shall refund the portion of the payment received for make-ready work that is not yet completed, and the



1 attaching entity may hire a qualified contractor to complete the make-ready  
2 work. All pole owners and attaching entities shall submit to the Commission a  
3 list of contractors whom they allow to perform make-ready surveys, make-  
4 ready installation or maintenance, or other specified tasks upon their  
5 equipment. The Commission shall provide the appropriate list to an attaching  
6 entity, upon request.

7 \* \* \*

8 Sec. 365. 30 V.S.A. § 209a(n) is amended to read:

9 (n) Report to ~~Legislature~~ General Assembly. Upon approval of a cost  
10 mitigation order, the Commission shall submit a report to the ~~Legislature~~  
11 General Assembly containing the order and detailed information on the  
12 findings of the Commission, including the risks, savings, and costs likely to  
13 result from the buydowns and other appropriate modifications of purchase  
14 power arrangements contained in the order.

15 Sec. 366. 30 V.S.A. § 210 is amended to read:

16 § 210. ELECTRIC COMPANIES; INTERCONNECTION FACILITIES

17 (a) The Public Utility Commission shall have jurisdiction to order electric  
18 companies subject to its supervision to build or rebuild electric transmission  
19 lines in order to provide adequate interconnection between the transmission  
20 systems of the State. The Commission shall have power to exercise ~~the~~ this  
21 jurisdiction ~~herein conferred~~ only after due notice to all interested parties and

1 opportunity for hearing and after making findings based upon adequate  
2 evidence that the ordered construction:

3 (1) is necessary in the interests of consumers of electrical energy;

4 (2) is not detrimental to the interests of the investors of the company

5 ordered to build or rebuild; and

6 (3) will serve the public good.

7 (b) The Commission may allocate the cost of building or rebuilding  
8 between the companies whose facilities are to be interconnected, providing  
9 that the findings ~~herein~~ referred to are made as to each company affected by  
10 ~~such~~ the allocation.

11 Sec. 367. 30 V.S.A. § 212c(b) is amended to read:

12 (b) The Commission shall make its final determination under this  
13 subsection within six months after a filing by the Department. The  
14 Department's rate filings and any adjustments or exceptions ~~thereto~~ to them  
15 shall be consistent with the procedures set forth in sections 225, 226, 227, 228,  
16 and 229 of this ~~title~~ chapter, where applicable.

17 Sec. 368. 30 V.S.A. § 212d is amended to read:

18 § 212d. ACCESS; NEGOTIATIONS; COMMISSION ORDER

19 (a) Upon a finding by the Commission that the retail sale will promote the  
20 general good of the State under section 212c of this ~~title~~ subchapter, Vermont  
21 electric utility companies shall enter into negotiations for contracts with the

1 Department that are necessary for sale and distribution, including lease of  
2 facilities, provision of services to the Department to distribute electric energy,  
3 and the assurance of adequate reliability. The rates, charges, terms, or other  
4 conditions of such contracts shall be established by negotiations or pursuant to  
5 subsection (b) of this section. No electric utility company with which the  
6 Department shares a service territory may unreasonably deny replacement  
7 power needed by the Department to assure ensure adequate reliability of  
8 service.

9 (b) If, pursuant to subsection (a) of this section, the Department and a  
10 company are unable to negotiate the rates, charges, terms, or other conditions  
11 of such ~~the~~ the contracts including the assurance of adequate reliability, either may  
12 petition the Public Utility Commission to establish the rates, terms, charges, or  
13 conditions ~~thereunder~~, or resolve any other related matter, as the Commission  
14 determines to be just and reasonable. The Commission shall establish rates or  
15 charges under this section to compensate or reimburse such company for all  
16 costs reasonably and necessarily incurred by it to provide such arrangements.  
17 The Commission shall offer an opportunity for commencing a hearing within  
18 45 days of following filing of the petition and shall make either a final  
19 decision or, if unable to do so, an interim decision within three months of  
20 filing of the petition. If, within three months of filing, the Commission is  
21 unable to reach a final decision on the petition, the Commission shall direct the

1 company to provide to the Department the necessary arrangements, including  
2 if necessary or appropriate, backup reliability, and access to facilities to allow  
3 the Department to distribute the electric energy involved in its proposal on an  
4 interim basis under such interim terms and conditions as the Commission finds  
5 to be reasonable pending a final Commission decision on the petition. The  
6 Commission shall render a final decision on the petition within six months  
7 ~~from~~ following the date it is filed.

8 Sec. 369. 30 V.S.A. § 218(a) is amended to read:

9 (a) When, after opportunity for hearing, the rates, tolls, charges, or  
10 schedules are found unjust, unreasonable, insufficient, or unjustly  
11 discriminatory, or are found to be preferential or otherwise in violation of a  
12 provision of this chapter, the Commission may order and substitute ~~therefor~~  
13 such rates, tolls, charges, or schedules, and make such changes in any  
14 ~~regulations~~ rules, measurements, practices, or acts of such company relating to  
15 its service, and may make such order as will compel the furnishing of such  
16 adequate service as shall at such hearing be found by it to be just and  
17 reasonable. This section shall not be construed to require the same rates, tolls,  
18 or charges from any company subject to supervision under this chapter for like  
19 service in different parts of the State, but the Commission in determining these  
20 questions shall investigate local conditions and its final findings and judgment  
21 shall take cognizance thereof. This section does not prohibit a

1 telecommunications company from filing tariffs that condition the availability  
2 of an intrastate service upon subscription to an interstate or unregulated service  
3 from the same or an affiliated company; provided that an incumbent local  
4 exchange carrier shall provide a plan to allocate reasonably revenue between  
5 the regulated intrastate service and other services. The Commission shall  
6 retain the authority to review the tariff filing to determine whether it is just and  
7 reasonable.

8 Sec. 370. 30 V.S.A. § 218d is amended to read:

9 § 218d. ALTERNATIVE REGULATION OF ELECTRIC AND NATURAL  
10 GAS COMPANIES

11 \* \* \*

12 (n)(1) Notwithstanding subsection (a) of this section and sections 218, 225,  
13 226, 227, and 229 of this ~~title~~ chapter, a municipal company formed under  
14 local charter or under chapter 79 of this title and an electric cooperative  
15 formed under chapter 81 of this title shall be authorized to change its rates for  
16 service to its customers if the rate change is:

17 (A) applied to all customers equally;

18 (B) not more than two percent during any twelve-month period;

19 (C) cumulatively not more than 10 percent from the rates last

20 approved by the Commission; and



1 Public Service, and the Commission at least 45 days prior to offering the  
2 innovative rate or service to its customers. Included with the submission shall  
3 be the terms and conditions of service. Unless an objection to the innovative  
4 rate or service is filed with the Commission within 45 days of following this  
5 notice or the Commission orders an investigation on its own motion, the  
6 municipal company or electric cooperative may commence offering the  
7 innovative rate or service to its customers.

8 (3) The municipal company or electric cooperative shall provide written  
9 notice to the Department of Public Service and the Commission at least  
10 45 days prior to the end of an innovative rate or service duration period with  
11 any proposed modifications to the terms and conditions. Unless an objection  
12 to the innovative rate or service is filed with the Commission within 45 days of  
13 following this notice or the Commission orders an investigation on its own  
14 motion, the municipal company or electric cooperative may continue offering  
15 the innovative rate or service to its customers. The Commission may allow for  
16 the innovative rate or service to remain in effect pending the outcome of an  
17 investigation into the notice filing.

18 \* \* \*

1 Sec. 371. 30 V.S.A. § 218e is amended to read:

2 § 218e. IMPLEMENTING STATE ENERGY POLICY;

3 MANUFACTURING

4 To give effect to the policies of section 202a of this ~~title~~ subchapter to  
5 provide reliable and affordable energy and ~~assure~~ ensure the State's economic  
6 vitality, it is critical to retain and recruit manufacturing and other businesses  
7 and to consider the impact on manufacturing and other businesses when  
8 issuing orders, adopting rules, and making other decisions affecting the cost  
9 and reliability of electricity and other fuels. Implementation of the State's  
10 energy policy should:

11 \* \* \*

12 Sec. 372. 30 V.S.A. § 223 is amended to read:

13 § 223. APPEAL FROM MUNICIPAL AUTHORITIES

14 A person or corporation aggrieved by an order or decision of the municipal  
15 authorities made under the provisions of any statute, relative to the granting of  
16 a license or permit for location, may bring an appeal ~~therefrom~~ to the  
17 Commission at any time within 30 days ~~from~~ following the date of ~~such~~ the  
18 order or decision. After notice and public hearing of all parties interested, as  
19 provided in section 208 of this ~~title~~ subchapter, the decision of the  
20 Commission thereon shall be final, subject to a right to transfer such cause to  
21 the Supreme Court as provided by section 12 of this title.



1 Sec. 373. 30 V.S.A. § 225 is amended to read:

2 § 225. RATE SCHEDULES

3 (a) Within a time to be fixed by the Commission, each company subject to  
4 the provisions of this chapter shall file with the Department, with separate  
5 filings to the Directors for Regulated Utility Planning and Public Advocacy,  
6 schedules which shall be open to public inspection, showing all rates,  
7 including joint rates, for any service performed or any product furnished by it  
8 within the State, and as a part ~~thereof~~ of it shall file the rules ~~and regulations~~  
9 that in any manner affect the tolls or rates charged or to be charged for any  
10 such service or product. Those schedules, or summaries of the schedules  
11 approved by the Department, shall be published by the company in two  
12 newspapers with general circulation in the State within 15 days after such  
13 filing. A change shall not ~~thereafter~~ be made in any such schedules, including  
14 schedules of joint rates or in any ~~such~~ of the rules ~~and regulations~~, except upon  
15 45 days' notice to the Commission and to the Department of Public Service,  
16 and ~~such~~ notice to parties affected by ~~such~~ the schedules as the Commission  
17 shall direct. The Commission shall consider the Department's  
18 recommendation and take action pursuant to sections 226 and 227 of this title  
19 subchapter before the date on which the changed rate is to become effective.  
20 All ~~such~~ changes shall be plainly indicated upon existing schedules, or by  
21 filing new schedules in lieu thereof 45 days prior to the time the same are to

1 take effect. Subject only to temporary increases, rates may not thereafter be  
2 raised without strictly complying with the notice and filing requirements set  
3 forth in this section. In no event may a company amend, supplement, or alter  
4 an existing filing or substantially revise the proof in support of such filing in  
5 order to increase, decrease, or substantiate a pending rate request, unless, upon  
6 opportunity for hearing, the company demonstrates that such a change in filing  
7 or proof is necessary for the purpose of providing adequate and efficient  
8 service. However, upon application of any company subject to the provisions  
9 of this chapter, and with the consent of the Department of Public Service, the  
10 Commission may for good cause shown prescribe a shorter time within which  
11 such change may be made; but a change which in effect decreases such tolls or  
12 rates may be made upon five days' notice to the Commission and the  
13 Department of Public Service and such notice to parties affected as the  
14 Commission shall direct.

15 (b) Immediately upon receipt of notice of a change in a rate schedule filed  
16 by a company, the Department shall investigate the justness and reasonableness  
17 of that change. Within 30 days of following receipt of this notice, the  
18 Department shall either report to the Commission the results of its  
19 investigations together with its recommendation for acceptance of the change,  
20 or it shall notify the Commission and other parties that it opposes the change.  
21 If the Department of Public Service reports its acceptance of the change in

1 rates, the Commission may accept the change, or it may on its own motion  
2 conduct an investigation into the justness and reasonableness of the change, or  
3 it may order the Department to appear before it to justify its recommendation  
4 to accept the change. In no event shall a change go into effect without the  
5 approval of the Commission, except when a rate change is suspended and  
6 temporary or permanent rates are allowed to go into effect pursuant to  
7 subsection 226(a) or 227(a) of this ~~title~~ subchapter. The Commission shall  
8 consider the Department's recommendation and take action pursuant to  
9 sections 226 and 227 of this ~~title~~ subchapter within 45 days ~~of~~ following  
10 receipt of notice of a change in a rate schedule. In the event that the  
11 Department opposes the change, the Commission shall hear evidence on the  
12 matter and ~~make such~~ issue any orders as justice and law require. In any  
13 hearing on a change in rates, whether or not opposed by the Department, the  
14 Commission may request the appearance of the Attorney General or appoint a  
15 member of the Vermont bar to represent the public or the State.

16 (e) ~~[Repealed.]~~

17 Sec. 374. 30 V.S.A. § 226a(e) is amended to read:

18 (e) If at any time, after notice and opportunity for hearing, the Commission  
19 determines that changes in federal regulatory law, unforeseen and significant  
20 economic shifts, or changes in technology have created either extremely severe  
21 economic hardships for the company or a condition that is severely detrimental

1 and contrary to the public good, the Commission shall order the Department  
2 and the company to renegotiate relevant portions of a contract negotiated  
3 under this section, and any renegotiated provisions shall be subject to the  
4 Commission's approval under the procedures of subsection (c) of this section.  
5 If at any time the General Assembly is concerned that such conditions exist, it  
6 may, by joint resolution, direct the Commission to conduct a hearing and make  
7 a determination ~~thereon~~. If the Department and the company fail to reach a  
8 negotiated agreement within four months of receipt of an order to negotiate  
9 from the Commission, the Commission shall hold a hearing to determine the  
10 appropriate content of the relevant portions of the contract. In such  
11 proceedings, the public contract advocate shall represent the interests of the  
12 public and the State, and any interested party may intervene. The Commission  
13 shall complete its hearings and render its decision within four months from the  
14 date that the Department and the company failed to agree under an order to  
15 negotiate. If the Department and the company agree within 14 days of  
16 following the Commission's decision to accept the Commission's  
17 determination of the appropriate content of the contract, the contract shall  
18 continue in effect as modified until its termination date. If the Department or  
19 the company does not accept the Commission's determination, the contract  
20 shall terminate under the terms specified in subsection (f) of this section  
21 30 days after the date of the Commission's decision.

1 Sec. 375. 30 V.S.A. § 227a(a)(3) is amended to read:

2 (3) that adequate safeguards exist to ~~assure~~ ensure that any services  
3 provided by a competitor which continue to be regulated are not supporting or  
4 subsidizing any services offered in the competitive market, and that no  
5 company shall allocate revenues from regulated activities to unregulated  
6 activities nor allocate costs from unregulated activities to regulated activities  
7 and, upon request, shall provide the Commission and the Department with  
8 information, including cost studies indicating whether any regulated services  
9 are supporting any services which are deregulated; and

10 Sec. 376. 30 V.S.A. § 227b(b) is amended to read:

11 (b) The Secretary of Administration shall develop a standard contract and a  
12 standard contracting procedure for the use of State-owned buildings and land  
13 for wireless telecommunications facilities. The contract and contracting  
14 procedure shall provide for:

15 (1) criteria and procedures for making a wireless facility development  
16 proposal;

17 (2) final consideration of each completed facility development proposal  
18 within 60 days ~~of~~ following the proposal's submission in the manner  
19 prescribed by the Secretary;

20 \* \* \*

1 Sec. 377. 30 V.S.A. § 227c(c) is amended to read:

2 (c) In determining whether to modify, reduce, or suspend regulatory  
3 requirements, the Commission shall consider whether competition in the  
4 market combined with the remaining requirements under this title:

5 (1) will be sufficient to ensure that the charges, practices, classifications,  
6 or ~~regulations~~ rules related to the service are just and reasonable, and are not  
7 unjustly or unreasonably discriminatory; and

8 \* \* \*

9 Sec. 378. 30 V.S.A. § 227d is amended to read:

10 § 227d. SMALL ELIGIBLE TELECOMMUNICATIONS CARRIERS

11 \* \* \*

12 (b) For any carrier that elects exemption under subsection (a) of this  
13 section:

14 (1) The carrier shall provide notice of its election to its existing  
15 customers within 30 days of following its election and to any new customer at  
16 the time the new customer requests service from the carrier.

17 \* \* \*

18 (7) If the carrier responds to an exogenous event with a price increase  
19 that exceeds the maximum prices defined in subdivision (5) of this subsection,  
20 the carrier shall provide notice of such change to the Public Utility  
21 Commission and to the Department of Public Service. The Commission, upon

1 its own motion or upon the recommendation of the Department, may initiate  
2 an investigation. If the Commission does not initiate an investigation within a  
3 30-day period, the price increase shall take effect. If the Commission  
4 determines to initiate an investigation, it shall give notice of that decision to  
5 the carrier and to the Department and may suspend the portion of the price that  
6 exceeds the cap. The Commission shall conclude its investigation within 120  
7 days of following issuance of its notice of investigation or within such shorter  
8 period as it deems appropriate. If the Commission fails to issue a decision  
9 within that 120-day period, the price increase shall become effective upon the  
10 121st day without retroactive rate adjustments.

11 \* \* \*

12 Sec. 379. 30 V.S.A. § 229 is amended to read:

13 § 229. REBATES; EXCEPTIONS

14 A public service company shall not directly or indirectly or by any special  
15 rate, rebate, drawback, or other device or method make any deviation from the  
16 rates, fares, charges, or prices for any service rendered by it or in services  
17 rendered or to be rendered in connection therewith, as specified in its  
18 schedules of charges in effect at the time such service was rendered. No public  
19 service company may enter into any contract, agreement, or arrangement  
20 relating to the furnishing or rendering of any special product or special service  
21 not provided for or covered in the schedule without the prior approval of the

1 Commission. However, nothing ~~herein~~ in this section shall prohibit the giving  
2 by any ~~such~~ public service company of free or reduced rate service to its  
3 employees, or in case of public emergency, or to the classes defined and  
4 provided for in the act of Congress entitled “An act to regulate commerce,”  
5 ~~and acts amendatory thereof~~ as codified in 49 U.S.C. § 10101 et seq., as  
6 amended. Subject to the approval of the Commission, it shall be lawful for  
7 any public utility to make a contract for a definite term for its product or  
8 service.

9 Sec. 380. 30 V.S.A. § 230 is amended to read:

10 § 230. SPECIAL RATE OR REBATE; PENALTY

11 Except as provided in section 229 of this ~~title~~ subchapter, an officer or  
12 employee of ~~such~~ a public service company who grants a special rate or rebate  
13 or knowingly consents ~~thereto~~ to one shall be subject to a civil penalty  
14 imposed by the Commission, after notice and an opportunity for hearing, of  
15 not less than \$100.00 nor more than \$1,000.00. In addition, ~~such~~ a company  
16 granting a special rate or rebate shall be subject to a civil penalty imposed by  
17 the Commission, after notice and opportunity for hearing, of not more than the  
18 larger of \$10,000.00 or five times the amount of the benefit or rebate.

19 Sec. 381. 30 V.S.A. § 231(a) is amended to read:

20 (a) A person, partnership, unincorporated association, or previously  
21 incorporated association that desires to own or operate a business over which



1 the Public Utility Commission has jurisdiction under the provisions of this  
2 chapter shall first petition the Commission to determine whether the operation  
3 of such business will promote the general good of the State, and shall at that  
4 time file a copy of any such petition with the Department. The Department,  
5 within 12 days, shall review the petition and file a recommendation regarding  
6 the petition in the same manner as is set forth in subsection 225(b) of this ~~title~~  
7 subchapter. ~~Such~~ The recommendation shall set forth reasons why the petition  
8 shall be accepted without hearing or shall request that a hearing on the petition  
9 be scheduled. If the Department requests a hearing on the petition, or, if the  
10 Commission deems a hearing necessary, it shall appoint a time and place in the  
11 county where the proposed corporation is to have its principal office for  
12 hearing the petition. At least 12 days before this hearing, notice of the hearing  
13 shall be published on the Commission's website and once in a newspaper of  
14 general circulation in the county in which the hearing will occur. The website  
15 notice shall be maintained through the date of the hearing. The newspaper  
16 notice shall include an Internet address where more information regarding the  
17 petition may be viewed. The Director for Public Advocacy shall represent the  
18 public at the hearing. If the Commission finds that the operation of ~~such~~ the  
19 business will promote the general good of the State, it shall give ~~such~~ the  
20 person, partnership, unincorporated association, or previously incorporated  
21 association a certificate of public good specifying the business and territory to

1 be served by such petitioners. For good cause, after opportunity for hearing,  
2 the Commission may amend or revoke any certificate awarded under the  
3 provisions of this section. If any such certificate is revoked, the person,  
4 partnership, unincorporated association, or previously incorporated association  
5 shall no longer have authority to conduct any business which is subject to the  
6 jurisdiction of the Commission whether or not regulation thereunder has been  
7 reduced or suspended, under section 226a or 227a of this title subchapter.

8 ~~See 382. 30 V.S.A. § 231e(e) is amended to read:~~

9 (e) Enforcement authority. In addition to any other authority the Public  
10 Utility Commission may have pursuant to other law, the Public Utility  
11 Commission may enforce the provisions of this section in accordance with this  
12 subsection:

13 (1) In an adjudicatory proceeding, the Public Utility Commission may  
14 impose an administrative penalty upon the following entities for the following  
15 violations:

16 \* \* \*

17 (C) a billing agent who knowingly bills on behalf of a billing  
18 aggregator who is required to be registered under subsection (b) of this section  
19 and who is not properly registered pursuant to that subsection at the time the  
20 bill which is to be sent to the customer is generated, except that a billing agent  
21 who bills on behalf of a billing aggregator whose registration has been revoked

1 ~~shall not be subject to administrative penalty if the bill which is to be sent to~~  
2 the customer was generated within 14 days of following the revocation of the  
3 registration and the billing agent did not have actual notice of the revocation;

4 ~~.....~~  
*Sec. 382. [Deleted.]*

5 Sec. 383. 30 V.S.A. § 246(c) is amended to read:

6 (c) In developing rules or orders, the Commission:

7 (1) Shall develop a simple application form and shall require that the  
8 applicant first file the application with the Commission and that, within two  
9 business days of following notification from the Commission that the  
10 application is complete, the applicant serve copies of the complete application  
11 on the Department of Public Service, the Agency of Natural Resources, the  
12 Agency of Transportation, and the municipality in which the meteorological  
13 station is proposed to be located.

14 (2) Shall require that if no objections are filed within 30 days of  
15 following the date of service of the complete application under subdivision (1)  
16 of this subsection, and the Commission determines that the applicant has met  
17 all of the requirements of section 248 of this title subchapter, the certificate of  
18 public good shall be issued for a period that the Commission finds reasonable,  
19 but in no event for more than five years. Upon request of an applicant, the  
20 Commission may renew a certificate of public good. Upon expiration of the

1 certificate, the meteorological station and all associated structures and material  
2 shall be removed, and the site shall be restored substantially to its  
3 preconstruction condition.

4 \* \* \*

5 Sec. 384. 30 V.S.A. § 248 is amended to read:

6 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND  
7 FACILITIES; CERTIFICATE OF PUBLIC GOOD

8 (a)(1) No company, as defined in section 201 of this ~~title~~ subchapter, may:

9 \* \* \*

10 (4)(A) With respect to a facility located in the State, in response to a  
11 request from one or more members of the public or a party, the Public Utility  
12 Commission shall hold a nonevidentiary public hearing on a petition for such  
13 finding and certificate. The public hearing shall either be remotely accessible  
14 or held in at least one county in which any portion of the construction of the  
15 facility is proposed to be located, or both. The Commission in its discretion  
16 may hold a nonevidentiary public hearing in the absence of any request from a  
17 member of the public or a party. From the comments made at a public  
18 hearing, the Commission shall derive areas of inquiry that are relevant to the  
19 findings to be made under this section and shall address each such area in its  
20 decision. Prior to making findings, if the record does not contain evidence on  
21 such an area, the Commission shall direct the parties to provide evidence on

1 the area. This subdivision does not require the Commission to respond to each  
2 individual comment.

3 \* \* \*

4 (C) Within two business days of following notification from the  
5 Commission that the petition is complete, the petitioner shall serve copies of  
6 the complete petition on the Attorney General and the Department of Public  
7 Service, and, with respect to facilities within the State, the Department of  
8 Health; Agency of Natural Resources; Historic Preservation Division; Agency  
9 of Transportation; Agency of Agriculture, Food and Markets; and to the chair  
10 or director of the municipal and regional planning commissions and the  
11 municipal legislative body for each town and city in which the proposed  
12 facility will be located.

13 \* \* \*

14 (f) However, plans for the construction of such a facility within the State  
15 must be submitted by the petitioner to the municipal and regional planning  
16 commissions no less than 45 days prior to application for a certificate of public  
17 good under this section, unless the municipal and regional planning  
18 commissions shall waive such requirement.

19 (1) The municipal or regional planning commission may take one or  
20 more of the following actions:

21 \* \* \*



1 other persons as the Commission determines are appropriate. The Commission  
2 shall conclude its investigation within 120 days of following issuance of its  
3 notice of investigation, or within such shorter period as it deems appropriate,  
4 unless the company consents to waive the 120-day requirement. Except when  
5 the company consents to waive the 120-day requirement, if the Commission  
6 fails to issue a decision within that 120-day period, the contract or investment  
7 shall be deemed to be approved. The Commission may hold informal, public,  
8 or evidentiary hearings on the proposed investment or contract.

9 \* \* \*

10 (j)(1) The Commission may, subject to such conditions as it may otherwise  
11 lawfully impose, issue a certificate of public good in accordance with the  
12 provisions of this subsection and without the notice and hearings otherwise  
13 required by this chapter if the Commission finds that:

14 \* \* \*

15 (2) Any party seeking to proceed under the procedures authorized by  
16 this subsection shall file a proposed certificate of public good and proposed  
17 findings of fact with its petition. Within two business days of following  
18 notification by the Commission that the filing is complete, the party shall serve  
19 copies of the complete filing on the parties specified in subdivision (a)(4)(C)  
20 of this section and the party shall give written notice of the proposed certificate  
21 and of the Commission's determination that the filing is complete to those

1 parties, to any public interest organization that has in writing requested notice  
2 of applications to proceed under this subsection, and to any other person found  
3 by the Commission to have a substantial interest in the matter. The notice  
4 shall request comment within 30 days of following the date of service of the  
5 complete filing on the question of whether the petition raises a significant issue  
6 with respect to the substantive criteria of this section. If the Commission finds  
7 that the petition raises a significant issue with respect to the substantive criteria  
8 of this section, the Commission shall hear evidence on any such issue.

9 \* \* \*

10 (n)(1) No company as defined in section 201 of this ~~title~~ chapter and no  
11 person as defined in 10 V.S.A. § 6001(14) may place or allow the placement of  
12 wireless communications facilities on an electric transmission or generation  
13 facility located in this State, including a net metering system, without  
14 receiving a certificate of public good from the Public Utility Commission  
15 pursuant to this subsection. The Public Utility Commission may issue a  
16 certificate of public good for the placement of wireless communications  
17 facilities on electric transmission and generation facilities if such placement is  
18 in compliance with the criteria of this section and Commission rules or orders  
19 implementing this section. In developing such rules and orders, the  
20 Commission:

21 \* \* \*







1 subdivision (c)(3) of this section, as they pertain to the applicant's proposed  
2 telecommunications facility. On the request of the municipal legislative body  
3 or the planning commission, the Department of Public Service, pursuant to its  
4 authority under subsection (o) of this section, shall retain an expert to review  
5 the applicant's colocation assessment and to conduct further independent  
6 analysis, as necessary. Within 45 days of following receiving the applicant's  
7 notice and colocation assessment, the Department shall report its own  
8 preliminary findings and recommendations regarding colocation to the  
9 applicant and to all persons required to receive notice of an application for a  
10 certificate of public good under this subsection (e).

11 (f) Review period. If the Public Utility Commission determines that an  
12 application does not raise a significant issue, the Commission shall issue a  
13 final determination on an application filed pursuant to this section within 60  
14 days of following its filing or, if the original filing did not substantially  
15 comply with the Public Utility Commission's rules, within 60 days of  
16 following the date on which the Clerk of the Commission notifies the applicant  
17 that the filing is complete. If the Commission rules that an application raises a  
18 significant issue, it shall issue a final determination on an application filed  
19 pursuant to this section within 180 days of following its filing or, if the  
20 original filing did not substantially comply with the Public Utility

1 Commission's rules, within 180 days of following the date on which the Clerk  
2 of the Commission notifies the applicant that the filing is complete.

3 \* \* \*

4 (j) Telecommunications facilities of limited size and scope.

5 \* \* \*

6 (2)(A) Any person seeking to proceed under the procedures authorized  
7 by this subsection shall file a proposed certificate of public good and proposed  
8 findings of fact with its application. Within two business days of following  
9 notification from the Commission that the filing is complete, the applicant  
10 shall serve notice and a copy of the application, proposed certificate of public  
11 good, and proposed findings of fact on the Commissioner of Public Service  
12 and its Director for Public Advocacy, the Secretary of Natural Resources, the  
13 Division for Historic Preservation, the Natural Resources Board if the  
14 application concerns a telecommunications facility for which a permit  
15 previously has been issued under 10 V.S.A. chapter 151, and each of the  
16 legislative bodies and municipal and regional planning commissions in the  
17 communities in which the applicant proposes to construct or install facilities.  
18 Within two business days of following notification from the Commission that  
19 the filing is complete, the applicant also shall serve written notice of the  
20 proposed certificate on the landowners of record of property adjoining the  
21 project site or sites unless the Commission has previously determined on

1 request of the applicant that good cause exists to waive or modify the notice  
2 requirement with respect to such landowners. Such notice shall request  
3 comment to the Commission within 30 days of following the date of service on  
4 the question of whether the application raises a significant issue with respect to  
5 the substantive criteria of this section. If the Commission finds that an  
6 application raises a significant issue with respect to the substantive criteria of  
7 this section, the Commission shall hear evidence on any such issue.

8 (B) An applicant seeking a waiver or modification of notice to adjoining  
9 landowners under this subsection shall file a request for such a waiver or  
10 modification with the Public Utility Commission not later than 30 days prior to  
11 serving written notice under subsection (e) of this section, together with a  
12 description of the project and its location, the applicant's reasons for seeking a  
13 waiver or modification, and the applicant's demonstration that the standard for  
14 granting a waiver or modification is met. Any granting of such a waiver or  
15 modification shall be based on a determination that the landowners subject to  
16 the waiver or modification could not reasonably be affected by one or more of  
17 the proposed facilities, and that notice to such landowners would constitute a  
18 significant administrative burden without corresponding public benefit. The  
19 Commission shall rule on a waiver or modification request under this  
20 subsection within 21 days of following the filing of the request.



1 objection to the classification of a proposed project as a de minimis  
2 modification is filed with the Commission within 30 days of following this  
3 notice, a certificate of public good shall be issued. Objections may be filed  
4 only by persons entitled to notice of this proposed project pursuant to this  
5 subsection. If an objection of the classification of the proposed project as a de  
6 minimis modification is timely filed with the Commission, the Commission  
7 may determine whether the intended project meets the definition of de minimis  
8 modification established in subdivision (b)(2) of this section.

9 \* \* \*

10 Sec. 386. 30 V.S.A. § 248d is amended to read:

11 § 248d. FEE REFUND

12 If an applicant withdraws an application and seeks a fee refund, then a  
13 written request for an application fee refund shall be submitted to the Public  
14 Utility Commission (Commission) within 90 days of following the withdrawal  
15 of the application.

16 \* \* \*

17 Sec. 387. 30 V.S.A. § 509 is amended to read:

18 § 509. AMENDMENT AND REVOCATION; FINES; ASSURANCE OF  
19 DISCONTINUANCE

20 \* \* \*

1           (c) In any case in which the Commission may revoke a certificate, in lieu  
2 thereof, the Commission may accept an assurance of discontinuance of any  
3 method, act, or practice from any company. ~~Such~~ The assurance may include  
4 a stipulation for affirmative action by such company, payment of the costs of  
5 investigation, or of an amount to be held in escrow pending the outcome of an  
6 action or as restitution to aggrieved consumers, or any combination of the  
7 ~~above~~ those options. Any ~~such~~ assurance of discontinuance shall be in writing  
8 and may be sought and negotiated by the Department of Public Service,  
9 subject to the approval of the Commission. Proof of a violation of ~~such~~ an  
10 assurance shall be prima facie evidence of violation of this chapter, or of the  
11 terms and conditions of a certificate granted under this chapter.

12       Sec. 388. 30 V.S.A. § 515(b) is amended to read:

13           (b) For the purposes of this section, voting security means any stock or  
14 security presently entitling the owner or holder ~~thereof~~ to vote in the direction  
15 or management of the affairs of a company or any security issued under or  
16 pursuant to any trust, agreement, or arrangement ~~whereby~~ where a trustee or  
17 trustees or agent or agents for the owner or holder of such a security are  
18 presently entitled to vote in the direction or management of the affairs of a  
19 company.

20       Sec. 389. 30 V.S.A. § 601(b)(1) is amended to read:



1 (b)(1) “New England power pool agreement,” a contractual agreement  
2 between electric utilities that is open to all electric utilities, whether private or  
3 governmental, operating in New England, that provides for cooperation and  
4 joint participation in developing and implementing a regional bulk power  
5 supply of electricity, that constitutes the central dispatching and primary  
6 pooling arrangement for electric utilities in the New England states, and that  
7 has been permitted to become effective under the Federal Power Act by the  
8 Federal Power Commission or the Federal Energy Regulatory Commission.

9 Sec. 390. 30 V.S.A. § 604 is amended to read:

10 § 604. ADDITIONAL AUTHORITY

11 (a) Notwithstanding any contrary provision of any general or special law  
12 relating to the powers and authorities of electric utilities or any limitation  
13 imposed by their charters, the City of Burlington, the Village of Lyndonville  
14 acting through its board of trustees, and all other Vermont municipal electric  
15 utilities shall each have the following additional powers:

16 (1) jointly or separately to plan, finance, construct, purchase, operate,  
17 maintain, use, share costs of, own, mortgage, lease, sell, dispose of, or  
18 otherwise participate in electric power generating and transmission facilities or  
19 portions ~~thereof~~ of it within or outside the State or the product or service  
20 ~~therefrom~~ of it or securities issued in connection with the financing of such  
21 facilities or portions ~~thereof~~ of it;



1 obligation of the city, village, and town under contracts referred to in this  
2 section shall not be included in the debt of the city, village, and town for the  
3 purpose of ascertaining its borrowing capacity.

4 Sec. 392. 30 V.S.A. § 608 is amended to read:

5 § 608. BONDING AUTHORITY—CITY OF BURLINGTON

6 (a) The City of Burlington, when authorized by a two-thirds vote of all  
7 voters present and voting at a meeting called for that purpose, may pledge its  
8 credit by issuing the negotiable orders, warrants, notes, or bonds for project  
9 costs, or its share of project costs, of electric power facilities authorized  
10 pursuant to section 604 of this ~~title~~ chapter. Such project costs may include all  
11 costs, whether incurred prior to or after the issue of bonds or notes ~~hereunder~~,  
12 of acquisition, site development, construction, improvement, enlargement,  
13 reconstruction, alteration, machinery, equipment, furnishings, nuclear fuel,  
14 demolition or removal of existing buildings or structures, including the cost of  
15 acquiring any lands to which such buildings or structures may be moved,  
16 financing charges, interest prior to and during the carrying out of any project  
17 and for a reasonable period thereafter, planning, engineering, financial  
18 advisory and legal services, administrative expenses, prepayments under  
19 contracts made pursuant to section 604 of this ~~title~~ chapter, the funding of  
20 notes issued for project costs as ~~hereinafter~~ provided, and all other expenses

1 incidental to the determination of the feasibility of any project or to carrying  
2 out the project or to placing the project in operation.

3 (b) The obligations shall be issued in accordance with the charter of the  
4 City of Burlington ~~relating thereto~~. The amount of obligations issued for such  
5 purpose shall not be considered in computing any debt limit applicable to the  
6 City.

7 (c) The March 6, 1973 vote of the voters of the City of Burlington  
8 authorizing and empowering the Burlington City Council to pledge the credit  
9 of the City by issuing general obligation bonds or notes in an amount not to  
10 exceed \$6,000,000.00 for the purpose of acquiring joint ownership interests in  
11 four nuclear power plants presently designated as the Connecticut 1979  
12 Nuclear Unit, Pilgrim No. 2, and Seabrook Units No. 1 and No. 2, to be  
13 constructed and located in the states of Connecticut, Massachusetts, and New  
14 Hampshire is hereby ratified, adopted, and validated in all respects. In  
15 addition, any authorized action ~~authorized hereunder~~ taken during the calendar  
16 year that commenced January 1, 1974 shall be valid and effective as if this  
17 chapter were in effect on January 1, 1974.

18 Sec. 393. 30 V.S.A. § 609 is amended to read:

19 § 609. VILLAGE OF LYNDONVILLE

20 (a) The Village of Lyndonville, when authorized as provided in 24 V.S.A.  
21 chapter 53, may pledge its credit by issuing its negotiable orders, warrants,

1 notes, or bonds for project costs, or its share of project costs, of electric power  
2 facilities authorized pursuant to section 604 of this title. ~~Such~~ The project  
3 costs may include all costs, whether incurred prior to or after the issue of  
4 bonds or notes ~~hereunder~~, of acquisition, site development, construction,  
5 improvement, enlargement, reconstruction, alteration, machinery, equipment,  
6 furnishings, nuclear fuel, demolition or removal of existing buildings or  
7 structures, including the cost of acquiring any lands to which such buildings or  
8 structures may be moved, financing charges, interest prior to and during the  
9 carrying out of any project and for a reasonable period thereafter, planning,  
10 engineering, financial advisory and legal services, administrative expenses,  
11 prepayments under contracts made pursuant to section 604 of this title, the  
12 funding of notes issued for project costs as ~~hereinafter~~ provided in this section,  
13 and all other expenses incidental to the determination of the feasibility of any  
14 project or to carrying out the project or to placing the project in operation.

15 \* \* \*

16 (c) The May 3, 1977 vote of the voters of the Village of Lyndonville  
17 authorizing and empowering the Village of Lyndonville Board of Trustees to  
18 pledge the credit of the Village by issuing general obligation bonds or notes in  
19 an amount not to exceed \$3,800,000.00 for the purpose of acquiring joint  
20 ownership interests in four power plants presently designated as the  
21 Connecticut 1979 Nuclear Unit, Pilgrim No. 2, and Wyman Unit No. 4 and

1 MMWEC Phase I Intermediate Units and located in the states of Connecticut,  
2 Maine, and Massachusetts is hereby ratified, adopted, and validated in all  
3 respects. In addition, any action authorized ~~hereunder~~ and taken during the  
4 calendar year that commenced January 1, 1977 shall be valid and effective as  
5 if this chapter were in effect on January 1, 1977.

6 Sec. 394. 30 V.S.A. § 2512 is amended to read:

7 § 2512. APPEAL; PROCEEDINGS

8 When either party is dissatisfied with such appraisal of damages, ~~he or she~~  
9 the party may apply to the Superior Court by petition in the same manner as is  
10 provided for a person dissatisfied with the compensation for damages for the  
11 laying out or altering of highway, and ~~thereupon~~ similar proceedings shall be  
12 had. The line shall not be erected until such cause is finally decided, unless  
13 the party erecting the same files with the clerk of the court to which such  
14 application is made, before the line is erected, a bond to the other party, with  
15 sureties approved by such clerk, conditioned for the payment of such damages  
16 and costs as may finally be awarded.

17 Sec. 395. 30 V.S.A. § 2529 is amended to read:

18 § 2529. LOITERING UPON TELEPHONE PROPERTY; PENALTY

19 A person who without right loiters or remains in a telephone central office,  
20 a public telephone pay station, or the approaches ~~thereto~~ to it, after being  
21 requested to leave by a railroad police officer, sheriff, deputy sheriff,

1 constable, or police officer shall be fined not more than \$20.00 nor less than  
2 \$2.00.

3 Sec. 396. 30 V.S.A. § 2530 is amended to read:

4 § 2530. TELEPHONES IN PUBLIC AREAS

5 The selectboard of a town ~~(,~~ or the Agency of Transportation in the case of  
6 State highways~~),~~ may, upon written application and after notice to adjacent  
7 landowners, permit the construction, erection, and maintenance of public  
8 telephones, telephone booths, and appurtenances ~~thereto~~ to them within the  
9 limits of public highways, sidewalks, parks, and parking areas when consistent  
10 with the public interest under such reasonable rules, regulations, and  
11 arrangements as it may prescribe.

12 Sec. 397. 30 V.S.A. § 2701 is amended to read:

13 § 2701. TRANSFER OF MESSAGES AND INTERCHANGE OF SERVICE

14 Whenever the Commission, after a hearing had upon its own motion or  
15 upon complaint, finds that a physical connection can reasonably be made  
16 between the lines of two or more telephone companies or two or more  
17 telegraph companies whose lines can be made to form a continuous line of  
18 communication, by the construction and maintenance of suitable connections,  
19 for the transfer of messages or conversations, and that public convenience and  
20 necessity will be subserved thereby, or finds that two or more telegraph or  
21 telephone companies have failed to establish joint rates, tolls, or charges for

1 service by or over their lines, and that joint rates, tolls, or charges ought to be  
2 established, the Commission may, by its order, (a) require that the connection  
3 be made, except where the purpose of the connection is primarily to secure the  
4 transmission of local messages or conversations between points within the  
5 same city or town, and that conversations be transmitted and messages  
6 transferred over the connection under ~~such~~ the rules and regulations as the  
7 Commission may establish, and (b) may prescribe through lines and joint rates,  
8 tolls, and charges to be made and to be used, observed, and enforced in the  
9 future. If the telephone or telegraph companies do not agree upon the division  
10 of the joint rates, tolls, or charges established by the Commission over the  
11 through lines, the Commission may, after further hearing, establish the division  
12 by supplemental order.

13 Sec. 398. 30 V.S.A. § 2703 is amended to read:

14 § 2703. TELEPHONE SERVICE

15 On application of a telegraph or telephone company and upon reasonable  
16 terms, a person or corporation owning, controlling, or operating a telephone  
17 exchange or service in this State shall furnish such applicant with the use of a  
18 telephone or telephones, and telephonic service and connection with the  
19 respective exchanges and the subscribers ~~thereto~~, without discriminating  
20 between telegraph or telephone companies as to the connection, service, or use  
21 of instruments furnished or charges made.



1 Sec. 399. 30 V.S.A. § 2704 is amended to read:

2 § 2704. DISCRIMINATION PROHIBITED

3 On application of a person or corporation and tender of the charges or rental  
4 sum usual or customary for the class of service required, without  
5 discrimination for the same class of service rendered, a person or corporation  
6 owning, controlling, or operating a telephone exchange or service in this State  
7 shall furnish the applicant with the use of a telephone and telephonic service  
8 and connection with their respective exchanges and subscribers ~~thereto~~.

9 Sec. 400. 30 V.S.A. § 2802 is amended to read:

10 § 2802. SALE AND DISTRIBUTION; REGULATION

11 A person, association, company, or corporation, its successors, grantees,  
12 lessees, trustees, or receivers by whatever court appointed, that generates  
13 electric energy within the State by means of water power, or transmits in this  
14 State electric energy generated from outside the State, and which, in the  
15 location, construction, or maintenance of its generating plant, including the  
16 acquiring of water rights, flowing or ponding rights, within the State or rights-  
17 of-way, or in the establishment or maintenance of its lines for transmission of  
18 electric energy, confiscates by the exercise of the right of eminent domain,  
19 either under the general law, or if a corporation, under the provisions of its  
20 charter or general law, or has by the provisions of its charter or general law  
21 power so to do, the property of any person or any right, title, interest,

1 easement, or estate ~~therein~~, or uses a public highway for carrying its  
2 transmission lines over or along the same or beneath the surface thereof, at all  
3 reasonable times when requested so to do, shall sell and furnish at a reasonable  
4 price so much or such an amount of such electric energy as the public  
5 convenience or necessity may require to any and all persons, companies,  
6 cooperatives, and corporations, municipal, public or private, in this State,  
7 desiring to use the same in the State for heating, lighting, or power purposes or  
8 for any other public use or purpose. Such sale and distribution shall be subject  
9 to such reasonable conditions and limitations in each case as the Public Utility  
10 Commission may prescribe upon petition brought and after due notice to all  
11 parties.

12 Sec. 401. 30 V.S.A. § 2804 is amended to read:

13 § 2804. CITATION; SERVICE; HEARING

14 The petition, with a citation attached, signed by the Chair or one of the  
15 other members of the Commission, or its clerk, shall require the petitionee to  
16 appear at a certain time and place within not less than 10 days after the date of  
17 ~~such~~ the citation. The citation, with the petition, shall be served on the  
18 petitionee like a summons, not less than six days before the date ~~he or she~~ the  
19 petitionee is required to appear. At the required time and place, the  
20 Commission shall hear the parties and their witnesses and ~~such~~ any other  
21 evidence as they may offer, and determine the facts and ~~thereupon~~ make ~~such~~

1 an order and decree as the law and justice require, which ~~order~~ shall be final  
2 unless appealed from. The Commission may adjourn ~~such~~ the hearing from  
3 time to time and to another place in the county, and may adjourn it elsewhere  
4 if the parties consent.

5 Sec. 402. 30 V.S.A. § 2805 is amended to read:

6 § 2805. APPEAL; COMMISSIONERS; HEARING ON REPORT

7 A party to the cause who feels ~~himself or herself~~ aggrieved by the final  
8 order or decree of the Commission shall have the right to take the cause to the  
9 Supreme Court. Such appeal shall be taken and the cause entered in the  
10 Supreme Court ~~for the county where the petition and citation were returnable,~~  
11 in the manner and under the law and rules of procedure that govern such  
12 appeals from the Superior Court, and the Supreme Court shall have the same  
13 power ~~therein~~ that it has over appeals from ~~such~~ the Superior Court. The  
14 Supreme Court, if cause is not shown to the contrary, on motion of either  
15 party, shall appoint three disinterested freeholders, residents of the county  
16 where the appeal is taken, unless otherwise agreed upon by the parties, to be  
17 commissioners, who shall appoint a time and place of hearing the matter set  
18 forth in the petition and give at least six days' notice ~~thereof~~ to the parties;  
19 and, after hearing the parties, the commissioners shall report in writing the  
20 facts found by them and such other findings as the Court may direct. Upon the  
21 return of the report, either party may object to its acceptance for good cause

1 shown and the Court may set aside the report and order a rehearing; but if the  
2 Court accepts and establishes the same, the Court may reverse or affirm the  
3 orders or decrees made by the Public Utility Commission, and may remand the  
4 cause to the Commission with such mandate as law and equity require; and the  
5 Commission shall enter an order or decree in accordance with such mandate.

6 Sec. 403. 30 V.S.A. § 2902(a) is amended to read:

7 (a) In accordance with this chapter, a municipality may buy and sell  
8 electric current for domestic use and for commercial purposes and construct,  
9 purchase or lease, and maintain and operate one or more plants for the  
10 manufacture, distribution, purchase, and sale of gas or electricity for the use of  
11 ~~such~~ the municipality and for the use of the residents of ~~such~~ the municipality  
12 and for ~~such~~ the other customers outside ~~such~~ the municipality as the  
13 Commission may approve unless otherwise provided for in this chapter. For  
14 ~~such~~ those purposes a municipality may purchase and hold in fee simple or  
15 otherwise any real or personal estate and any rights therein, including water  
16 rights and may do all other things necessary for carrying into effect the  
17 purposes of this chapter and may excavate and dig conduits and ditches in any  
18 highway or other land or place, and erect poles, place wires, and lay pipes for  
19 the transmission and distribution of electricity and gas, in such places as may  
20 be deemed necessary and proper and in all ~~such~~ respects such municipality  
21 shall have the same privileges and be subject to the same restrictions as are

1 provided for public service corporations in chapters 71, 73, and 75 of this title.

2 ~~Such~~ The municipality may change, enlarge, and extend the same from time to  
3 time and maintain the same, having due regard for the safety and welfare of its  
4 citizens and security of the public travel.

5 Sec. 404. 30 V.S.A. § 2905 is amended to read:

6 § 2905. INDEBTEDNESS

7 A municipality that has voted according to the provisions of this chapter to  
8 acquire or construct a municipal plant may incur debt for the purpose of  
9 establishing, purchasing, constructing, extending, or enlarging it, but subject to  
10 the provisions of law limiting municipal indebtedness. Nothing ~~herein~~ in this  
11 section shall be construed to affect the rights of any municipality now or  
12 ~~hereafter~~ later incurring debt under 24 V.S.A. § 1822.

13 Sec. 405. 30 V.S.A. § 2906 is amended to read:

14 § 2906. EXISTING PLANTS

15 Within 30 days after the passage of the ratifying vote provided for in  
16 section 2903 of this ~~title~~ chapter or the vote provided for in section 2904 of  
17 this ~~title~~ chapter, the mayor of the city, the selectboard of the town, or the  
18 trustees of the village shall notify in writing any utility engaged, at the time of  
19 the vote required by such sections, in generating or distributing gas or  
20 electricity for sale in ~~such~~ the municipality, of ~~such~~ the vote and request ~~such~~  
21 the utility whether it elects to sell and at what price, in the manner ~~hereinafter~~

1 provided, that portion of its plant and property located within ~~such~~ the  
2 municipality ~~which~~ that is suitable for and used in connection with the  
3 business of ~~such~~ the utility, and that portion, if any, lying outside such  
4 municipality, which ~~such~~ the municipality proposes to purchase.

5 Sec. 406. 30 V.S.A. § 2907 is amended to read:

6 § 2907. UTILITY TO ACCEPT OR REJECT OFFER TO PURCHASE

7 The utility shall reply to such request by delivering its answer in writing to  
8 the mayor of the city, the selectboard of the town, or the trustees of the village,  
9 within 90 days ~~of~~ following the receipt of ~~such~~ the request. If the reply is in  
10 the negative or if the reply is not made within ~~such~~ a period of 90 days as  
11 ~~aforesaid~~, the utility ~~thereby~~ waives any right it may have had to require the  
12 purchase of its plant and property by the municipality. If the reply is in the  
13 affirmative, it shall, within 90 days, submit the price and terms ~~which~~ that it is  
14 willing to accept for all such plant and property, together with a detailed  
15 schedule of all the plant and property it proposes to sell to ~~such~~ the  
16 municipality. ~~Such~~ Any plant and property shall at all reasonable times  
17 ~~thereafter~~ be open to the examination of the authorities and experts of the  
18 municipality or any other persons or boards charged with the duty of  
19 determining the fair value of ~~such~~ the property.

1 Sec. 407. 30 V.S.A. § 2910 is amended to read:

2 § 2910. TAKING UTILITY PROPERTY BY EMINENT DOMAIN

3 If the utility shall have replied in the negative or if it shall have failed to  
4 reply within the time prescribed in section 2907 of this ~~title~~ chapter, the  
5 municipality, in the event that it shall have passed the votes required in  
6 sections 2903 and 2904 of this ~~title~~ chapter, may take such private plant and  
7 property by the exercise of the right of eminent domain, paying ~~therefor~~ just  
8 compensation determined in the manner provided in section 2909 of this ~~title~~  
9 chapter, or, after the Commission upon proper notice and hearing has  
10 determined that it will promote the general good of the State ~~so~~ to do so, may  
11 construct a municipal plant.

12 Sec. 408. 30 V.S.A. § 2911 is amended to read:

13 § 2911. EFFECT OF NEGATIVE VOTE FOR ACQUISITION OF UTILITY  
14 PROPERTY

15 Within 90 days ~~of~~ following the final determination of the price to be paid  
16 for the plant and property, as well as the amount of the plant and property to be  
17 taken or acquired under the provisions of section 2909 or 2910 of this ~~title~~  
18 chapter, the municipality shall decide whether or not to take the plant or  
19 property at that price by a vote taken pursuant to procedures similar to those  
20 used in obtaining a ratifying vote as provided in section 2908 of this ~~title~~

1 chapter. If that vote is in the negative, no other action under this chapter shall  
2 be had during the ensuing period of one year.

3 Sec. 409. 30 V.S.A. § 2912 is amended to read:

4 § 2912. OPERATION IN OTHER MUNICIPALITIES

5 A municipality, which has acquired the plant, property, or facilities of a  
6 utility in any other municipality in accordance with the provisions of sections  
7 2906–2911 of this title chapter, may ~~thereafter~~ operate ~~therein~~ as a public  
8 utility with the same rights and franchises that the owners of such outlying  
9 plant had prior to acquisition under the terms of this chapter. ~~Such~~ The  
10 operation shall be subject to the same jurisdiction, control, and regulation by  
11 the Commission as would any other public utility so operating. If the outlying  
12 municipality shall itself vote to establish a municipal plant, all the provisions  
13 of this chapter shall be applicable.

14 Sec. 410. 30 V.S.A. § 2913 is amended to read:

15 § 2913. EXTENSION INTO OTHER MUNICIPALITIES

16 After notice and public hearing, the Commission may authorize a  
17 municipality that has acquired or constructed and is operating a municipal  
18 plant to extend its mains or lines into an adjoining municipality in order to  
19 distribute and sell gas or electricity ~~therein~~, provided that ~~such~~ the outlying  
20 municipality is not then being supplied with gas or electricity by a municipal  
21 plant or by a utility or provided that the Commission finds that it will promote



1 the general good of the State so to do. Such authorization shall be upon ~~such~~  
2 the terms and conditions and with ~~such~~ the limitations and restrictions as the  
3 Commission finds will promote the general good of the State.

4 Sec. 411. 30 V.S.A. § 2922 is amended to read:

5 § 2922. OTHER MUNICIPALITIES

6 Notwithstanding any other provisions of this chapter, after any part of this  
7 chapter takes effect, no municipality operating an electric plant or distribution  
8 system, whether under authorization of this chapter or any other general law or  
9 special act, shall extend its service lines into any area outside its borders where  
10 electric service is otherwise then available, except with the consent of the  
11 municipality in which such outside area is located. Such consent shall be  
12 given only after application ~~therefor~~ to the legislative body of the town or city  
13 in which it is sought to extend the lines. Such body shall fix a time and place  
14 for hearing on such application and post a notice thereof in the office of the  
15 clerk of the town or city, as the case may be, at least 30 days before ~~such~~ the  
16 time fixed for hearing. At such hearing or some adjourned session ~~thereof~~  
17 ~~such~~ of the legislative body shall determine whether ~~such~~ consent is in the  
18 public interest, and shall issue or withhold its certificate accordingly.

19 However, ~~such~~ the legislative body shall not act with reference to the issuance  
20 of ~~such~~ the certificate contrary to the action, if any, of the legal voters of ~~such~~  
21 the municipality, taken at any annual or special meeting ~~thereof~~ duly warned.

1 Sec. 412. 30 V.S.A. § 2923(a) is amended to read:

2 (a) In determining rates charged by a municipal plant, the Public Utility  
3 Commission shall allow, in addition to all other factors, a reasonable rate of  
4 return on capital investments. The return shall be commensurate with that  
5 permitted private utilities having corresponding risks and equivalent to that  
6 necessary for private utilities to assure ensure confidence in the financial  
7 integrity of the enterprise so as to maintain its credit and attract new capital.

8 Sec. 413. 30 V.S.A. § 3001(3) is amended to read:

9 (3) “Cooperative” means a corporation organized under this chapter or  
10 ~~which that~~ becomes subject to this chapter in the manner ~~hereinafter~~ provided  
11 for in this chapter.

12 Sec. 414. 30 V.S.A. § 3002 is amended to read:

13 § 3002. POWERS

14 A cooperative shall have power:

15 \* \* \*

16 (4) To generate, manufacture, purchase, acquire, accumulate, and  
17 transmit electric energy; and to distribute, sell, supply, and dispose of energy,  
18 cable television, telecommunications, interactive media, and ~~Internet~~ internet  
19 access to its members, to governmental agencies and political subdivisions;  
20 provided, however, that in the generation of electric energy by water power, a  
21 cooperative shall comply with the provisions of 10 V.S.A. §§ 1081–1099,

1 relating to the construction and maintenance of dams and, provided further,  
2 that a cooperative doing any activity governed by this title shall be regulated  
3 hereunder for that activity.

4 \* \* \*

5 (15) For purposes of providing electric power, to condemn property  
6 within the State, or easements or other limited rights therein, in the manner  
7 provided for public service corporations by sections 111–124 of this title, when  
8 it is necessary in order that it may render adequate electric service.

9 Sec. 415. 30 V.S.A. § 3003 is amended to read:

10 § 3003. NAME

11 The name of a cooperative governed by this chapter shall include the words  
12 “energy” or a word designating any specific form of energy such as “electric,”  
13 “propane,” or “natural gas” and “cooperative” and the abbreviation “inc.”  
14 unless, in an affidavit made by its president or vice president and filed with the  
15 Secretary of State, or in an affidavit made by a person signing articles of  
16 incorporation, consolidation, merger, or conversion, which relate to ~~such~~ the  
17 cooperative and filed, together with ~~such~~ the articles, with the Secretary of  
18 State, it shall appear that the cooperative desires to do business in another state  
19 and is or would be precluded ~~therefrom~~ by reason of the inclusion of ~~such~~ the  
20 words ~~or either thereof~~ in its name. The name of a cooperative shall be

1 distinct from the name of any other cooperative or corporation organized under  
2 the laws of, or authorized to do business in, this State.

3 Sec. 416. 30 V.S.A. § 3004 is amended to read:

4 § 3004. ORGANIZATION~~;~~ MEMBERS

5 Five or more natural persons, a majority of whom are residents of this  
6 State, or two or more cooperatives, may organize a cooperative in the manner  
7 ~~hereinafter~~ provided in this chapter.

8 Sec. 417. 30 V.S.A. § 3012 is amended to read:

9 § 3012. NOTICE~~;~~ WAIVER

10 A person entitled to notice of a meeting may waive ~~such~~ the notice in  
11 writing either before or after ~~such~~ the meeting. If ~~such~~ the person shall attend  
12 ~~such~~ the meeting, ~~such~~ attendance shall constitute a waiver of notice of ~~such~~  
13 the meeting, unless ~~such~~ the person participates ~~therein~~ solely to object to the  
14 transaction of any business because the meeting has not been legally called or  
15 convened.

16 Sec. 418. 30 V.S.A. § 3018 is amended to read:

17 § 3018. AMENDMENT OF ARTICLES

18 A cooperative may amend its articles of incorporation by complying with  
19 the following requirements: The proposed amendment shall be presented to a  
20 meeting of the members, the notice of which shall set forth or have attached  
21 ~~thereto~~ to it the proposed amendment. If the proposed amendment, with

1 changes, is approved by the affirmative vote of not less than two-thirds of  
2 those members voting ~~thereon~~ at ~~such~~ the meeting, a certificate of amendment  
3 shall be executed and acknowledged on behalf of the cooperative by its  
4 president or vice president and its seal shall be affixed ~~thereto~~ to it and attested  
5 by its secretary. The certificate of amendment shall recite that it is executed  
6 pursuant to this chapter and shall state: (1) the name of the cooperative; (2)  
7 the address of its principal office; and (3) the amendment to its articles of  
8 incorporation. The president or vice president executing ~~such~~ the certificate of  
9 amendment shall make and ~~annex thereto~~ attach to it an affidavit stating that  
10 the provisions of this section in respect of the amendment set forth in ~~such~~ the  
11 articles were duly complied with.

12 Sec. 419. 30 V.S.A. § 3020 is amended to read:

13 § 3020. CONSOLIDATION

14 Two or more cooperatives licensed in this State under this law, each of  
15 which is ~~hereinafter~~ designated a “consolidating cooperative,” may consolidate  
16 into a new cooperative, ~~hereinafter~~ designated the “new cooperative,” by  
17 complying with the following requirements:

18 (1) The proposition for the consolidation of the consolidating  
19 cooperatives into the new cooperative and proposed articles of consolidation to  
20 effect the same shall be submitted to a meeting of the members of each

1 consolidating cooperative, the notice of which shall have been attached ~~thereto~~  
2 to a copy of the proposed articles of consolidation.

3 (2) If the proposed consolidation and the proposed articles of  
4 consolidation, with amendments, are approved by the affirmative vote of not  
5 less than two-thirds of the members of each consolidating cooperative voting  
6 ~~thereon~~ at each ~~such~~ meeting, articles of consolidation in the form approved  
7 shall be executed and acknowledged on behalf of each consolidating  
8 cooperative by its president or vice president and its seal shall be affixed  
9 ~~thereto~~ and attested by its secretary. The articles of consolidation shall recite  
10 that they are executed pursuant to this chapter and shall state: (A) the name of  
11 each consolidating cooperative and the address of its principal office; (B) the  
12 name of the new cooperative and the address of its principal office; (C) a  
13 statement that each consolidating cooperative agrees to the consolidation; (D)  
14 the names and addresses of the directors of the new cooperative; and (E) the  
15 terms and conditions of the consolidation and the mode of carrying the same  
16 into effect, including the manner in which members of the consolidating  
17 cooperative may or shall become members of the new cooperative; and may  
18 contain provisions not inconsistent with law or this chapter deemed necessary  
19 or advisable for the conduct of the business of the new cooperative. The  
20 president or vice president of each consolidating cooperative executing ~~such~~  
21 articles of consolidation shall make and ~~annex thereto~~ attach an affidavit

1 stating that the provisions of this section in respect of such articles were duly  
2 complied with by ~~such~~ the cooperative.

3 Sec. 420. 30 V.S.A. § 3021 is amended to read:

4 § 3021. MERGER~~;~~ REQUIREMENTS

5 One or more cooperatives, each of which is ~~hereinafter~~ designated a  
6 “merging cooperative,” may merge into another cooperative, ~~hereinafter~~  
7 designated the “surviving cooperative,” by complying with the following  
8 requirements:

9 (1) The proposition for the merger of the merging cooperatives into the  
10 surviving cooperative and proposed articles of merger to give effect ~~thereto~~ to  
11 shall be submitted to a meeting of the members of each merging cooperative  
12 and of the surviving cooperative, the notice of which shall have attached  
13 ~~thereto~~ to it a copy of the proposed articles of merger.

14 (2) If the proposed merger and the proposed articles of merger, with  
15 amendments, are approved by the affirmative vote of not less than two-thirds  
16 of those members of each cooperative voting ~~thereon~~ at each ~~such~~ meeting,  
17 articles of merger in the form approved shall be executed and acknowledged  
18 on behalf of each ~~such~~ cooperative by its president or vice president and its  
19 seal shall be affixed ~~thereto~~ to it and attested by its secretary. The articles of  
20 merger shall recite that they are executed pursuant to this chapter and shall  
21 state: (A) the name of each merging cooperative and the address of its

1 principal office; (B) the name of the surviving cooperative and the address of  
2 its principal office; (C) a statement that each merging cooperative and the  
3 surviving cooperative agree to the merger; (D) the names and addresses of the  
4 directors of the surviving cooperative; and (E) the terms and conditions of the  
5 merger and the mode of carrying the same into effect, including the manner in  
6 which members of the merging cooperatives may become members of the  
7 surviving cooperative. ~~Sueh~~ The articles may contain provisions not  
8 inconsistent with law or this chapter deemed necessary or advisable for the  
9 conduct of the business of the surviving cooperative. The president or vice  
10 president of each cooperative executing ~~sueh~~ articles of merger shall make and  
11 ~~annex thereto~~ attach to an affidavit stating that the provisions of this section in  
12 respect to ~~sueh~~ the articles were duly complied with by ~~sueh~~ the cooperative.

13 Sec. 421. 30 V.S.A. § 3022 is amended to read:

14 § 3022. EFFECT

15 In the case of a consolidation, the separate existence of the consolidating  
16 cooperatives shall cease and the articles of consolidation shall be deemed to be  
17 the articles of incorporation of the new cooperative. In the case of a merger,  
18 the separate existence of the merging cooperatives shall cease and the articles  
19 of incorporation of the surviving cooperative shall be deemed to be amended  
20 to the extent that changes ~~therein~~ are provided for in the articles of the merger.



1 Sec. 422. 30 V.S.A. § 3026 is amended to read:

2 § 3026. PRIVATE CORPORATION~~s~~; CHANGE

3 A corporation organized under the laws of this State and supplying or  
4 authorized to supply energy may be converted into a cooperative by complying  
5 with the following requirements and shall ~~thereupon~~ become subject to this  
6 chapter with the same effect as if originally organized under this chapter:

7 (1) The proposition for the conversion of ~~such a~~ corporation into a  
8 cooperative and proposed articles of conversion to give effect ~~thereto~~ to shall  
9 be submitted to a meeting of the members or stockholders of ~~such a~~  
10 corporation, the notice of which shall have attached ~~thereto~~ a copy of the  
11 proposed articles of conversion.

12 (2) If the proposition for the conversion of ~~such a~~ corporation into a  
13 cooperative and the proposed articles of conversion, with amendments, are  
14 approved by the affirmative vote of not less than two-thirds of those members  
15 of such corporation voting ~~thereon~~ at ~~such the~~ the meeting, or, if such corporation  
16 is a stock corporation, by the affirmative vote of the holders of not less than  
17 two-thirds of the shares of the capital stock of ~~such the~~ the corporation represented  
18 at ~~such the~~ the meeting and voting ~~thereon~~, articles of conversion in the form  
19 approved shall be executed and acknowledged on behalf of ~~such the~~ the  
20 corporation by its president or vice president and its seal shall be affixed  
21 ~~thereto~~ to it and attested by its secretary.

1           (3) The articles of conversion shall recite that they are executed  
2 pursuant to this chapter and shall state: (A) the name of the corporation and  
3 the address of its principal office prior to its conversion into a cooperative; (B)  
4 the statute or statutes under which it was organized; (C) a statement that ~~such~~  
5 the corporation elects to become a cooperative subject to this chapter; (D) its  
6 name as a cooperative; (E) the address of the principal office of the  
7 cooperative; (F) the names and addresses of the directors of the cooperative;  
8 and (G) the manner in which members or stockholders of ~~such~~ the corporation  
9 may become members of the cooperative; and may contain any provisions not  
10 inconsistent with law or this chapter deemed necessary or advisable for the  
11 conduct of the business of the cooperative. The president or vice president  
12 executing ~~such~~ articles of conversion shall make and ~~annex thereto~~ attach to an  
13 affidavit stating that the provisions of this section were duly complied with in  
14 respect of such articles. The articles of conversion shall be deemed to be the  
15 articles of incorporation of the cooperative.

16 Sec. 423. 30 V.S.A. § 3027(4) is amended to read:

17           (4) that any sums received by the cooperative, less any part thereof  
18 disbursed for expenses of the cooperative, have been returned or paid to those  
19 entitled ~~thereto~~ to them;

1 Sec. 424. 30 V.S.A. § 3028 is amended to read:

2 § 3028. DISSOLUTION OF COOPERATIVES

3 A cooperative that has commenced business may be dissolved in the  
4 following manner: The members at a meeting shall approve, by the  
5 affirmative vote of not less than two-thirds of the members voting ~~thereon~~ at  
6 ~~such a~~ meeting, a proposal that the cooperative be dissolved. Upon ~~such~~  
7 approval, a certificate of election to dissolve, ~~hereinafter~~-designated the  
8 “certificate,” executed under oath and acknowledged on behalf of the  
9 cooperative by its president or vice president under its seal, attested by its  
10 secretary, and stating: (1) the name of the cooperative; (2) the address of its  
11 principal office; and (3) that the members of the cooperative have duly voted  
12 that the cooperative be dissolved, shall be filed with the Secretary of State.  
13 Upon filing of ~~such a~~ certificate by the Secretary of State, the cooperative shall  
14 cease to carry on its business except to the extent necessary for the winding up  
15 ~~thereof~~, but its corporate existence shall continue until a certificate of  
16 dissolution has been filed by the Secretary of State. The board of directors  
17 shall immediately cause notice of the dissolution proceedings to be mailed to  
18 each known creditor of and claimant against the cooperative and to be  
19 published once a week for two successive weeks in a newspaper of general  
20 circulation in the county in which the principal office of the cooperative is  
21 located. The board of directors shall wind up and settle the affairs of the

1 cooperative; collect sums owing to it; liquidate its property and assets; pay  
2 and discharge its debts, obligations, and liabilities; and do all other things  
3 required to wind up its business. After paying or discharging or adequately  
4 providing for the payment or discharge of all its debts, obligations, and  
5 liabilities, the board shall distribute any remaining sums among its members  
6 and former members in proportion to the patronage of the respective members  
7 or former members during the seven years next preceding the date of the filing  
8 of the certificate by the Secretary of State, or if the cooperative has not been in  
9 existence for such period, then during the period of its existence prior to ~~such~~  
10 the filing. The board of directors shall ~~thereupon~~ authorize the execution of a  
11 certificate of dissolution, which shall be executed and acknowledged on behalf  
12 of the cooperative by its president or vice president, and its seal shall be  
13 affixed ~~thereto~~ to it and attested by its secretary. The certificate of dissolution  
14 shall recite that it is executed pursuant to this chapter and shall state: (1) the  
15 name of the cooperative; (2) the address of its principal office; (3) the date on  
16 which the certificate of election to dissolve was filed by the Secretary of State;  
17 (4) that there are no actions or suits pending against the cooperative; (5) that  
18 all debts, obligations, and liabilities of the cooperative have been paid and  
19 discharged or that adequate provision has been made ~~therefor~~; and (6) that the  
20 provisions of this chapter relative to dissolution have been duly complied with.  
21 The president or vice president executing the certificate of dissolution shall

1 make and ~~annex thereto~~ attach to an affidavit stating that the statements made  
2 ~~therein in it~~ are true.

3 Sec. 425. 30 V.S.A. § 3029 is amended to read:

4 § 3029. PAPERS FILED

5 Articles of incorporation, amendment, consolidation, merger, conversion, or  
6 dissolution, when executed and acknowledged and accompanied by ~~such~~  
7 affidavits as may be required by applicable provisions of this chapter, shall be  
8 filed with the Secretary of State. If the Secretary of State ~~shall find~~ finds that  
9 the articles presented conform to the requirements of this chapter, ~~he or she~~ the  
10 Secretary shall, upon the payment of the fees as in this chapter provided,  
11 record ~~such~~ the articles and upon ~~such~~ the recording the incorporation,  
12 amendment, consolidation, merger, conversion, or dissolution provided for  
13 ~~therein~~ shall be in effect. The provisions of this section shall also apply to  
14 certificates of election to dissolve pursuant to section 3028 of this ~~title~~ chapter.

15 Sec. 426. 30 V.S.A. § 3030 is amended to read:

16 § 3030. REVENUES;<sup>52</sup> USE OF

17 Revenues of a cooperative for a fiscal year in excess of the amount thereof  
18 necessary:

19 \* \* \*

20 (6) To provide a fund, ~~hereinafter~~ designated as the “cooperative  
21 education fund,” for education in cooperation and for the dissemination of

1 information concerning the effective use of energy and other services, goods,  
2 or products made available by the cooperative, shall, unless otherwise  
3 determined by a vote of the members, be distributed by the cooperative to its  
4 members and to other persons to whom the cooperative supplies energy or  
5 other services, goods, or products made available through its electric  
6 distribution facilities, as patronage refunds prorated in accordance with the  
7 patronage of the cooperative by the respective members and ~~such~~ other  
8 persons, paid for during such fiscal year; provided, however, ~~such a~~  
9 distribution shall not be made to ~~such other~~ a person until ~~he or she has~~  
10 ~~become~~ that person becomes a member of the cooperative. If ~~such other~~ that  
11 person does not become a member of the cooperative within one year after the  
12 amount of ~~his or her~~ that person's distributive share or accumulated  
13 distributive shares equals the membership fee required by the bylaws of the  
14 cooperative, or, if no membership fee is required, within two years after the  
15 declaration of ~~such~~ the patronage refund, ~~he or she~~ that person shall cease to be  
16 entitled to ~~such a~~ a share or shares, which shall, in such case, be paid into the  
17 cooperative education fund. The cooperative shall make such additional  
18 provision, in the bylaws or otherwise, relative to the disposition of the  
19 revenues of the cooperative as may be necessary and appropriate to establish  
20 and maintain the nonprofit character of the cooperative. Nothing ~~herein~~  
21 contained in this section shall be construed to prohibit the payment by a

1 cooperative of all or any part of its indebtedness prior to the date when the  
2 same shall become due.

3 Sec. 427. 30 V.S.A. § 3031 is amended to read:

4 § 3031. MORTGAGE AND INVESTMENT

5 (a) The board of directors of a cooperative shall have full power and  
6 authority, without authorization by the members thereof, to authorize the  
7 execution and delivery of a mortgage or mortgages or a deed or deeds of trust  
8 of, or the pledging or encumbering of, any or all of the property, assets, rights,  
9 privileges, licenses, franchises, and permits of the cooperative, whether  
10 acquired or to be acquired, and wherever situated, as well as the revenues and  
11 income ~~therefrom~~, all upon such terms and conditions as the board of directors  
12 shall determine, to secure indebtedness of the cooperative in the ordinary  
13 course of the cooperative's electric business.

14 (b) The board of directors of a cooperative shall have full power and  
15 authority, with the approval of two-thirds of the members of the cooperative  
16 voting on such authorization, to authorize the execution and delivery of a  
17 mortgage or mortgages or a deed of trust of, or the pledging or encumbering  
18 of, any or all of the property, assets, rights, privileges, licenses, franchises, and  
19 permits of the cooperative, whether acquired or to be acquired, and wherever  
20 situated, as well as the revenues and income ~~therefrom~~, upon such terms and  
21 conditions as the board of directors shall determine, to secure indebtedness of

1 the cooperative for purposes authorized by statute other than operation of the  
2 cooperative's electric business.

3 \* \* \*

4 Sec. 428. 30 V.S.A. § 3033 is amended to read:

5 § 3033. PERSONAL LIABILITY

6 A member shall not be liable or responsible for debts of the cooperative and  
7 the property of the members shall not be subject to attachment or execution  
8 therefor.

9 Sec. 429. 30 V.S.A. § 3034 is amended to read:

10 § 3034. MORTGAGES; FILING

11 A mortgage, deed of trust, or other instrument executed by a cooperative or  
12 foreign corporation doing business in this State pursuant to this chapter, which  
13 affects real and personal property and which is recorded in the town in which  
14 such property is located or is to be located, shall have the same force and effect  
15 as if the mortgage, deed of trust, or other instrument were also recorded, filed,  
16 or indexed as provided by law in the proper office in such town as a mortgage  
17 of personal property. All after-acquired property of such cooperative or  
18 foreign corporation described or referred to as being mortgaged or pledged in  
19 such mortgage, deed of trust, or other instrument, shall become subject to the  
20 lien thereof immediately upon the acquisition of such property by such  
21 cooperative or foreign corporation, whether or not such property was in



1 existence at the time of the execution of such mortgage, deed of trust, or other  
2 instrument. Recordation of ~~such~~ the mortgage, deed of trust, or other  
3 instrument shall constitute notice and otherwise have the same effect with  
4 respect to ~~such~~ the after-acquired property as it has under the laws relating to  
5 recordation, with respect to property owned by ~~such~~ the cooperative or foreign  
6 corporation at the time of the execution of ~~such~~ the mortgage, deed of trust, or  
7 other instrument and ~~therein~~ described or referred to as being mortgaged or  
8 pledged ~~thereby~~.

9 Sec. 430. 30 V.S.A. § 3037 is amended to read:

10 § 3037. FOREIGN COMPANIES; SERVICE OF PROCESS

11 A foreign nonprofit or cooperative corporation supplying or authorized to  
12 supply electric energy and owning or operating electric transmission or  
13 distribution lines in an adjacent state, prior to March 26, 1943, may construct  
14 or acquire extensions of ~~such~~ lines in this State within an area no point of  
15 which is more than 25 miles from the boundary line of this State and may  
16 operate ~~such~~ those extensions without qualifying as a foreign corporation to do  
17 business in this State. Before constructing or operating such extensions, by an  
18 instrument executed and acknowledged on its behalf by its president or vice  
19 president, under its seal attested by its clerk or secretary, and filed with the  
20 Secretary of State, ~~which instrument shall be in form and substance like that~~  
21 ~~prescribed by 11 V.S.A. § 692,~~ such a corporation shall designate the Secretary

1 of State its agent to accept service of process on its behalf. Thereafter, ~~such~~  
2 the corporation shall have all the rights, powers, privileges, and immunities of  
3 a cooperative. Service of process shall be made upon the Secretary of State in  
4 accordance with the provisions of 12 V.S.A. §§ 851 and 852 and ~~he or she~~  
5 shall ~~forthwith~~ forward one copy of the same by registered mail to such  
6 corporation at the address of its principal office.

7 Sec. 431. 30 V.S.A. § 3043(b) is amended to read:

8 (b) Members of a cooperative organized pursuant to subsection (a) of this  
9 section shall be the cooperative or cooperatives organizing it and may include  
10 any individual, partnership, association, corporation, municipality, or  
11 cooperative engaged in the generation, transmission, or distribution of energy  
12 within or ~~without~~ outside the State of Vermont. The bylaws of a cooperative  
13 organized pursuant to subsection (a) of this section may provide for more than  
14 one class of membership, including a class or classes with no rights or with  
15 limited rights to vote on matters requiring the vote of members under this  
16 chapter, and including a class or classes with no rights or limited rights to  
17 receive distributions of patronage refunds.

18 Sec. 432. 30 V.S.A. § 3051(d)(1) is amended to read:

19 (1) “Communications plant” means any and all parts of any  
20 communications system owned by the district, whether using wires, cables,  
21 fiber optics, wireless, other technologies, or a combination ~~thereof~~ of, and used

1 for the purpose of transporting or storing information, in whatever forms,  
2 directions, and media, together with any improvements ~~thereto hereafter~~  
3 constructed or acquired later, and all other facilities, equipment, and  
4 appurtenances necessary or appropriate to such system. However, the term  
5 “communications plant” and any regulatory implications or any restrictions  
6 under this chapter regarding a “communications plant” shall not apply to  
7 facilities or portions of any communications facilities intended for use by, and  
8 solely used by, a district member and its own officers and employees in the  
9 operation of municipal departments or systems of which such communications  
10 are merely an ancillary component.

11 Sec. 433. 30 V.S.A. § 3053(c) is amended to read:

12 (c) An action shall not be brought directly or indirectly challenging,  
13 questioning, or in any manner contesting the legality of the formation, or the  
14 existence as a body corporate and politic of any communications union district  
15 created under this chapter after six months from the date of the recording in  
16 the office of the Secretary of State of the certificate required by subsection (a)  
17 of this section. An action shall not be brought directly or indirectly  
18 challenging, questioning, or in any manner contesting the legality or validity  
19 of any bonds issued to defray costs of communications plant improvements  
20 approved by the board, after six months from the date upon which the board  
21 voted affirmatively to issue such bonds. This section shall be liberally

1 construed to ~~effect~~ affect the legislative purpose to validate and make certain  
2 the legal existence of all communications union districts in this State and the  
3 validity of bonds issued or authorized for communications plant  
4 improvements, and to bar every remedy ~~therefor~~ notwithstanding any defects  
5 or irregularities, jurisdictional or otherwise, after expiration of the six-month  
6 period. The provisions of this subsection shall also pertain to financial  
7 contracts directly related to the district's bonding authority.

8 Sec. 434. 30 V.S.A. § 3054 is amended to read:

9 § 3054. DISTRICT POWERS

10 (a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject  
11 to the limitations and restrictions set forth in section 3056 of this chapter, a  
12 district created under this chapter shall have the power to:

13 (1) operate, cause to be operated, or contract for the construction,  
14 ownership, management, financing, and operation of a communications plant  
15 for the delivery of communications services, as provided in 24 V.S.A. chapter  
16 54, ~~and all enactments supplementary and amendatory thereto;~~

17 \* \* \*

18 (8) provide communications services for its district members, including  
19 the residential and business locations located therein; and also provide  
20 communications services for such other residential and business locations as its  
21 facilities and obligations may allow, provided such other locations are in a

1 municipality that is contiguous with the town limits of a district member, and  
2 further provided such other locations do not have access to ~~Internet~~ internet  
3 service capable of speeds that meet or exceed the current speed requirements  
4 for funding eligibility under the Connectivity Initiative, section 7515b of this  
5 title.

6 \* \* \*

7 (18) establish capital reserve funds and make appropriations ~~thereto~~ for  
8 communications plant improvements and the financing ~~thereof~~;

9 \* \* \*

10 Sec. 435. 30 V.S.A. § 3059 is amended to read:

11 § 3059. APPOINTMENT

12 Annually on or before the last Monday in April, the legislative body of each  
13 member shall appoint a representative and one or more alternates to the  
14 governing board for one-year terms. Appointments of representatives and  
15 alternates shall be in writing, signed by the chair of the legislative body of the  
16 appointing member, and presented to the clerk of the district. The legislative  
17 body of a member, by majority vote, may replace its appointed representative  
18 or alternate at any time and shall promptly notify the district clerk of ~~such~~ the  
19 replacement. Initial appointments shall be made within 60 days ~~of~~ following  
20 the vote to form a district under subsection 3051(b) of this ~~title~~ chapter and  
21 initial terms may be for less than one year.

1 Sec. 436. 30 V.S.A. § 3060 is amended to read:

2 § 3060. ORGANIZATIONAL MEETING

3 Annually, on the second Tuesday in May following the appointments  
4 contemplated in section 3059 of this chapter, the board shall hold its  
5 organizational meeting. At ~~such~~ the meeting, the board shall elect from among  
6 its appointed representatives a chair and a vice chair, each of whom shall hold  
7 office for one year and until ~~his or her~~ a successor is duly elected. The board's  
8 initial organizational meeting shall be held within 90 days ~~of~~ following the  
9 vote to form a district under subsection 3051(b) of this title.

10 Sec. 437. 30 V.S.A. § 3067(e) is amended to read:

11 (e) Upon the death, disability, resignation, or removal of the chair or vice  
12 chair, the board shall ~~forthwith~~ immediately elect a successor to ~~such~~ the  
13 vacant office until the next annual meeting.

14 Sec. 438. 30 V.S.A. § 3068 is amended to read:

15 § 3068. CLERK

16 The clerk of the district shall be appointed by the board, and shall serve at  
17 its pleasure. The clerk is not required to be a member of the governing board.  
18 The clerk shall have the exclusive charge and custody of the records of the  
19 district and the seal of the district. The clerk shall record all votes and  
20 proceedings of the district, including district and board meetings, and shall  
21 prepare and cause to be posted and published all warnings of meetings ~~of such~~

1 meetings. Following approval by the board, the clerk shall cause the annual  
2 report to be distributed to the legislative bodies of the district members. The  
3 clerk shall prepare and distribute any other reports required by State law and  
4 resolutions or ~~regulations~~ rules of the board. The clerk shall perform all duties  
5 and functions incident to the office of secretary or clerk of a body corporate.

6 Sec. 439. 30 V.S.A. § 3069 is amended to read:

7 § 3069. TREASURER

8 The treasurer of the district shall be appointed by the board, and shall serve  
9 at its pleasure. The treasurer shall not be a member of the governing board.

10 The treasurer shall have the exclusive charge and custody of the funds of the  
11 district and shall be the disbursing officer of the district. When authorized by  
12 the board, the treasurer may sign, make, or endorse in the name of the district  
13 all checks and orders for the payment of money and pay out and disburse the  
14 same and receipt ~~therefor~~. The treasurer shall keep a record of every  
15 obligation issued and contract entered into by the district and of every payment  
16 thereon. The treasurer shall keep correct books of account of all the business  
17 and transactions of the district and such other books and accounts as the board  
18 may require. The treasurer shall render a statement of the condition of the  
19 finances of the district at each regular meeting of the board and at such other  
20 times as shall be required of the treasurer. The treasurer shall prepare the  
21 annual financial statement and the budget of the district for distribution, upon

1 approval of the board, to the legislative bodies of district members. The  
2 treasurer shall do and perform all of the duties appertaining to the office of  
3 treasurer of a body politic and corporate. Upon removal or the treasurer's  
4 termination from office by virtue of removal or resignation, the treasurer shall  
5 immediately pay over to the successor all of the funds belonging to the district  
6 and at the same time deliver to the successor all official books and papers.

7 Sec. 440. 30 V.S.A. § 3073 is amended to read:

8 § 3073. RECALL OF OFFICERS

9 An officer may be removed by a two-thirds<sup>2</sup> vote of the board whenever, in  
10 its judgment, the best ~~interest~~ interests of the district shall be served.

11 Sec. 441. 30 V.S.A. § 3075 is amended to read:

12 § 3075. BUDGET

13 \* \* \*

14 (d) Actions or resolutions of the board for the annual appropriations of any  
15 year shall not cease to be operative at the end of the fiscal year for which they  
16 were adopted. Appropriations made by the board for the various estimates of  
17 the budget shall be expended only for such estimates, but by majority vote of  
18 the board the budget may be amended from time to time to transfer funds  
19 between or among such estimates. Any balance left or unencumbered in any  
20 ~~such~~ budget estimate, or the amount of any deficit at the end of the fiscal year,  
21 shall be included in and paid out of the operating budget and appropriations in



1 the next fiscal year. All ~~such~~ budget amendments shall be reported by the  
2 district treasurer to the legislative bodies of each district member within  
3 14 days of following the end of the fiscal year.

4 (e) Financial statements and audit results shall be delivered to the  
5 legislative bodies of each district member within 10 days of following delivery  
6 to the board.

7 Sec. 442. 30 V.S.A. § 3080(i) is amended to read:

8 (i) At all special meetings, the provisions of 17 V.S.A. chapter 51  
9 regarding election officials, voting machines, polling places, absentee voting,  
10 process of voting, count and return of votes, validation, recounts and contest of  
11 elections, reconsideration or rescission of vote, and jurisdiction of courts shall  
12 apply except where clearly inapplicable. The clerk shall perform the functions  
13 assigned to the Secretary of State under that chapter. The Washington  
14 Superior Court shall have jurisdiction over petitions for recounts. Election  
15 expenses shall be borne by the district, unless within 30 days of following the  
16 date of such resolution there is filed with the clerk of the district a request to  
17 call a special district meeting under this section to consider a proposition to  
18 rescind such resolution.

1 Sec. 443. 30 V.S.A. § 3081 is amended to read:

2 § 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

3 A district member may withdraw from the district upon the terms and  
4 conditions ~~herein~~ specified in this section:

5 (1) Prior to the district pledging communications plant net revenues, or  
6 entering into a long-term contract, or contract subject to annual appropriation,  
7 a district member may vote to withdraw in the same manner as the vote for  
8 admission to the district. If a majority of the voters of a district member  
9 present and voting at a meeting duly warned for ~~such~~ this purpose votes to  
10 withdraw from the district, the vote shall be certified by the clerk of that  
11 municipality and presented to the board. Thereafter, the board shall give  
12 notice to the remaining district members of the vote to withdraw and shall hold  
13 a meeting to determine if it is in the best ~~interest~~ interests of the district to  
14 continue to exist. Representatives of the district members shall be given an  
15 opportunity to be heard at such meeting together with any other interested  
16 persons. After ~~such a~~ the meeting, the board may declare the district dissolved  
17 or it may declare that the district shall continue to exist despite the withdrawal  
18 of such member. The membership of the withdrawing municipality shall  
19 terminate after the vote to withdraw.

20 \* \* \*

1 Sec. 444. 30 V.S.A. § 4001 is amended to read:

2 § 4001. DEFINITIONS

3 In As used in this chapter, unless the context otherwise requires, the  
4 following words shall have the following meanings:

5 \* \* \*

6 (4) “Utility,” ~~except as otherwise required by the context in which used~~  
7 ~~herein~~, is intended to refer to cooperatives, municipal utilities, as ~~herein~~  
8 defined, and private electric utilities.

9 Sec. 445. 30 V.S.A. § 4002a is amended to read:

10 § 4002a. ALL REQUIREMENTS CONTRACTS

11 \* \* \*

12 (b) Prior to entering into such a contract, the municipal or cooperative  
13 utility must obtain:

14 (1) Approval, upon petition of the utility or of the Authority, by the  
15 Public Utility Commission of the proposed arrangement, which shall be given  
16 upon findings that the proposed arrangement will promote the general good of  
17 the ratepayers of the utility or utilities, and is consistent with least-cost  
18 integrated planning principles. The proposed contract reflecting the  
19 arrangement shall be filed with the Commission and the Department at least  
20 45 days prior to its intended execution, and the Department shall make its  
21 recommendation as to whether it accepts or does not accept the contract within

1 30 days of following the date on which the proposed contract was filed.  
2 Should the Department oppose the contract, or the Commission on its own  
3 motion determine that investigation into the contract is appropriate, the  
4 Commission shall hear evidence on the matter and shall determine, within  
5 seven months of the intended execution date, whether the contract promotes  
6 the general good as described in this subdivision. Failure of the Commission  
7 to act within seven months shall be deemed to constitute approval of the  
8 contract.

9 (2) Approval of the arrangement, within 90 days of following approval  
10 or failure to act by the Public Utility Commission under subdivision (1) of this  
11 subsection, by a majority of persons voting in a duly warned election called by  
12 the cooperative or municipality for the purpose of considering such  
13 arrangement.

14 \* \* \*

15 (d) Any contract under this section shall contain provisions allowing for its  
16 termination upon appropriate prior notice, with due consideration for the  
17 equitable allocation of obligations incurred pursuant to subdivision 5012(6) of  
18 this title during the period of delegated authority. Where a petition signed by  
19 not less than five percent of the qualified voters of a municipality or members  
20 of a cooperative, requesting termination of the participation of the  
21 municipality or cooperative in an all requirements contract, is filed with the

1 clerk of the municipality or the board of directors of the cooperative, the  
2 legislative body of the municipality or the board of directors of the cooperative  
3 shall provide for a binding vote of the municipality or cooperative in  
4 accordance with this subsection within 60 days of following filing, at an  
5 annual or special meeting duly warned for that purpose.

6 \* \* \*

7 Sec. 446. 30 V.S.A. § 4003 is amended to read:

8 § 4003. IMPLEMENTING POWERS

9 Without limiting the general scope and application of section 4002 of this  
10 chapter, each participating utility shall have the right and power:

11 \* \* \*

12 (3) To acquire, for the use and benefit of all participating utilities, by  
13 purchase or through the exercise of the power of eminent domain, lands,  
14 easements, and properties for the purpose of jointly owned electric facilities,  
15 and transfer or convey ~~such~~ lands, easements, and properties or interests  
16 ~~therein~~, or otherwise to cause ~~such~~ those lands, easements, and properties, or  
17 interests ~~therein~~, to be vested in other participating utilities to the extent and in  
18 the manner agreed between the participating utilities. In all cases in which a  
19 participating utility exercises the right and power of eminent domain conferred  
20 by statute, it shall be controlled by the law governing condemnation by  
21 corporate public utilities in this State, and the right and power of eminent

1 domain hereby conferred shall include the right and power to take fee title in  
2 land so condemned, except that no participating utility has the right or power  
3 to take by the exercise of the power of eminent domain any electric facilities,  
4 or interests therein, belonging to any other municipal electric utility, electric  
5 cooperative, or private utility, except as provided by chapter 79 of this title.

6 \* \* \*

7 Sec. 447. 30 V.S.A. § 4006 is amended to read:

8 § 4006. CONSTRUCTION OF CHAPTER

9 Notwithstanding any other provision of this chapter, nothing herein in this  
10 chapter shall have the effect of, or be construed as, altering, amending, or  
11 repealing the statutory purposes provided for by any statute enacted by the  
12 Legislature General Assembly of Vermont pertaining to the creation,  
13 establishment, or operation of municipal electric utilities or electric  
14 cooperatives.

15 Sec. 448. 30 V.S.A. § 5011 is amended to read:

16 § 5011. CREATION OF VERMONT PUBLIC POWER SUPPLY

17 AUTHORITY

18 \* \* \*

19 (b) The Authority shall consist of those municipalities and cooperatives  
20 which that by January 31, 1979 elected to become a member of Vermont  
21 Public Power Supply System, Inc., in accordance with the terms of its bylaws,

1 and those Vermont municipalities and cooperatives that shall ~~thereafter~~ later  
2 elect to become members of the Authority in accordance with the rules and  
3 regulations of the Authority established by it. These rules ~~and regulations~~  
4 shall be calculated to permit membership without an undue burden on new  
5 members, but with regard to the benefits contributed to the Authority by its  
6 original members.

7 (c) The powers of the Authority shall be exercised by a board of directors.  
8 The Board of Directors shall consist of one director from each member  
9 municipality or member cooperative, who shall be elected by the legislative  
10 body of each member municipality or the board of trustees of each member  
11 cooperative. Each municipality or cooperative may also elect an alternate  
12 director to serve in the absence or disability of its director. The term of office  
13 of a director shall be for one year coincident with the fiscal year of the  
14 Authority or until a successor director has been duly elected and qualified.  
15 Any director may be removed at the pleasure of the legislative body of the  
16 municipality or cooperative ~~which~~ that elected that director, upon notice to the  
17 authority and the election of a successor director. The Board of Directors of  
18 the Authority shall adopt bylaws or other rules ~~and regulations~~ for the  
19 management of the affairs of the Authority and carrying out the purpose of this  
20 chapter. The Board of Directors shall also elect one of its member directors as  
21 chair of the Authority and shall also elect a treasurer and secretary who may

1 be, ~~but need not be~~, directors. It may elect other officers and agents as  
2 necessary to perform those acts commonly delegated to the officers and agents  
3 of a business corporation and shall set their compensation.

4 (d) ~~Despite~~ Notwithstanding any law or charter provision to the contrary, a  
5 director or officer of the Authority who is also an officer, employee, or  
6 member of a legislative body of a municipality or other public body or the  
7 State shall not ~~thereby~~ be precluded from voting or acting on behalf of the  
8 Authority on a matter involving the municipality or public body or the State.  
9 Neither shall service as a director or officer of the Authority constitute a  
10 conflict of interest for an officer, employee, or member of a municipality or  
11 public body or the State.

12 \* \* \*

13 Sec. 449. 30 V.S.A. § 5012 is amended to read:

14 § 5012. GENERAL POWERS AND DUTIES

15 The Authority shall have all of the powers necessary and convenient to  
16 carry out this chapter, including those general powers provided a business  
17 corporation by ~~11 V.S.A. § 1852~~ 11A V.S.A. § 3.02, and including the power:

18 \* \* \*

19 Sec. 450. 30 V.S.A. § 5015 is amended to read:

20 § 5015. TAX EXEMPTION

21 \* \* \*



1           (c) Real and personal property, situated within the State and owned by the  
2 Authority shall be exempt from property taxation. The Authority shall, in lieu  
3 of property taxes, pay to any governmental body authorized to levy local  
4 property taxes the amount ~~which~~ that would be assessable as local property  
5 taxes on the real and tangible personal property if that property were the  
6 property of a utility. These payments shall be due, and bear interest if unpaid,  
7 as in the case of taxes on the property of a utility. For purposes of these  
8 payments in lieu of taxes, the assessors of the taxing authority shall make a  
9 valuation and assessment of the property and determine the tax that would be  
10 assessable if the property were owned by a utility. Payments in lieu of taxes  
11 made under this chapter shall be treated in the same manner as taxes for the  
12 purposes of all procedural and substantive provisions of law, including  
13 appeals, ~~now and hereinafter in effect~~ applicable to assessment and taxation of  
14 real and personal property, collection, and abatement of these taxes and the  
15 raising of public revenues.

16       Sec. 451. 30 V.S.A. § 5016 is amended to read:

17       § 5016. RULES AND RATES

18           (a) The Authority may make and enforce rules ~~and regulations which~~ that it  
19 deems necessary or desirable. It may establish, levy, and collect or may  
20 authorize by contract, franchise, lease, or otherwise, the establishment,  
21 levying, and collection of rents, rates, and other charges:

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\* \* \*

Sec. 452. 30 V.S.A. § 5034 is amended to read:

§ 5034. REMEDIES OF BONDHOLDERS AND NOTEHOLDERS

(a) In the event that the Authority defaults in the payment of principal or of interest on any bonds or notes issued under this chapter after they become due, whether at maturity or upon call for redemption, and the default continues for a period of 30 days, or in the event that the Authority fails or refuses to comply with the provisions of this chapter, or defaults in any agreement made with the holders of an issue of bonds or notes of the Authority, the holders of 25 percent in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of those bonds or notes for the purposes herein provided.

\* \* \*

Sec. 453. 30 V.S.A. § 7004(e)(1) is amended to read:

(1) the excavation is not completed within 30 days of following the notification;

Sec. 454. 30 V.S.A. § 7525(c) is amended to read:

(c) The Public Utility Commission may hear appeals from any determinations of delinquency made by the fiscal agent. Any such

1 determination shall become final if not so appealed within 60 days of  
2 following its issuance.

3 Sec. 455. 30 V.S.A. § 8005a(k) is amended to read:

4 (k) Executed standard offer contracts; transferability; allocation of benefits  
5 and costs. With respect to executed contracts for standard offers under this  
6 section:

7 (1) A contract shall be transferable. The contract transferee shall  
8 notify the Standard Offer Facilitator of the contract transfer within 30 days of  
9 following transfer.

10 \* \* \*

11 Sec. 456. 30 V.S.A. § 8008(c) is amended to read:

(c) A Vermont retail electricity provider shall notify the Commission  
within 30 ~~days of following~~ *days of* the first receipt of the revenues pursuant to  
an agreement, contract, memorandum of understanding, or other transaction  
under which it will receive the revenues. The Commission ~~will~~ shall open a  
proceeding under this section promptly on receipt of such notice and shall  
issue a final order in the proceeding within 12 months of following such  
receipt.

12 Sec. 457. 30 V.S.A. § 8010(f) is amended to read:

13 (f) Except for net metering systems for which the Commission has  
14 established a registration process, the Commission shall issue a final

1 determination as to an uncontested application within 90 days of following the  
2 date of the last substantive filing by a party.

3 Sec. 458. 30 V.S.A. § 8091(b) is amended to read:

4 (b) When constructing or substantially reconstructing lines or structures  
5 used for electric or gas transmission or electric distribution, a company shall  
6 allow for the construction and maintenance of communications facilities  
7 ~~thereupon~~ if requested by a communications service provider.

8 Sec. 459. 30 V.S.A. § 8101(b)(6) is amended to read:

9 (6) The Vermont village green renewable project will comply with all  
10 applicable national ambient air quality standards and air pollution control  
11 ~~regulations~~ rules of the Agency of Natural Resources. If, during 2009, the  
12 U.S. Environmental Protection Agency proposes updated emissions standards  
13 applicable to wood-fueled boilers to be used in connection with the project, the  
14 project shall comply with ~~such~~ the proposed standards.

15 \* \* \* Title 31 \* \* \*

16 Sec. 460. 31 V.S.A. chapter 5 is amended to read:

17 CHAPTER 5. MUNICIPAL RECREATION

18 § 201. AUTHORITY TO APPROPRIATE FOR RECREATION

19 A city by its council or an incorporated village, at an annual meeting, may  
20 appropriate such sums of money as it deems best, not exceeding four percent  
21 of its grand list, for the purchase of public playgrounds and lands, and for the

1 construction and maintenance of buildings and equipment ~~thereon~~ on public  
2 playgrounds or lands, for public recreational purposes. This section shall not  
3 apply to a city or incorporated village whose charter or bylaws authorize ~~such~~  
4 the appropriation.

5 § 202. AUTHORITY TO ESTABLISH AND FINANCE RECREATION  
6 SYSTEM

7 Municipalities, singly or jointly, may establish, maintain, and conduct a  
8 system of public recreation, including playgrounds; may set apart for ~~such~~ that  
9 use any land or buildings owned or leased by it; may acquire land, buildings,  
10 and other recreational facilities by gift or purchase, and may issue bonds  
11 ~~therefor~~ for these purposes as provided in 24 V.S.A. §§ 1751–1788 and equip  
12 and conduct the same; may employ a director of recreation and assistant; and  
13 may expend funds for the ~~aforesaid~~ these purposes.

14 § 203. CONTROL AND SUPERVISION OF SYSTEM

15 The legislative body may conduct the same through a department or bureau  
16 of recreation or may delegate the conduct ~~thereof~~ of the system to a  
17 recreational board created by them, or to a school board or to any other  
18 appropriate existing board or commission. The members of ~~such~~ the body first  
19 appointed shall be appointed for such terms that the term of one member shall  
20 expire annually ~~thereafter~~.

1 § 204. FREE MUSICAL ENTERTAINMENTS

2 A municipality may appropriate ~~such~~ sums of money not exceeding five  
3 percent of its grand list, when the grand list of ~~such~~ the municipality does not  
4 exceed \$20,000.00, and a sum not to exceed three percent of the grand list of  
5 ~~such~~ the municipality, when the grand list exceeds \$20,000.00, to pay the  
6 expenses of free musical entertainments, to be held within its limits, at such  
7 times and places as is directed by ~~such~~ the vote.

8 Sec. 461. 31 V.S.A. chapter 9 is amended to read:

9 CHAPTER 9. MUNICIPAL REGULATION OF ENTERTAINMENT

10 \* \* \*

11 § 401. PERMITS AND FEES

12 A selectboard may permit the exhibition in its town of any show mentioned  
13 in 32 V.S.A. §§ 9905 and 9906, on payment by the owners or operators  
14 thereof, for the use of the town, of not more than \$100.00 nor less than \$10.00  
15 for every day on which exhibitions are given in ~~such~~ the town.

16 § 402. REVOCATION OF PERMIT

17 If, during the exhibition of a show under ~~such~~ the license, the selectboard is  
18 satisfied that ~~such~~ the exhibition disturbs the public peace, it may give notice  
19 in writing to the owner or operator ~~thereof~~ of the exhibition that the license is  
20 revoked. If, after ~~such~~ notice, ~~such~~ the exhibition is not immediately

1 suspended, the owner or operator shall be subject to the same penalty as if he  
2 ~~or she~~ the owner had exhibited without a license.

3 \* \* \*

4 § 404. EXHIBITING WITHOUT STATE AND TOWN LICENSES

5 A person who gives or attempts to give an exhibition in a town of a show  
6 mentioned in 32 V.S.A. §§ 9901–9910 without first having obtained  
7 permission of the selectboard of ~~such~~ the town ~~therefor~~ and without having  
8 received from the Secretary of State the license as provided in 32 V.S.A.  
9 §§ 9901–9910, shall be fined not more than \$3,000.00 nor less than \$1,000.00.

10 § 405. PERMITS TO EXHIBIT NATURAL CURIOSITIES

11 A selectboard may permit a person to exhibit living animals and other  
12 natural curiosities for not more than two days at one time on payment of not  
13 more than \$50.00 nor less than \$10.00 by ~~such~~ the person to the selectboard  
14 for the use of the town.

15 § 406. EXHIBITION WITHOUT LICENSE

16 A person who for reward or gain or under color of a gratuity suffers  
17 premises under ~~his or her~~ the person's control to be used for the exhibition of a  
18 circus, living animals, and natural curiosities or exhibits a living animal or  
19 natural curiosity without having previously obtained ~~such~~ permission shall be  
20 fined not more than \$200.00.

21 \* \* \*

1 § 441. REGULATION OF SHOWS AND GAMES OF CHANCE

2 The officers of a town fair association may regulate and prevent theatrical,  
3 circus, or mountebank exhibitions and shows, or traffic in fruits, goods, wares,  
4 and merchandise of whatever description, the trading of horses, and games of  
5 chance, on fair days, within a distance of 200 yards ~~in~~ of any highway leading  
6 to or passing a fairground, if in the opinion of ~~such~~ the officers the same would  
7 obstruct or interfere with the free and uninterrupted use of ~~such~~ the highways.  
8 The police employed by ~~such~~ the association shall have the same power in  
9 respect to ~~such~~ matters on ~~such~~ the highways as they have within ~~such~~ the  
10 grounds.

11 § 442. LICENSES FOR THEATRES AND SIMILAR ENTERTAINMENT

12 The selectboard of a town, trustees of an incorporated village, and the  
13 aldermen of a city may grant licenses and fix a license fee ~~therefor~~, for  
14 theatres, shows, moving picture shows, or concert halls operated and  
15 maintained for profit, may revoke the same, and may also, after hearing, refuse  
16 to grant ~~such~~ a license when, in their judgment, the public good requires.

17 § 443. OPERATING WITHOUT LICENSE

18 A person who installs, operates, or maintains a theatre, show, moving  
19 picture show, or concert hall without first obtaining a license ~~therefor~~, if  
20 required by the selectboard of a town, the trustees of an incorporated village,  
21 or the aldermen of a city, as provided in section 442 of this ~~title~~ chapter, shall



1 be fined not more than \$100.00 for each day on which ~~he or she~~ the person  
2 operates or maintains the ~~same~~ theatre, show, moving picture show, or concert  
3 hall. ~~Such~~ The fine shall be paid to the town treasurer for the benefit of the  
4 town.

5 \* \* \*

6 Sec. 462. 31 V.S.A. chapter 11 is amended to read:

7 CHAPTER 11. MUNICIPAL REGULATION OF DANCE HALLS,  
8 BOWLING ALLEYS, POOL HALLS, AND COASTING

9 § 501. DANCE HALL DEFINED

10 A room, hall, eating place, building, structure, or place shall be deemed to  
11 be a dance hall for the purposes of this chapter at all times and occasions when  
12 dancing, for which admission is charged and which is open to the general  
13 public, is conducted or permitted ~~therein~~.

14 § 502. SUPERVISION

15 A person, partnership, association, or corporation shall not operate a dance  
16 hall unless, at the hours when dancing is conducted or permitted ~~therein~~, there  
17 is in attendance one or more police or other officers empowered to make  
18 arrests. With the approval of the selectboard, city council, or trustees of the  
19 town, city, or incorporated village where the dance hall is operated, licensed  
20 security guards may be employed in place of officers. The officers or security  
21 guards shall be paid for their services by the operator of the dance hall. The

1 number of officers or security guards and the individuals so acting shall be  
2 approved by the selectboard, mayor, or trustees of the town, city, or  
3 incorporated village.

4 § 503. LICENSE REQUIRED

5 A person, partnership, association, or corporation shall not operate a dance  
6 hall, bowling alley, or pool hall unless a license ~~so~~ to do so has been obtained  
7 from the selectboard, city council, or trustees of the town, city, or incorporated  
8 village in which it is proposed to operate ~~such~~ the dance hall, bowling alley, or  
9 pool hall. Any ~~such~~ dance hall, bowling alley, or pool hall license may, after  
10 hearing and for cause, be revoked by the municipal officers granting the same  
11 when in their judgment the public good requires.

12 \* \* \*

13 Sec. 463. 31 V.S.A chapter 15 is amended to read:

14 CHAPTER 15. SKI TRAMWAYS

15 \* \* \*

16 § 704. RULES

17 The Board may, in accordance with 3 V.S.A. chapter 25, adopt reasonable  
18 rules relating to public safety in the construction, operation, maintenance, and  
19 inspection of passenger tramways. The rules authorized ~~hereunder~~ under this  
20 section shall conform as nearly as practicable to established standards, if any,  
21 and shall not be discriminatory in their application to operators of passenger

1 tramways. Rules adopted by the Board shall in no way reduce or diminish the  
2 standard of care imposed upon passenger tramway operators under existing  
3 law.

4 \* \* \*

5 § 707. REGISTRATION AND FEES

6 (a) A passenger tramway shall not be operated in this State unless the  
7 operator ~~thereof~~ of the passenger tramway has been registered by the  
8 Department. On or before the first day of November in each year, every  
9 operator of a passenger tramway shall apply to the Department on forms  
10 prepared by ~~it~~ the Department for registration ~~hereunder~~ under this chapter.  
11 The application shall contain ~~such~~ information as that the Department may  
12 require and shall be accompanied by a registration fee, according to the  
13 formula stated in this section, unless an alternate payment plan is approved by  
14 the Commissioner pursuant to subsection (f) of this section. The Department  
15 shall assess total registration fees in the sum of the amount approved in the  
16 appropriations process for the program for that fiscal year, adjusted by any  
17 balance in the Passenger Tramway Special Fund from the prior fiscal year.

18 \* \* \*

19 (f) The Commissioner has discretion to authorize a tramway operator to  
20 enter a payment plan to pay some or all of the ~~fee-due-State~~ fee due to the  
21 State after November 1 upon a showing of financial need. The authorization

1 and terms of any payment plan shall be in writing and set a date or dates for  
2 payment, provided that the total amount of the ~~fee-due-State~~ fee due to the  
3 State shall be paid ~~no~~ not later than January 15. Failure to pay on November 1  
4 or pursuant to an authorized plan may subject the operator to the penalties  
5 established in section 712 of this ~~title~~ chapter.

6 § 708. ORDERS

7 If, after investigation, the Department finds that a violation of any of the  
8 rules exists, or that there is a condition in passenger tramway construction,  
9 operation, or maintenance endangering the safety of the public, it shall  
10 ~~forthwith~~ immediately issue its written order setting forth its findings, the  
11 corrective action to be taken, and fixing a reasonable time for compliance  
12 ~~therewith~~ with the written order. The order shall be served upon the operator  
13 involved by registered mail and shall become final unless the operator applies  
14 to the Board for a hearing in the manner provided in section 709 of this ~~title~~  
15 chapter.

16 \* \* \*

17 Sec. 464. 31 V.S.A. § 1001 is amended to read:

18 § 1001. DEFINITIONS

19 ~~For the purpose of~~ As used in this chapter:

20 \* \* \*



1 after January 1, 1986 as interest income from state and local obligations, other  
2 than obligations of Vermont and its political subdivisions, and any dividends or  
3 other distributions from any fund to the extent such dividend or distribution is  
4 attributable to such Vermont State or local obligations; and

5 Sec. 468. 32 V.S.A. § 5811(21)(C)(ii)(II) is amended to read:

6 (II) for taxpayers whose filing status under section 5822 of this  
7 chapter is head of household, \$9,000.00; and

8 Sec. 469. 32 V.S.A. § 5822(c)(1)(B) is amended to read:

9 (B) recapture of the federal investment tax credit attributable to the  
10 Vermont portion of the investment; and

11 Sec. 470. 32 V.S.A. § 5859(b)(2) is amended to read:

12 (2)(A) The period of the underpayment for which interest and penalties  
13 shall apply shall commence on the date the installment was required to be paid  
14 and shall terminate on the earlier of the following dates:

15 (A)(i) the date a U.S. income tax return is required to be filed for that  
16 year by that corporation under the laws of the United States; or

17 (B)(ii) with respect to any portion of the underpayment, the date on  
18 which such portion is paid.

19 (B) For purposes of this subdivision (2), a payment of estimated tax  
20 on any installment date shall be considered a payment of any previous  
21 underpayment only to the extent such payment exceeds the amount of the

1 installment determined under subdivision (1)(A) of this subsection (b) for such  
2 installment date.

3 \* \* \* Title 33 \* \* \*

4 Sec. 471. 33 V.S.A. § 1901(d)(3) is amended to read:

5 (3) The Agency of Human Services and Department of Vermont Health  
6 Access shall report to the Health Care Reform Oversight Committee about  
7 implementation of Global Commitment in a manner and at a frequency to be  
8 determined by the Committee. Reporting shall, at a minimum, enable the  
9 tracking of expenditures by eligibility category, the type of care received, and  
10 to the extent possible allow historical comparison with expenditures under the  
11 previous Medicaid appropriation model (by department and program) and, if  
12 appropriate, with the amounts transferred by another department to the  
13 Department of Vermont Health Access. Reporting shall include spending in  
14 comparison to any applicable budget neutrality standards.

15 Sec. 472. 33 V.S.A. § 3512(a)(2) is amended to read

16 (2) The subsidy authorized by this subsection and the corresponding  
17 family contribution shall be established by the Commissioner, by rule, and  
18 shall bear a reasonable relationship to income and family size. The  
19 Commissioner may adjust the subsidy and family contribution by rule to  
20 account for increasing child care costs not to exceed 1.5 times the most recent  
21 annual increase in the NAICS code 611, Educational Services. Families shall

1 be found eligible using an income eligibility scale based on the current federal  
2 poverty level and adjusted for the size of the family. Co-payments shall be  
3 assigned to the whole family and shall not increase if more than one eligible  
4 child is enrolled in child care. Families with an annual gross income of less  
5 than or equal to 175 percent of the current federal poverty guidelines shall not  
6 have a family co-payment. Families with an annual gross income up to and  
7 including 575 percent of current federal poverty guidelines, adjusted for  
8 family size, shall be eligible for a subsidy authorized by ~~the~~ this subsection.

9 The scale shall be structured so that it encourages employment. If the federal  
10 poverty guidelines decrease in a given year, the Division shall maintain the  
11 previous year's federal poverty guidelines for the purpose of determining  
12 eligibility and benefit amount under this subsection.

13 Sec. 473. 33 V.S.A. § 3518(a) is amended to read:

14 (a) Definitions. As used in this section:

15 \* \* \*

16 Sec. 474. 33 V.S.A. § 6902(1)(C) is amended to read:

17 (C) Confinement, seclusion, restraint, or interference with the  
18 freedom of movement of a vulnerable adult, unless necessary to ensure the  
19 health and safety of the vulnerable adults or others.

20 Sec. 475. 33 V.S.A. § 6902(13)(F) is amended to read:



1 (F) knowingly failing to use a vulnerable adult's income and assets  
2 for the necessities required for that vulnerable adult's support and  
3 maintenance; or

4 Sec. 476. 33 V.S.A. § 6907(b)(2)(B) is amended to read:

5 (B) In the event that the vulnerable adult's agent under power of  
6 attorney is the person responsible for the abuse, neglect, or exploitation, and  
7 the agent refuses to consent to the investigation or the alleged victim's  
8 protective services, the investigator may seek review of the agent's refusal by  
9 filing a petition in Superior Court pursuant to 14 V.S.A. § ~~3510(b)~~ 4016.

10 Sec. 477. 33 V.S.A. § 6911 is amended to read:

11 § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

12 \* \* \*

13 (c) Registry. The Department shall maintain a registry of substantiated  
14 caregivers that shall contain the following information:

15 \* \* \*

16 (e) Disclosure of Registry records. An employer providing transportation  
17 services to children or vulnerable adults may disclose Registry records  
18 obtained pursuant to subdivision (d)(1)(C) of this section to the Agency of  
19 Human Services or its designee for the sole purpose of auditing the records to  
20 ensure compliance with this chapter. An employer shall provide such records  
21 at the request of the Agency or its designee. Only Registry records regarding

1 individuals who provide direct transportation services or otherwise have direct  
2 contact with children or vulnerable adults may be disclosed.

3 (f) Application for relief. A person may, at any time, apply to the Human  
4 Services Board for relief if the person has reasonable cause to believe that the  
5 contents of the Registry or investigative records are being misused.

6 (g) Expungement. A person may at any time apply to the Department for  
7 expungement of the person's name from the Registry. The person shall have  
8 the burden of showing why the person's name should be expunged from the  
9 Registry. The Department shall consider the person's completion of reparation  
10 and rehabilitation in determining whether the person's name should be  
11 expunged from the Registry.

12 Sec. 478. 33 V.S.A. § 6915(e) is amended to read:

13 (e) If an agent under a power of attorney refuses to consent to the release  
14 of the alleged victim's financial information, the investigator may file a  
15 petition in Superior Court pursuant to 14 V.S.A. § ~~3510(b)~~ 4016 to compel the  
16 agent to consent to the release of the alleged victim's financial information.

17 \* \* \* Interpretation; Effective Dates \* \* \*

18 Sec. 479. INTERPRETATION

19 It is the intent of the General Assembly that the technical amendments in  
20 this act shall not supersede substantive changes contained in other bills enacted  
21 by the General Assembly during the current biennium. Where possible, the

1 amendments in this act shall be interpreted to be supplemental to other  
2 amendments to the same sections of statute; to the extent the provisions  
3 conflict, the substantive changes in other acts shall take precedence over the  
4 technical changes in this act.

5 Sec. 480. EFFECTIVE DATES

6 (a) Sec. 472 (33 V.S.A. § 3512(a)(2)) shall take effect on October 1, 2024.

7 (b) All other sections shall take effect on July 1, 2024.