No. 85. An act relating to technical corrections for the 2024 legislative session.

(H.849)

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

* * * Technical Corrections * * *

* * * Title 3 * * *

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

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

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

(b) Member contributions.

(1) Allocations and periodic review.

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

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

* * *

(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

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

(d) Removal and storage.

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

take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

* * *

(e) Notice and listing of abandoned vessel.

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

* * *

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

(a) Allowed uses.

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

* * *

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

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

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

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

(B) one of the following applies:

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

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

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

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

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

* * * Title 11 * * *

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

§ 981. USE OF "COOPERATIVE."

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

* * *

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

(9) The articles of incorporation of any association organized under this subchapter may provide that the members or stockholders thereof shall have the right to vote in person or through another method of communication,

including through a telecommunications or electronic medium, but a member or stockholder may not vote by proxy. This provision or paragraph of the articles of ~~association~~ incorporation shall not be altered and shall not be subject to amendment.

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

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

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

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

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

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

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

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

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

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

§ 1084. REVOCATION OF ELECTION

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

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

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

(a) The articles of ~~association~~ incorporation or the bylaws shall establish qualifications and the method of acceptance of members. No person may be

accepted as a member unless employed by the worker cooperative on a regular full-time or a part-time basis. The membership of a worker cooperative shall constitute at least ~~fifty~~ 50 and one-tenth percent of the regular, full and part-time work force.

* * *

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

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

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

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

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

(b) Notwithstanding ~~the provisions of section 1873 of this title and other provisions of law relating to bylaws~~ 11A V.S.A. § 10.20, the power to adopt, amend, or repeal bylaws of a worker cooperative shall be in the members only~~,~~

~~except to the extent that directors are authorized by section 1873 of this title to adopt, amend, or repeal the bylaws~~.

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

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

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

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

(a) The bylaws of a worker cooperative shall provide for the election, terms, classifications, if any, and removal of directors and officers in

accordance with the provisions of this chapter or the provisions of ~~chapter 17 of this title~~ 11A V.S.A. chapter 8.

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

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

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

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

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

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

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

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

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

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

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

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

§ 1583. DEFINITIONS

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

* * *

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.

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

§ 1593. MEMBERSHIP SHARES; REQUIREMENTS

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

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

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

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

§ 1598. LIMITED EQUITY COOPERATIVES

A cooperative housing corporation may organize as a limited equity cooperative in order to fulfill the public purpose of providing and preserving

housing for persons and households of low and moderate income at the time that they purchase their memberships. In addition to safeguarding the foregoing public purpose, a limited equity cooperative shall meet the following requirements:

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

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

* * *

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

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

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

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

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

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

* * * Title 13 * * *

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

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

* * *

* * * Title 16 * * *

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

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

* * * Title 17 * * *

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

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

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

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

* * * Title 18 * * *

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

(4) "Health officer" means the Commissioner of Health, the Commissioner's designee, or a local or district health officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

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

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

§ 2053. DIRECTOR; DUTIES; POWERS

(a) The Director shall:

* * *

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

* * *

(b) The Director may:

* * *

(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;

* * *

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

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

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

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

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

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

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

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

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

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

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

(e) This section does not apply to:

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

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

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

§ 5221. ~~DEFINITIONS~~ DEFINITION

~~For the purposes of this subchapter:~~

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

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

§ 5226. DEFINITIONS

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

* * *

* * * Title 19 * * *

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

(a) The Agency shall annually evaluate the programs established under this chapter to gauge effectiveness and shall submit a written report on the effectiveness of the programs to the House and Senate Committees on Transportation, the House Committee on Environment and Energy, and the Senate Committee on Finance on or before ~~the 31st day of~~ January 31 in each year following a year that an incentive was provided through one of the programs.

* * * Title 21 * * *

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

§ 141. PURPOSE; DEFINITIONS

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

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

* * *

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

* * *

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

* * *

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.

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

§ 201. OCCUPATIONAL POLICY

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

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

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

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

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

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

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

§ 203. DEFINITIONS

As used in this chapter:

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

* * *

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

* * *

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

(10) "Premises" means land and the structures thereon ~~which~~ that contains a place of employment as ~~herein~~ defined pursuant to subdivision (9) of this section.

(11) "Rule" means a rule or regulation.

(12) "VOSHA Code" means subchapters 4 and 5 of this chapter ~~and~~, 18 V.S.A. chapter 28, and the rules adopted ~~thereunder~~ pursuant to those provisions.

* * *

(14) "Secretary of Labor" means the Secretary of the U.S. Department of Labor ~~of the United States of America~~.

(15) "Secretary" means the Secretary of Human Services.

Sec. 63. 21 V.S.A. § 204 is amended to read:

§ 204. RULES AND PROCEDURE

* * *

(b) All or part of a printed publication of standards or rules, including standards promulgated under the Act, may be made a rule or part of a rule adopted under this chapter or the VOSHA Code, by reference in the rule to the printed publication by its title and where it may be procured at the time the rule is ~~promulgated~~ adopted under this chapter.

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

§ 205. VARIANCES

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

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

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

§ 206. INSPECTIONS AND INVESTIGATIONS

(a) The Commissioner or the Director, or their agents, may enter upon a ~~premise~~ premises, upon presenting appropriate credentials to the occupant, at reasonable times, for the purpose of inspecting the premises within reasonable limits and in a reasonable manner, to determine whether the provisions of the VOSHA Code and this chapter and the rules adopted ~~thereunder~~ pursuant to

the VOSHA Code and this chapter are being observed. If entry is refused, the Commissioner or the Director may apply to a Superior Court judge for an order to enforce the rights given to the Commissioner and the Director and their agents under this section.

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

* * *

(e) Subject to ~~regulations issued~~ rules adopted by the Commissioner or Secretary, a representative of the employer and a representative authorized by ~~his or her~~ the employer's employees shall be given an opportunity to accompany the Commissioner or Secretary or ~~his or her~~ the Commissioner or Secretary's authorized agent during the physical inspection of any workplace

under subsection (a) of this section for the purpose of aiding such inspection. Where there is no authorized employee representative, the Commissioner or Secretary or ~~his or her~~ the Commissioner or Secretary's authorized agent shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(f) Any employees or representative of employees who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Commissioner or Secretary or ~~his or her~~ the Commissioner or Secretary's authorized agent of the violation or danger. The notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees. A copy of the notice shall be provided the employer or ~~his or her~~ the employer's agent ~~no~~ not later than at the time of inspection, except that, upon the request of the person giving ~~such~~ the notice, ~~his or her~~ the person's name and the names of individual employees referred to ~~therein~~ in the notice shall not appear in the copy or on any record published, released, or made available by the Commissioner or Secretary. If upon receipt of the notification the Commissioner or Secretary determines there are reasonable grounds to believe that a violation or danger exists, ~~he or she~~ the Commissioner or Secretary shall make a special inspection in accordance with the provisions of this section as soon as practicable to determine if a violation or danger exists. If the

Commissioner or Secretary determines there are no reasonable grounds to believe that a violation or danger exists, ~~he or she~~ the Commissioner or Secretary shall notify the employees or representative of the employees in writing of ~~such~~ the determination.

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

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

§ 209. APPEALS

Except as to matters provided for in subchapter 5 of this chapter, a person aggrieved by an order or action of the Commissioner under this chapter, or a rule ~~thereunder~~ adopted pursuant to this chapter, may appeal to the Superior Court for the order or action within 20 days after the order is issued or the action is taken. In the Superior Court, the matter will be heard de novo.

Appeal may be taken to the Supreme Court from the Superior Court. The Superior Court for the county within which the appellant resides or has a place of business shall have jurisdiction.

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

§ 221. STATE PLAN AND COOPERATION

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

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

§ 222. APPLICATION

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

(1) ~~Standards~~ standards applicable to products ~~which~~ that are distributed or used in interstate commerce ~~which~~ that are different from federal standards for such products shall not be ~~promulgated~~ adopted under the VOSHA Code

unless ~~such~~ the standards are required by compelling local conditions and do not unduly burden interstate commerce~~.~~; and

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

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

§ 223. DUTIES

(a) Each employer shall furnish to each of ~~his or her~~ the employer's employees employment and a place of employment ~~which~~ that are free from recognized hazards that are causing or are likely to cause death or significant physical harm to ~~his or her~~ the employees; and the employer shall comply with safety and health standards ~~promulgated~~ adopted under the VOSHA Code.

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

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

§ 224. RULES AND STANDARDS

* * *

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

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

(d) Where appropriate, a standard adopted in consultation with the Secretary of Human Services may prescribe the type and frequency of medical examinations or other tests ~~which~~ that shall be made available by an employer or at the expense of the employer, to employees exposed to health hazards in employment, in order to effectively determine whether the health of the employee is adversely affected by exposure to the hazard. In the event medical examinations are in the nature of research, as determined by the Secretary of Human Services, ~~such~~ the examinations may be furnished at the expense of the

State. The results of the examinations or tests shall be furnished only to the Secretary of Human Services, the Commissioner of Health, the Director of Occupational Health, the Commissioner of Labor, and at the request of the employee, to the employee's physician and the employee.

(e) The Commissioner, in consultation with the Secretary, in adopting standards dealing with toxic materials or harmful physical agents under this section, shall set the standard ~~which~~ that most adequately ensures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if ~~such~~ the employee has regular exposure to the hazard dealt with by ~~such~~ the standard for the period of ~~his or her~~ the employee's working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of safety and health protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other safety and health laws. Whenever practicable, the standard adopted shall be expressed in terms of objective criteria and of the performance desired.

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

§ 226. ENFORCEMENT

(a)(1) An employer shall, within 20 days after personal service or receipt of a citation issued under section 225 of this ~~title~~ subchapter, notify the

Commissioner that ~~he or she~~ the employer wishes to appeal the citation or proposed penalty.

* * *

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

* * *

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

* * *

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

§ 227. JUDICIAL REVIEW

(a)(1) Any person adversely affected or aggrieved by an order of the Review Board may appeal to any Superior Court for the county in which the violation is alleged to have occurred or where the employer has its principal

office. The appeal shall be taken within 30 days following the issuance of ~~such~~ the order.

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

(3) The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Review Board. ~~No~~

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

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

(6)(A) ~~If any party shall apply~~ The court may order additional evidence to be taken and made a part of the record if a party applies to the court for leave to adduce additional evidence and ~~shall show~~ shows to the satisfaction of the court that ~~such~~ the additional evidence is material and that there were

reasonable grounds for failure to adduce ~~such~~ the evidence in the hearing before the Review Board~~, the court may order such additional evidence to be taken before the Review Board and to be made a part of the record~~.

(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.

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

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

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

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

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

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

§ 228. REPORTS

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

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

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

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

(2) The Commissioner, in cooperation with the Secretary, shall ~~issue regulations~~ adopt rules requiring employees to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents ~~which~~ that are required to be monitored or measured under section 224 of this ~~title~~ subchapter. ~~Such regulations~~ The rules shall provide employees or their representative with an opportunity to observe ~~such~~ the monitoring or measuring, and to have access to the records thereof. ~~Such regulations~~ The rules shall also make appropriate provision for each employee or former

employee to have access to ~~such~~ records ~~as will indicate his or her~~ relating to the employee's own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels ~~which~~ that exceed those prescribed by an applicable occupational safety and health standard ~~promulgated~~ adopted under section 224 of this ~~title~~ subchapter and shall inform any employee who is being thus exposed of the corrective action being taken.

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

§ 230. OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

(a) ~~An~~ The Occupational Safety and Health Review Board is created. It shall consist of three members who shall be appointed by the Governor, with the advice and consent of the Senate. The members of the Board shall be appointed for terms of six years, but initially in a manner so that one term expires in two years, one term in four years, and one term in six years. Thereafter, biennially, in the month of February, with the advice and consent of the Senate, the Governor shall appoint a person as a member of ~~such~~ the Board for the term of six years, whose term of office shall commence on March 1 of the year in which ~~such~~ the appointment is made. The Governor, biennially, shall designate a member of ~~such~~ the Board to be its Chair.

(b)(1) With the approval of the Secretary of Administration, the Board may employ ~~such~~ employees as it deems necessary, and may without such approval

employ and remove a clerk and a reporter for taking and transcribing testimony in hearings before it and ~~such~~ hearing judges ~~as~~ that it deems necessary to hear appeals on behalf of the Board. Compensation for employees of the Board shall be fixed by the Commissioner of Human Resources.

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

* * *

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

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

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

§ 302. DEFINITIONS

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

* * *

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

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

In support of the State's fundamental interest in protecting the safety of minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of the State ~~of Vermont~~ that no confidential employment separation agreement shall inhibit the disclosure to prospective employers and responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor or vulnerable adult. Any provision in an agreement entered into on or after ~~the effective date of this section~~ June 3, 2010 that attempts to do so is void and unenforceable.

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

§ 341. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

* * *

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.

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

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

(C)(i) The school district or supervisory union shall disburse funds from the account in any sum as requested by the employee and, at the end of

the school year or at the employee's option over the course of the period between the current and next school year, or upon separation from employment, shall remit to the employee any remaining funds, including interest earnings, held in the account.

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

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

* * *

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

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

(2) Credit to a payroll card account, other than a checking, savings, or other deposit account described in subdivision (1) of this subsection, that is directly or indirectly established by an employer in a federally insured depository institution to which electronic fund transfers of the employee's

wages, salary, or other ~~employee~~ compensation ~~is~~ are made on a recurring basis, ~~other than a checking, savings, or other deposit account described in subdivision (1) of this subsection,~~ provided all the following:

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

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

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

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

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

~~(D)~~(C) The employer ensures that the payroll card account provides that during each pay period, the employee has at least three free withdrawals from the payroll card, one of which permits withdrawal of the full amount of

the balance at a federally insured depository institution or other location convenient to the place of employment.

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

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

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

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

* * *

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

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

* * *

~~(I)~~(H) The employer ensures that the payroll card account provides one free replacement payroll card per year at no cost to the employee before the card's expiration date. A replacement card need not be provided if the card

has been inactive for a period of at least 12 months or the employee is no longer employed by the employer.

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

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

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

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

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

* * *

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

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

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

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

(b) The Commissioner shall investigate the complaint, and may examine the employer's records, enter and inspect the employer's business premises, question ~~such~~ employees, subpoena witnesses, and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to investigate the complaint. If a person fails to comply with any lawfully issued subpoena, or a witness refuses to testify to any matter on which ~~he or she~~ the witness may be lawfully interrogated, the Commissioner may

seek an order from the Civil Division of the Superior Court compelling testimony or compliance with the subpoena.

* * *

(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.

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

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

§ 345. NONPAYMENT OF WAGES AND BENEFITS

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

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

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

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

§ 382. ~~COVERAGE~~

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

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

§ 383. DEFINITIONS

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

(1) "Commissioner~~,~~" means the Commissioner of Labor or designee~~;~~.

(2) "Employee~~,~~" means any individual employed or permitted to work by an employer except:

* * *

(3) "Employer" means any person that employs two or more employees.

(4) "Occupation~~,~~" means an industry, trade, or business or branch thereof or class of work in which workers are gainfully employed.

~~(4) [Repealed.]~~

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

§ 384. EMPLOYMENT; WAGES

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

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

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

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

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

* * *

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

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

* * *

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

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

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

* * *

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

§ 385. ADMINISTRATION

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

* * *

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

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

§ 391. ~~MODIFICATION OF WAGE ORDERS~~

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

[Repealed.]

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

§ 392. ~~COURT PROCEEDINGS~~

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

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

§ 393. EMPLOYERS' RECORDS; NOTICE

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

(b) Every employer ~~subject to the provisions of this subchapter or of any regulation or order issued under the provisions thereof~~ shall keep a copy of

~~them~~ the rules posted in a conspicuous place in the area where employees are employed. The Commissioner shall furnish copies of ~~such orders and regulations~~ the rules to employers without charge.

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

§ 394. PENALTIES

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

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

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

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

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

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

§ 395. CIVIL ACTIONS

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

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

§ 396. APPEALS FROM COMMISSIONER'S DECISIONS

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

(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.

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

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

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

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

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

§ 415. VIOLATIONS

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

* * *

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

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

§ 430. POLICY; DEFINITIONS; RULES

* * *

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

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

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

* * *

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

(c) The Commissioner shall adopt rules to carry out the purpose and intent of this subchapter, provided the rules are consistent with federal child labor laws and rules. However, the Commissioner shall not be required to adopt or

modify rules ~~in order~~ to conform with a change in federal child labor laws or regulations ~~which~~ that weakens or eliminates an existing child labor protection policy.

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

§ 432. RESTRICTIONS

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

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

* * *

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

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

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

* * *

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

§ 434. EMPLOYMENT OF CHILDREN UNDER 16 YEARS OF AGE

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

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

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

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

(4) after seven o'clock at night, except from June 1 through Labor Day when a child may be permitted to work until nine o'clock at night.

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

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

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

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

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

§ 435. EXAMINATION AND REPORT

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

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

§ 436. EMPLOYMENT OF CHILDREN UNDER 14 YEARS OF AGE

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

(1) ~~Employment~~ employment by a parent or a person standing in place of a parent employing ~~his or her~~ their own child or a child in ~~his or her~~ their

custody in an occupation other than manufacturing, mining, or an occupation found by the U.S. Secretary of Labor to be particularly hazardous or detrimental to ~~their~~ the child's health or well-being~~.~~;

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

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

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

§ 437. EMPLOYMENT OF CHILDREN; SPECIAL RESTRICTIONS; HOURS FOR CHILDREN UNDER 16 YEARS OF AGE

* * *

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

§ 444a. EMPLOYMENT OF ALIENS

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

* * *

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

* * *

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

* * *

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

§ 472. LEAVE

* * *

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

* * *

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

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

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

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

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

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

* * *

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

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

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

(3) Notwithstanding the provisions of this subchapter, an employee may, at the time a need for parental or family leave arises, waive some or all the

rights under this subchapter provided the waiver is informed and voluntary and any changes in conditions of employment related to any waiver shall be mutually agreed upon between employer and employee.

* * *

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

§ 481. DEFINITIONS

As used in this subchapter:

* * *

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

* * *

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

§ 482. EARNED SICK TIME

* * *

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

(c) An employer may:

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

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

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

* * *

(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:

§ 483. USE OF EARNED SICK TIME

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

* * *

(3) The employee cares for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse,

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

* * *

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

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

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

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

* * *

(f)(1) An employee who is discharged by ~~his or her~~ the employee's employer after ~~he or she has completed~~ completing a waiting period required pursuant to subsection 482(b) of this subchapter and is subsequently rehired by the same employer within 12 months after the discharge from employment

shall begin to accrue and may use earned sick time without a waiting period. However, the employee shall not be entitled to retain any earned sick time that accrued before the time of ~~his or her~~ the discharge unless agreed to by the employer.

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

* * *

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

* * *

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

§ 495a. PERSONS ENTERING INTO CONTRACTS WITH THIS STATE

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

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

§ 495b. PENALTIES AND ENFORCEMENT

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

* * *

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

§ 495g. PROVISION APPLICABLE TO COLLEGE PROFESSORS

Nothing in this subchapter shall be construed to prohibit any institution of higher education as defined by section 1201(a) of the federal Higher Education

Act of 1965 from retiring any employee who is serving under a contract of unlimited tenure, who attains ~~65 years of age prior to July 1, 1982, or~~ 70 years of age ~~thereafter~~. Any employee whose tenure contract is terminated may, in the discretion of the institution, be allowed to continue in the employ of the institution on a nontenured basis.

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

§ 496. LEGISLATIVE LEAVE

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

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

have waived ~~his or her~~ the right to a leave of absence under subsection (a) of this section.

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

(d) The Chair of the State Labor Relations Board, or any member of the Board designated by the Chair, shall serve as an arbitrator in any case appealed pursuant to subsection (c) of this section. The proceedings shall include an opportunity for the employee to respond, orally or in writing, to the allegations of unreasonable hardship raised by the employer, and shall be conducted in accord with the rules of practice of the State Labor Relations Board. Within 30 days ~~of~~ after receipt of a notice of appeal, the arbitrator shall issue an order, which shall be binding on both parties, either granting or denying the employer's claim of unreasonable hardship. If the employer's claim is granted, the employee shall not be entitled to the protection of subsection (a) of this

section. In reaching ~~his or her~~ a decision, the arbitrator shall consider, but is not limited to, the following factors:

* * *

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

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

§ 497e. FUNDS; REVENUE; USE

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

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

* * *

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

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

§ 499. JURORS AND WITNESSES

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

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

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

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

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

* * *

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

§ 501. DEFINITIONS

As used in this subchapter:

* * *

(5) "Vending machine" means any coin or currency operated machine that sells food, ~~tobacco,~~ beverages, sundries, or other retail merchandise or service, but shall not include vending machines used in connection with the operation of rest room facilities.

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

§ 503. VENDING MACHINES

If it is determined by the Department of Disabilities, Aging, and Independent Living and the Department of Buildings and General Services that a vending facility is not economically feasible in a particular location, vending

machines may be placed in that location. Contracts shall be awarded by the Department of Disabilities, Aging, and Independent Living in accordance with the procedures set forth in 29 V.S.A. § 161, notwithstanding the $50,000.00 limitation ~~therein~~ set forth in that section.

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

§ 504. INCOME FROM VENDING FACILITIES AND MACHINES

* * *

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

(1) maintain or enhance the vending facilities program;

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

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

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

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

Where vending facilities on State property are operated by those other than persons who are blind or visually impaired on July 1, 1984, the contracts of these vending facilities may be renewed or extended. A person who does not intend to renew or extend such a contract shall so notify the Director of the

Division in a timely manner. Within 30 days ~~of such~~ after the notice, the Director shall determine whether the vending facility is suited for operation by a person who is blind or visually impaired. If the Director determines that the facility is suited for operation by such person, preference in operation of the facility shall be given to a person who is blind or visually impaired.

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

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

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

* * *

(6) "Public body" means:

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

* * *

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

§ 508. ENFORCEMENT

* * *

(c) ~~No~~ Not later than July 1, 2005, all hospitals as defined in 18 V.S.A. § 1902(1) shall revise their internal processes referred to in subdivision (a)(1) to include and be consistent with ANCC Magnet Recognition Program standards that support the improvement of quality patient care and professional nursing practice.

* * *

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

§ 509. NOTICE

(a) ~~No~~ Not later than December 1, 2004, the Commissioner of Labor shall develop and distribute to each employer a standard notice as provided in this section. Each notice shall be in clear and understandable language and shall include:

* * *

(b) ~~No~~ Not later than January 1, 2005, each employer shall post the notice in the employer's place of business to inform the employees of their protections and obligations under this subchapter. The employer shall post the notice in a prominent and accessible location in the workplace. The employer shall indicate on the notice the name or title of the individual the employer has designated to receive notifications pursuant to subsection 507(c) of this ~~title~~ subchapter.

* * *

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

§ 514. ADMINISTRATION OF TESTS

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

* * *

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

* * *

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

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

* * *

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

* * *

(11) Medical review officer. The employer shall contract with or employ a certified medical review officer who shall be a licensed physician with knowledge of the medical use of prescription drugs and the pharmacology

and toxicology of illicit drugs. The medical review officer shall review and evaluate all drug test results, ~~assure~~ ensure compliance with this section and sections 515 and 516 of this ~~title~~ subchapter, report the results of all tests to the individual tested, and report only confirmed drug test results to the employer.

* * *

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

§ 601. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

* * *

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

* * *

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

* * *

(12)(A) "Public employment" means the following:

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

~~(B)~~(ii) ~~full-time~~ Full-time State's Attorneys and full-time Deputy State's Attorneys~~;~~.

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

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

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

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

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

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

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

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

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

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

~~(M)~~(xiii) ~~members~~ Members of any regularly organized private volunteer rescue or ambulance squad while acting in any capacity under the direction and control of the rescue or ambulance squad~~;~~.

~~(N)~~(xiv) ~~sheriffs~~ Sheriffs, full-time deputy sheriffs~~,~~ ~~and~~ county clerks, judges of probate, probate registers, and clerks paid by the State of Vermont~~;~~.

~~(O)~~(B) ~~the~~ The term "public employment" ~~shall~~ does not include ~~the following~~:

* * *

(iii) prisoners or wards of the State; or

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

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

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

* * *

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

* * *

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

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

* * *

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

(19) "Minimum weekly compensation" ~~shall mean~~ means a sum of money equal to 50 percent of the average compensation, rounded to the next

higher dollar. However, solely for the purposes of determining permanent total or partial disability compensation where the employee's average weekly wage computed under section 650 of this ~~title~~ chapter is lower than the minimum weekly compensation, the employee's weekly compensation shall be the full amount of the employee's average weekly wages. For the purpose of determining temporary total or temporary partial disability compensation where the employee's average weekly wage computed under section 650 of this ~~title~~ chapter is lower than the minimum weekly compensation, the employee's weekly compensation shall be 90 percent of the employee's average weekly wage prior to any ~~cost-of-living~~ cost-of-living adjustment calculated under subsection 650(d) of this ~~title~~ chapter.

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

* * *

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

treatment, or diagnose or manage the medical condition; must be informed by the unique needs of each individual patient and each presenting situation; and must:

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

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

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

* * *

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

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

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

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

§ 606. DETERMINATION OF QUESTIONS

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

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

§ 607. DECISIONS; ENFORCEMENT; APPEALS

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

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

§ 618. COMPENSATION FOR PERSONAL INJURY

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

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

* * *

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

* * *

(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.

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

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

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

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

* * *

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

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

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

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

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

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

* * *

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

* * *

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

§ 632. COMPENSATION TO DEPENDENTS; BURIAL AND FUNERAL EXPENSES

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

(2) Every two years, the Commissioner of Labor shall evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development as to

whether an adjustment in compensation is warranted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

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

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

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

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

~~(4)~~(D) If there is neither spouse~~,~~ nor child, but there is a dependent father or mother, then to the parent, if wholly dependent, 30 percent, or if partially dependent, 20 percent or if both parents are dependent, then one-half

of the foregoing compensation to each of them. If there is no such parent, but a dependent grandparent, then to every such grandparent the same compensation as to a parent.

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

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

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

§ 635. PERIODS OF COMPENSATION

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

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

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

(ii) remarriage; or

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

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

* * *

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

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

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

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

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

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

§ 640a. MEDICAL BILLS; PAYMENT; DISPUTE

(a) ~~No~~ Not later than 30 days following receipt of a bill from a health care provider for medical, surgical, hospital, nursing services, supplies, prescription drugs, or durable medical equipment provided to an injured employee, an employer or insurance carrier shall do one of the following:

* * *

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

* * *

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

§ 642a. TEMPORARY TOTAL; INSURER REVIEW

The employer shall review every claim for temporary total disability benefits that continues for more than 104 weeks. ~~No~~ Not later than 30 days after 104 weeks of continuous temporary total disability benefits have been paid, the employer shall file with the Department and the claimant a medical report from a physician that evaluates the medical status of the claimant, the expected duration of the disability, and when or if the claimant is expected to return to work. If the evaluating physician concludes that the claimant has reached a medical end result, the employer shall file a notice to discontinue.

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

§ 643b. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

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

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

(2) "Recovery" means that the worker can reasonably be expected to perform safely the duties of ~~his or her~~ the worker's prior position or an alternative suitable position.

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

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

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

* * *

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

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

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

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

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

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

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

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

§ 647. PERIOD OF PAYMENT

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

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

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

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

(2) If, because of the shortness of the time during which the worker has been in the employment, or the casual nature of the employment, or the terms of the employment, it is impracticable to compute the rate of remuneration,

average weekly wages of the injured worker may be based on the average weekly earnings during the 26 weeks previous to the injury earned by a person in the same grade employed at the same or similar work by the employer of the injured worker, or if there is no comparable employee, by a person in the same grade employed in the same class of employment and in the same district.

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

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

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

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

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

* * *

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

* * *

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

§ 652. PERIODICAL PAYMENTS; LUMP SUM PAYMENTS

* * *

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

* * *

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

§ 660a. ELECTRONIC FILING OF REPORTS OF INJURY

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

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

* * *

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

* * *

(e) ~~No later than July 1, 2004, all~~ All first reports of injury shall be filed by the insurance carrier electronically. The Commissioner may grant an insurance carrier a variance if the insurance carrier documents to the satisfaction of the Commissioner that compliance would cause the insurance carrier "undue

hardship," which, for the purposes of this section, means significant difficulty or expense.

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

§ 662. AGREEMENTS; REQUIRED PAYMENTS IN ABSENCE OF

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

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

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

(b)(1) In the absence of an agreement pursuant to subsection (a) of this section, the employer or insurance carrier shall notify the Commissioner and

the employee in writing that the claim is denied and the reasons ~~therefor~~ for the denial.

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

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

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

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

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

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

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

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

* * *

(e)(1) In any dispute between employers and insurers arising under subsection (c) or (d) of this section, after payment to the claimant, the Commissioner may order that the dispute be resolved through arbitration rather than the formal hearing process under sections 663 and 664 of this ~~title~~

chapter. Qualifications for arbitrators and standards for the arbitration process shall be established by the Commissioner by rule.

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

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

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

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

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

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

§ 667. EXAMINATION BY INDEPENDENT MEDICAL EXAMINERS

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

(2) Whenever a dispute exists regarding the nature and extent of any permanent partial impairment ~~which~~ that involves permanent partial disability

ratings ~~which~~ that differ by more than 10 percent, the Commissioner shall appoint an independent medical examiner to examine the employee and report to the Commissioner the examiner's opinion regarding the nature and extent of any permanent partial impairment. The opinion of the independent medical examiner as to degree of impairment shall be binding on the parties absent a showing of substantial error or omissions fraud or a gross departure from generally accepted medical practices.

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

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

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

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

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

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

* * *

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

* * *

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

§ 669. FINALITY OF AWARD

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

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

§ 670. APPEALS TO SUPERIOR COURT

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

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

§ 671. JURISDICTION; FINDINGS FOR NEW AWARD

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

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

§ 672. APPEALS TO THE SUPREME COURT

If an appeal is not taken under the provisions of section 670 of this ~~title~~ chapter within the time ~~limited therefor~~ provided, either party may transfer

~~such~~ the cause to the Supreme Court. The jurisdiction of the Court shall be limited to a review of questions of law certified to it by the Commissioner. On such an appeal or on an appeal taken as provided in sections 670 and 671 of this ~~title~~ chapter and coming to the Supreme Court on appeal from Superior Court, the Supreme Court may render final judgment and award execution, or may remand the cause to the Superior Court or to the Commissioner for further findings or for a new order by ~~him or her~~ the Commissioner in accordance with the mandate of the Court. The Court shall, by general rules, prescribe the procedure to be followed in the case of such appeals.

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

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

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

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

§ 674. SERVICE OF PETITION

~~Such~~ A petition pursuant to section 673 of this chapter shall not be sustained unless served on the adverse party within 21 days ~~from~~ after the date

~~thereof~~ of the petition and within two years after the last date upon which ~~such~~ the appeal might have been entered in court.

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

§ 681. CLAIMS NOT ASSIGNABLE

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

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

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

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

* * *

(c)(1) In addition to assessing administrative penalties, the Commissioner may refer to the Commissioner of Financial Regulation any insurance company authorized to transact workers' compensation insurance in this State

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

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

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

§ 689. EMPLOYER COMPELLED TO INSURE

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

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

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

§ 691. POSTING OF NOTICE OF COMPLIANCE

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

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

§ 693. THE INSURANCE CONTRACT

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

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

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

§ 694. KNOWLEDGE OF EMPLOYER TO AFFECT INSURANCE CARRIER

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

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

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

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

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

§ 695. INSOLVENCY OF EMPLOYER NOT TO RELEASE INSURANCE CARRIER

~~Such policies~~ Policies and contracts of insurance under this chapter shall contain a provision to the effect that the insolvency or bankruptcy of the

employer and ~~his or her~~ the employer's discharge ~~therein~~ in bankruptcy shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of ~~such a~~ the policy or contract.

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

§ 701. REPORTS OF ACCIDENTS BY EMPLOYERS

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

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

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

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

§ 702. CONTENTS; PENALTY

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

(1) the name and nature of the business of the employer~~,~~;

(2) the location of the place where the accident occurred~~,~~;

(3) the name, age, sex, wages, and occupation of the injured employee~~,~~; ~~and shall state~~

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

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

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

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

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

§ 704. REPORTS~~,~~; PENALTY

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

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

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

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

§ 705. REGISTRATION~~,~~; PENALTY

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

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

§ 706. CONSTRUCTION

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

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

§ 1036. EMPLOYEE LEASING COMPANY; DUTIES; DEEMED EMPLOYER

(a) A licensee shall:

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

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

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

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

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

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

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

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

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

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

* * *

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

§ 1037. WORKERS' COMPENSATION

* * *

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

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

§ 1039. EMPLOYEE BENEFITS

* * *

(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(26) is amended to read:

(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.

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

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

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

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

* * *

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

§ 1115. PROGRAM REGISTRATION AND OPERATION

* * *

(f) Union participation.

* * *

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

* * *

(i) Program operation.

(1) Probationary ~~Employment~~ employment. A sponsor shall submit the name of a person in a period of probationary employment as an apprentice under an apprenticeship program within 45 days ~~of~~ after the start of employment to the Vermont Registered Apprenticeship Program to establish the apprentice in probationary status.

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

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

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

(C) ~~are~~ is suspended;

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

(E) ~~are~~ is reinstated.

* * *

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

(3)(A) The Commissioner, with advice from the Director, the Director of the Vermont Occupational Safety and Health Administration, and the Board

shall review the request and respond in writing within 90 days ~~of~~ after receipt of the request.

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

§ 1117. STANDARDS OF APPRENTICESHIP

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

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

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

§ 1120. DEREGISTRATION OF A REGISTERED APPRENTICESHIP PROGRAM

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

(A) the notice is sent under this section;

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

* * *

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

* * *

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

§ 1203. EMPLOYMENT SERVICE DIVISION; CREATION; RULES ~~AND REGULATIONS~~

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

(b) The Commissioner is authorized and directed to establish ~~such~~ Division offices in ~~such parts of~~ 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.

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

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

§ 1204. RECEIPT OF FUNDS

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

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

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

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

§ 1301. DEFINITIONS

As used in this chapter:

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

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

* * *

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

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

(5) "Employer" includes:

(A) Any employing unit that in any calendar quarter in either the current or preceding calendar year paid for service in employment, as defined pursuant to subdivision (6) of this section, wages of $1,500.00 or more, or for some portion of a day in each of 20 different calendar weeks, whether or not ~~such~~ the weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual (irrespective of whether the same individual was in employment in each such day). When an employing unit described in either this subdivision or subdivision (B) of this subdivision (5), becomes an employer within any calendar year, it shall be subject to this chapter for the whole of the calendar year.

(B)(i) Any employing unit for which service in employment for a religious, charitable, educational, or other organization as defined in

subdivision (6)(A)(ix) of this section is performed ~~after December 31, 1971~~, except as provided in subdivision (C) of this subdivision (5).

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

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

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

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

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

(i) In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under this subdivision, the wages earned or the employment of an employee performing

domestic service as described in subdivision (5)(B)(v) of this section ~~after December 31, 1977~~, shall not be taken into account unless the total cash remuneration paid in any calendar quarter for domestic services is $1,000.00 or more.

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

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

(E)(i) Any employing unit that filed with and had approved by the Commissioner, on the proper forms prescribed and supplied by the Commissioner, its written election to become fully subject to this chapter for not less than two calendar years. ~~Such~~ The employing unit, not otherwise subject to this chapter, that files with the Commissioner its written election to become an employer subject to this chapter for not less than two calendar years, shall, with the written approval of ~~such~~ the election by the

Commissioner, become an employer subject to this chapter to the same extent as all other employers, as of the date stated in the approval.

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

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

(F) Any employing unit ~~which~~ that acquires a part of the organization, trade, or business of another, which part, if a separate organization, trade, or business, would have been an employer. Any employing unit ~~which~~ that acquires the organization, trade, or business, or acquires substantially all the assets of another employing unit, if the

employment record of ~~such~~ the acquiring employing unit subsequent to such an acquisition, together with the employment record of the acquired unit prior to ~~such~~ the acquisition, both within the same calendar year, would be sufficient to constitute an employing unit an "employer."

(G) Any employing unit not an employer by reason of any other provision of this subdivision for which, within either the current or preceding calendar year, service is or was performed with respect to which ~~such~~ the employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or ~~which~~ that, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to ~~such act~~ the Act, to be an "employer" under this chapter.

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

the employee, may treat the services covered by the election as having been performed wholly outside the jurisdiction of this State.

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

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

(II) the service is performed both within and ~~without such~~ outside the state but the service performed ~~without such~~ outside the state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

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

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

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

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

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

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

* * *

(v) The term "employment" ~~shall include~~ includes the service of an individual who is a citizen of the United States, performed outside the United States ~~after December 31, 1971 (except in Canada) or after December 31, 1977 in the case of the Virgin Islands~~ in the employ of an American employer (other than service ~~which~~ that is deemed "employment" under the provisions of subdivisions (6)(A)(ii), (iii), or (iv) of this section or the parallel provisions of another state's law), if:

* * *

(II) the employer has no place of business in the United States, but the employer is an individual who is a resident of this State; or the employer is a corporation ~~which~~ that is organized under the laws of this State; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any one other state; or

* * *

(vi) The term "employment" ~~shall~~ also ~~include~~ includes all service performed ~~after July 1, 1946~~ by an officer or member of the crew of an American vessel on or in connection with ~~such~~ the vessel, provided that the operating office, from which the operations of ~~such~~ the vessel operating on navigable waters within or within and ~~without~~ outside the United States is ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

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

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

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

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not ~~such~~ the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ~~(not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in subdivision (6)(A)(vii)(II) of this section)~~ 10 or

more individuals, regardless of whether they were employed at the same moment of time.

(II) ~~such~~ the service is not performed in agricultural labor if performed ~~before January 1, 1980, or after December 31, 1986,~~ by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to ~~sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act~~ 8 U.S.C. §§ 1101(a)(15)(H) and 1184(c), provided, that if ~~section~~ 26 U.S.C. § 3306 ~~in the~~ (Federal Unemployment Tax Act, definitions) is amended ~~so as~~ to include ~~such~~ the service in the definition of employment in agricultural labor ~~beginning on or after January 1, 1988~~, then ~~such~~ the service shall be employment in agricultural labor under this chapter.

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

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

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

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

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

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

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

* * *

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

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

(viii) The term "employment" ~~shall~~ also ~~include~~ includes domestic service as used in subdivision (6)(C)(ii) of this section ~~after December 31, 1977,~~ in a private home, ~~in a~~ local college club, or local chapter of a college fraternity or sorority, performed for a person who paid cash remuneration of $1,000.00 or more in any calendar quarter ~~after December 31, 1977,~~ in the current calendar year or the preceding calendar year to individuals employed in ~~such~~ domestic service.

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

(x)(I) The term "employment" ~~shall~~ also ~~include~~ includes service for any employing unit ~~which~~ that is performed ~~after December 31, 1971~~ by an individual in the employ of this State or any of its instrumentalities, or in the employ of this State and one or more other states or their instrumentalities, for a hospital or institution of higher education located in this State provided that ~~such~~ the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of ~~section~~ 26 U.S.C. § 3306(c)(7) ~~of that act~~ and is not excluded from "employment" under subdivision (6)(C)(vii) of this section.

(II) The term "employment" ~~shall~~ also ~~include~~ includes service for any employing unit ~~which~~ that is performed ~~after December 31, 1977~~ by an individual in the employ of this State or any political subdivision ~~thereof~~ of the State or any of its instrumentalities or any instrumentality of one or more of ~~the foregoing~~ them; and service performed for this State or any political subdivision ~~thereof~~ of this State and one or more other states or political subdivisions ~~thereof~~ of another state or any instrumentality of ~~the foregoing which~~ them that is wholly owned by ~~such~~ the states or political subdivisions, provided that ~~such~~ the service is excluded from "employment" as defined in the Federal Unemployment Tax Act by ~~section~~ 26 U.S.C. § 3306(c)(7) ~~of that act~~ and is not excluded from "employment" under subdivision (6)(C)(vii) of this section.

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

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

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

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

(C) The term "employment" ~~shall~~ does not include:

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

* * *

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

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

(dd) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if ~~such~~ the operator produced more than one-half of the commodity with respect to which ~~such~~ the service is performed;

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

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

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

(III) The provisions of subdivisions (dd) and (ee) of subdivision (6)(C)(i)(I) of this section shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural

commodity after its delivery to a terminal market for distribution for consumption.

* * *

(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,

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

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

(vi)~~(I) Before January 1, 1978, service performed in the employ of a state, a political subdivision thereof, or an instrumentality of one or more states or political subdivisions except as otherwise provided in this chapter with respect to service for a hospital or institution of higher education located in this State, and except as to any town, city, or other municipal corporation, as defined by 24 V.S.A. § 1751, or an instrumentality thereof, that duly elects otherwise, as provided by this chapter with the Commissioner's approval;~~

~~(II) After December 31, 1977,~~ Service performed in the employ of a governmental entity referred to in subdivision (6)(A)(x) of this section if ~~such~~ the service is performed by an individual in the exercise of duties:

* * *

(cc) as a member of the ~~State~~ Vermont National Guard or Air National Guard;

* * *

(ee) in a position ~~which~~ that, ~~under or~~ pursuant to the laws of this State, is designated as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(vii) For the purposes of subdivisions (6)(A)(ix) and (6)(A)(x) of this section, the term "employment" does not include service performed:

(I) in the employ of a church or convention or association of churches, or an organization ~~which~~ that is operated primarily for religious

purposes and ~~which~~ that is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

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

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

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

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

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

(V) by an individual receiving work relief or work training as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision ~~thereof~~ of a state~~, by an individual receiving such work relief or work training~~; or

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

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

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

(x) Service as an officer or member of a crew of an American vessel performed on or in connection with ~~such~~ the vessel, if the operating office, from which the operations of the vessel operating on navigable waters within or ~~without~~ outside the United States are ordinarily and regularly supervised, managed, directed, and controlled, is ~~without~~ outside this State~~;~~.

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

* * *

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

(xiv) Service performed, in the employ of a school, college, or university, if ~~such~~ the service is performed by a student who is enrolled and is regularly attending classes at ~~such~~ the school, college, or university, or by the spouse of such a student, if the spouse is advised~~,~~ at the time ~~such~~ the spouse commences to perform ~~such~~ the service, that the employment of ~~such~~ the spouse to perform ~~such~~ the service is provided under a program to provide

financial assistance to ~~such~~ the student by the school, college, or university, and ~~such~~ the employment will not be covered by any program of unemployment insurance~~;~~.

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

(xvi) Service performed in the employ of a hospital, if ~~such~~ the service is performed by a patient of the hospital, as defined in this section~~;~~.

(xvii) Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all ~~such~~ the service performed by ~~such~~ the individual for ~~such~~ the person is performed for remuneration solely by way of commission~~;~~.

(xviii) Service performed by an individual for a person as a salesman, agent, or solicitor if the state law requires the individual to be registered or licensed to engage in the performance of the service and if the

individual in the performance of ~~such~~ the service is an independent contractor under common law rules and if the individual performs all such service for remuneration solely by way of commission~~;~~.

(xix) Service performed by an individual engaged in the harvesting of timber~~,~~ or in the transportation of timber from the place where harvested to market, or service performed by an individual engaged as a stone artisan, including sculpting, etching, or carving quarried stone when:

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

(II) ~~such~~ the individual is customarily engaged in an independently established trade, occupation, profession, or business; and

(III) ~~such~~ the individual furnishes substantially all of the equipment, tools, and supplies necessary in carrying out ~~his or her~~ the individual's contractual obligations to ~~his or her~~ the individual's clients.

(xx) Service performed by a full-time student as defined in ~~subsection~~ subdivision (III) of this subdivision (6)(C)(xx) in the employ of an organized camp~~.~~ if:

(I) ~~if such~~ the camp:

* * *

(bb) had average gross receipts for any six months in the preceding calendar year ~~which~~ that were not more than 33 1/3 percent of its

average gross receipts for the other six months in the preceding calendar year; and

(II) ~~if such~~ the full-time student performed services in the employ of ~~such~~ the camp for less than 13 calendar weeks in ~~such~~ the calendar year; provided, that if the individual does not enroll in the immediately succeeding academic year or term, then the services of ~~such~~ the individual as defined in this subsection shall be deemed to be employment for all purposes under this chapter.

(III) ~~full-time student. For the purposes of~~ As used in this subdivision (6)(C)(xx), an individual shall be treated as a full-time student for any period:

(aa) during which the individual is enrolled as a full-time student at an educational institution; or

(bb) ~~which~~ that is between academic years or terms if ~~(A)~~ the individual was enrolled as a full-time student at an educational institution for the immediately preceding year or term~~;~~ and ~~(B)~~ there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term ~~after the period described in subdivision (A)~~.

* * *

(8) "Fund" means the Unemployment Compensation Trust Fund established by this chapter, to which all contributions required and from which all benefits provided under this chapter shall be paid.

(9) "Total and partial unemployment."

(A) An individual shall be deemed "totally unemployed" in any week during which the individual performs no services and with respect to which no wages are earned by ~~him or her~~ the individual.

(B) An individual shall be deemed "partially unemployed" in any week of less than full time work if the wages earned by ~~him or her~~ the individual with respect to ~~such~~ the week are less than the weekly benefit amount ~~he or she~~ the individual would be entitled to receive if totally unemployed and eligible.

(C) As used in this subdivision, "wages" includes only that part of remuneration in any one week rounded to the next higher dollar ~~which~~ that is in excess of the amount specified in section 1338a of this ~~title~~ subchapter.

(D) An individual's week of unemployment shall be deemed to commence only after ~~his or her~~ the individual's registration at an employment office, except as the Vermont Employment Security Board may by ~~regulation~~ rule otherwise prescribe.

(10) "State" means the states of the United States of America, the Commonwealth of Puerto Rico, the District of Columbia, and ~~after December 31, 1977,~~ the Virgin Islands.

* * *

(12) "Wages" means all remuneration paid for services rendered by an individual, including commissions and bonuses and the cash value of all remuneration paid in any medium other than cash. Gratuities customarily received by an individual in the course of ~~his or her~~ the individual's employment from persons other than the individual's employer and reported by the individual to the individual's employer shall be treated as wages paid by the individual's employer. The reasonable cash value of remuneration paid in any medium other than cash shall be estimated and determined in accordance with rules ~~prescribed~~ adopted by the Board. The term "wages" ~~as used in this chapter shall~~ does not include:

(A) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of ~~his or her~~ the employee's dependents under a plan or system established by an employer ~~which~~ that makes provision for ~~his or her~~ the employer's employees generally (or for ~~his or her~~ the employer's employees generally and their dependents) or for a class or classes of ~~his or her~~ the employer's employees (or for a class or classes of ~~his or her~~ the employer's employees and their dependents), on account of:

(i) sickness or accident disability (but, in the case of payments made directly to an employee or any of ~~his or her~~ the employee's dependents,

this subparagraph shall exclude from the term "wages" only payments ~~which~~ that are received under a workers' compensation law);

* * *

(B) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for ~~such~~ the employer.

(C) Any payment made to, or on behalf of, an employee or ~~his or her~~ the employee's beneficiary:

(i) from or to a trust described in ~~Section~~ 26 U.S.C. § 401(a) ~~of the U.S. Internal Revenue Code which~~ that is exempt from tax under ~~Section~~ 26 U.S.C. § 501(a) ~~of the U.S. Internal Revenue Code~~ at the time of ~~such~~ the payment unless ~~such~~ the payment is made to an employee of the trust as remuneration for services rendered as ~~such~~ the employee and not as a beneficiary of the trust~~,~~; or

(ii) under or to an annuity plan ~~which~~ that, at the time of ~~such~~ the payment, is a plan described in ~~Section~~ 26 U.S.C. § 403(a) ~~of the U.S. Internal Revenue Code~~.

(D) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under ~~Section~~ 26 U.S.C. § 3101 ~~of the U.S. Internal Revenue Code~~.

(E) Any amounts received from the federal government by members of the National Guard and ~~organized~~ reserve components of the U.S. Armed Forces, as drill pay, including longevity pay and allowances.

(F) ~~Provided; that if~~ If the definition of "wages" in ~~section~~ 26 U.S.C. § 3306 ~~of the,~~ Federal Unemployment Tax Act, is amended ~~so as~~ to no longer exclude ~~from such definition~~ any or all of the payments or amounts enumerated in subdivisions ~~(12)~~(A) through (E) of this ~~section~~ subdivision (12), then ~~any or all such~~ payments or amounts ~~shall~~ no longer ~~be~~ excluded from the federal definition shall be included in the definition of "wages" under this ~~chapter~~ this subdivision (12), effective on ~~a date to coincide with~~ the effective date of ~~such~~ the amendment ~~(or amendments)~~ to the Federal Unemployment Tax Act.

(G) Any foster care payments excluded from the definition of gross income under ~~Section~~ 26 U.S.C. § 131 ~~of the U.S. Internal Revenue Code~~.

(13) "Week" means ~~such~~ a period or periods of seven consecutive days, as the Board may by ~~regulation~~ rule prescribe.

(14) "Calendar quarter" means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent ~~thereof~~ of such a period as the Board may by ~~regulation~~ rule prescribe.

(15) An individual's "weekly benefit amount" with respect to any week means the amount of benefits ~~he or she~~ the individual would be entitled to

receive for ~~such~~ the week if totally unemployed and eligible for benefits ~~therein~~ for the week.

(16)(A) "Benefit year," with respect to any individual, means the one-year period beginning with the first day of the week with respect to which the individual first files a valid claim for benefits in accordance with section 1346 of this ~~title~~ subchapter, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files such a claim for benefits after the termination of ~~his or her~~ the individual's last preceding benefit year.

(B) [Repealed.]

(17)~~(A) For benefit years beginning prior to January 3, 1988, the "base period" is the period of 52 weeks ending with the day immediately preceding the first day of a claimant's benefit year. Such period shall be extended by one week for each week, not to exceed 18, in which the claimant had no earnings because of sickness or disability as certified by a duly licensed physician.~~

~~(B) For benefit years beginning on January 3, 1988 and subsequent thereto the "base~~ "Base period" ~~shall be the~~ means:

(A) The period made up of the first four of the most recently completed five calendar quarters immediately preceding the first day of a claimant's benefit year~~, and for~~.

(B) For any individual who fails to meet the eligibility requirements of section 1338 of this ~~title~~ subchapter in ~~this~~ the base period set forth pursuant

to subdivision (A) of this subdivision (17), the Commissioner shall make a redetermination of entitlement based upon a base period ~~which~~ that consists of the last four completed calendar quarters immediately preceding the first day of the claimant's benefit year.

(C) For any individual who fails to qualify for benefits under ~~subdivision~~ subdivisions (A) and (B) of this subdivision (17), the Commissioner shall make a redetermination of entitlement based upon a base period ~~which~~ that consists of the last three completed calendar quarters and all wages paid prior to the effective date of the claimant's initial claim in the calendar quarter in which the initial claim was filed.

(D) All wages ~~which~~ that fall within the "base period" of valid claims under this section shall not be available for reuse in qualifying for any subsequent benefit years under section 1338 or 1318 of this ~~title~~ subchapter.

(18)(A) "Institution of higher education" means an educational institution ~~which~~ that:

~~(A)~~(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B)(ii) is legally authorized in this State to provide a program of education beyond high school;

~~(C)~~(iii) provides an educational program for which it awards a bachelor's or higher degree, or provides a program ~~which~~ that is acceptable for

full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

~~(D)~~(iv) is a public or other nonprofit institution.

(B) Notwithstanding any ~~of the foregoing provisions~~ provision of this subdivision (18) to the contrary, all colleges and universities in this State are institutions of higher education for purposes of this chapter.

* * *

(22) "Rounding~~.~~" ~~Notwithstanding~~ means, notwithstanding any other provisions of this ~~law~~ chapter to the contrary, any amount of unemployment compensation payable to any individual for any week if not an even dollar amount, shall be rounded to the next lower full dollar amount.

* * *

(24) "Self-employment":

(A) Except as provided in subdivision (B) of this subdivision (24), an individual shall be deemed "self-employed" or "engaged in self-employment" in any week during which ~~he or she~~ the individual is engaged, not in the employ of another, in the formation, development, or operation of a trade, business, enterprise, profession, or any other activity ~~which he or she~~ that the individual has undertaken for the purpose of producing income and ~~which~~ that is in the form of a sole proprietorship, partnership, joint venture, or other similar entity.

(B) An individual who is able to work and available for full-time work shall not be deemed to be self-employed or engaged in self-employment solely by reason of continued participation without substantial change during a period of unemployment in any activity undertaken while customarily employed by an employer in full-time work (whether or not such work constituted employment) and continued subsequent to separation from such work when ~~such~~ the activity is not engaged in as a primary source of livelihood. Earnings from such a sideline activity shall not constitute wages or disqualifying income for unemployment purposes.

* * *

Sec. 171. 21 V.S.A. § 1302 is amended to read:

§ 1302. VERMONT EMPLOYMENT SECURITY BOARD~~,~~;

COMPOSITION~~,~~; DUTIES

(a)(1) There is ~~hereby~~ created a board of three members to be known as the Vermont Employment Security Board.

(2)(A) One member, who will serve as the chair of the Board, shall be the Commissioner of Labor, ex officio.

(B) The two other members of the Board shall be appointed by the Governor, with the advice and consent of the Senate. The term of each appointed member shall be six years.

(C) Biennially, in the month of February, with the advice and consent of the Senate, the Governor shall appoint a person as a member of the Board

for the term of six years, whose term of office shall commence March 1 of the year in which ~~such~~ the appointment is made.

(D) Any appointment to fill a vacancy shall be for the unexpired term.

(E) In case of a vacancy by resignation, the member resigning shall continue in office until that member's successor is appointed.

(3) Not more than two members of the Board shall be members of the same political party.

(4) The Governor may at any time remove an appointed member of ~~such~~ the Board for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

(b)(1) The Board may hear and decide all matters appealed to it under this chapter. It shall determine its own methods of procedure.

(2) ~~It~~ The Board may, with the approval of the Governor, adopt, amend, suspend, or rescind such rules ~~and regulations~~ as it considers necessary and consistent with this chapter. The rules ~~and regulations~~ of the Board shall have the force and effect of law after public hearing thereon of which reasonable notice has been given, and after filing with the Secretary of State, and publication in such manner as the Board shall prescribe.

(3) The Board may administer oaths, take depositions, certify to official acts, and subpoena witnesses and compel the production of books, papers,

correspondence, memoranda, and other records necessary and material in the discharge of its duties imposed by this chapter.

Sec. 172. 21 V.S.A. § 1311 is amended to read:

§ 1311. EMPLOYEES

Subject to other provisions of this chapter, the Commissioner is authorized to appoint a Deputy Commissioner and such officers, accountants, attorneys, and employees as may be necessary in the performance of ~~his or her~~ the Commissioner's duties. The Commissioner may delegate to any ~~such~~ person ~~so~~ appointed ~~such~~ pursuant to the provisions of this section any power and authority ~~deemed~~ the Commissioner deems reasonable and proper for the effective administration of this chapter, and may, in the Commissioner's discretion, bond any person handling monies or signing checks ~~hereunder~~ pursuant to the provisions of this chapter.

Sec. 173. 21 V.S.A. § 1312 is amended to read:

§ 1312. PUBLICATION OF RULES~~, REGULATIONS,~~ AND REPORTS

The Commissioner shall ~~cause to be printed~~ make available for distribution to the public the text of this chapter, the Board's rules ~~and regulations~~, ~~his or her~~ the Commissioner's annual reports to the Governor, and any other material the Commissioner considers relevant and suitable. ~~He or she~~ The Commissioner shall furnish the ~~same~~ materials made available to the public pursuant to this section to any person upon ~~application therefor~~ request.

Sec. 174. 21 V.S.A. § 1314 is amended to read:

§ 1314. REPORTS AND RECORDS; SEPARATION INFORMATION; DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT EMPLOYMENT INFORMATION; DISCLOSURE OF INFORMATION TO OTHER STATE AGENCIES TO INVESTIGATE MISCLASSIFICATION OR MISCODING

(a) The Commissioner may require any employing unit to keep ~~such~~ true and accurate records and make ~~such~~ reports covering persons employed by it respecting employment, wages, hours, unemployment, and related matters as the Commissioner deems reasonably necessary for the effective administration of this chapter. ~~Such~~ The records shall be open to inspection and subject to being copied by the Commissioner or ~~his or her~~ the Commissioner's authorized representatives at any reasonable time and as often as may be necessary.

(b) On request of the Commissioner, an employing unit shall report, within 10 days ~~of~~ after the mailing or personal delivery of the request, employment and separation information with respect to a claimant and the wages paid to a claimant.

(c) If an employing unit fails to comply adequately with the provisions of subsection (b) of this section and section 1314a of this ~~title~~ subchapter, the Commissioner shall determine the benefit rights of a claimant upon ~~such~~ the available information ~~as is available~~. Prompt notice in writing of the determination shall be given to the employing unit. The determination shall be

final with respect to a noncomplying employer as to any charges against its experience-rating record for benefits paid to the claimant before the week following the receipt of the employing unit's reply. The employing unit's experience rating record shall not be relieved of these charges, notwithstanding any other provision of this chapter, unless the Commissioner determines that failure to comply was due to unavoidable accident or mistake.

(d)(1) Except as otherwise provided in this chapter, information obtained from any employing unit or individual in the administration of this chapter and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or open to public inspection in any manner revealing the individual's or employing unit's identity, nor be admissible in evidence in any action or proceeding other than one arising out of this chapter, or to support or facilitate an investigation by a public agency identified in subdivision (e)(1) of this section.

(2) An individual or ~~his or her~~ an individual's duly authorized agent may be supplied with information from those records to the extent necessary for the proper presentation of ~~his or her~~ the individual's claims for benefits or to inform ~~him or her~~ the individual of ~~his or her~~ the individual's existing or prospective rights to benefits~~; an~~. An employing unit may be furnished with ~~such~~ information, as ~~may be deemed~~ the Commissioner deems proper, ~~within the discretion of the Commissioner,~~ to enable it to fully discharge its obligations and safeguard its rights under this chapter.

* * *

(4) Notwithstanding the provisions in subdivision (3) of this subsection, the Department of Labor shall, at the request of the Agency of Administration, perform ~~such~~ services for other departments and agencies of the State ~~as~~ that are within the capacity of its data processing equipment and personnel, provided that ~~such~~ the services can be accomplished without undue interference with the designated work of the Department of Labor.

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

would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the Commissioner.

* * *

(2)(A)(i) The Department of Labor shall disclose, upon request, to officers or employees of any state or local child support enforcement agency any wage information or other information material to the location of an individual, the individual's assets, or the individual's place of employment or other source of income contained in the Department's unemployment compensation claim records with respect to an identified individual that is contained in those records.

(ii) The term "state or local child support enforcement agency" means any agency of a state or political subdivision ~~thereof~~ of a state operating pursuant to a plan described in ~~Section 454 of the Social Security Act, which~~ 42 U.S.C. § 654 that has been approved by the Secretary of Health and Human Services under ~~part D, Title IV of the Social Security Act~~ 42 U.S.C. chapter 7, subchapter IV, part D.

(B) The requesting agency shall agree that information provided under this subsection is to be used only for the following purposes:

(i) establishing and collecting child support obligations from, and locating, individuals owing such obligations that are being enforced pursuant to a plan described in ~~Section 454 of the Social Security Act~~ 42 U.S.C. § 654 that has been approved by the Secretary of Health and Human Services under

~~part D, Title IV of the Social Security Act~~ 42 U.S.C. chapter 7, subchapter IV, part D; and

(ii) establishing parentage and expediting procedures relating to establishing parentage pursuant to ~~Section 466(c)(1) of the Social Security Act as added by Section 325(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193~~ 42 U.S.C. § 666.

(3)(A) The Department of Labor shall disclose, upon request, to officers and employees of the U.S. Department of Agriculture and any state agency, with respect to an identified individual, any of the following information that is contained in its records:

(i) wage information;

(ii) whether the individual is receiving, has received, or has made application for unemployment compensation and the amount of any compensation being received or to be received by ~~such~~ the individual;

(iii) the current or most recent home address of the individual; and

(iv) whether the individual has refused an offer of employment and, if so, a description of the employment offered and the associated terms, conditions, and rate of pay ~~therefor~~.

(B) ~~The term~~ As used in this subdivision (e)(3), "state agency" means any agency described in 7 U.S.C. § 2012(s) that administers the Supplemental Nutrition Assistance Program ~~established under that act~~.

(C) The requesting agency shall agree that ~~such~~ the information shall be used only for purposes of determining the applicant's eligibility for benefits, or the amount of benefits, under the Supplemental Nutrition Assistance Program established under 7 U.S.C. chapter 51.

(D) The information shall not be released unless the requesting agency agrees to reimburse the costs involved for furnishing ~~such~~ the information.

(E) In addition to the requirements of this subdivision, all other requirements with respect to confidentiality of information obtained in the administration of this chapter and the sanctions imposed for improper disclosure of information obtained in the administration of this chapter shall apply to the use of ~~such~~ the information by the officers and employees of any state agency or the U.S. Department of Agriculture.

(4)(A)(i) The Department of Labor shall disclose, upon request, to officers or employees of any state or local agency charged with administering TANF, any wage information with respect to an identified individual that is contained in its records, which is necessary for the purpose of determining an individual's eligibility for aid or services or the amount of ~~such~~ the aid or services to needy families with children.

(ii) ~~The term~~ As used in this subdivision (e)(4), "state or local agency charged with administering TANF" means any such agency

administering a plan approved under ~~part A of Title IV of the Social Security Act~~ 42 U.S.C. chapter 7, subchapter IV, part A.

(B) The information requested shall not be released unless the requesting TANF agency agrees to reimburse the Department of Labor for the costs involved in furnishing ~~such~~ the information.

* * *

(5)(A) The Department of Labor shall disclose to officers or employees of the Federal Parent Locator Service (FPLS) or National New Hire Directory any employment, wage, and unemployment compensation claim information contained in its claim records that may be useful in locating an absent parent or the parent's employer solely for purposes of administering the child support enforcement provisions of ~~Title IV of the Social Security Act~~ 42 U.S.C. chapter 7, subchapter IV.

(B) The requesting Federal Parent Locator Service shall agree that the requested information shall be used only for purposes authorized in ~~Section 303(h)(1) of the Social Security Act~~ 42 U.S.C. § 503(h)(1).

* * *

(6)(A) The Department of Labor shall disclose, upon request, to officers or employees of the Department of Housing and Urban Development (HUD) and to representatives of a public housing agency any wage information and unemployment compensation benefit information that is contained in its records with respect to an identified individual applying for or participating in

any housing assistance program administered by HUD that is necessary for the purposes of determining the individual's eligibility for benefits or the amount of benefits under a HUD housing assistance program. ~~For the purposes of~~ As used in this subdivision (e)(6), the term "public housing agency" means any agency described in ~~section 3(b)(6) of the U.S. Housing Act of 1937~~ 42 U.S.C. § 1437a(b)(6) that is authorized to engage in or assist in the development or operation of low-income housing.

(B) HUD or the requesting public housing agency shall agree that the requested information shall be used only for purposes of determining individual's eligibility for benefits or the amount of benefits under a HUD housing assistance program and that it will comply with the provisions of 20 C.F.R. § 603.7 and the limitations on the use of the information set forth in ~~section 904(c)(2) of P.L.~~ Pub. L. No. 100-628, § 904(c)(2).

(C) The information requested shall not be released unless the individual about whom the requested information relates has signed a consent form, approved by the Secretary of HUD, ~~which~~ that permits the release of the requested information.

* * *

(g) All written or oral reports, or other communications, from an employer or ~~his or her~~ the employer's workers to each other, or to the Commissioner or any of ~~his or her~~ the Commissioner's agents, representatives, or employees, made in connection with the requirements and administration of this chapter or

the ~~regulations thereunder~~ rules adopted pursuant to this chapter, shall be absolutely privileged and shall not be made the subject matter or basis for any suit for slander or libel in any court of this State, unless they are false in fact and malicious in intent.

(h) Any employing unit that fails to report employment and separation information with respect to a claimant and wages paid to a claimant required under subsection (b) of this section shall be subject to a penalty of $100.00 for each report not received by the prescribed due date~~, which~~. The penalty imposed pursuant to this subsection shall be collected in the manner provided for the collection of contributions in section 1329 of this ~~title~~ subchapter and shall be paid into the contingent fund ~~provided~~ established in section 1365 of this ~~title~~ subchapter. If the employing unit demonstrates that its failure was due to a reasonable cause, the Commissioner may waive the penalty.

Sec. 175. 21 V.S.A. § 1314a(e) is amended to read:

(e) On request of the Commissioner, any employing unit or employer shall report, within 10 days ~~of~~ after the mailing or personal delivery of the request, separation information for a claimant, any disqualifying income the claimant may have received, and any other information that the Commissioner may require to determine the claimant's eligibility for unemployment compensation. The Commissioner shall make a request when:

* * *

Sec. 176. 21 V.S.A. § 1315 is amended to read:

§ 1315. STATE-FEDERAL COOPERATION

In the administration of this chapter, the Commissioner shall:

(1) cooperate with the Secretary of Labor to the fullest extent consistent with the provisions ~~thereof, with the Secretary of Labor~~ of this chapter;

(2) ~~shall~~ make ~~such~~ reports, in ~~such~~ a form and containing ~~such~~ information ~~as~~ required by the Secretary of Labor ~~may from time to time require, and shall~~;

(3) comply with ~~such~~ any provisions ~~as~~ the Secretary of Labor ~~may from time to time find~~ deems necessary to ~~assure~~ ensure the correctness and verification of ~~such~~ the reports; and

(4) ~~shall~~ comply with the regulations prescribed by the Secretary of Labor governing the expenditures of ~~such~~ sums ~~as may be~~ allotted and paid to ~~this~~ the State under ~~Title III of the Social Security Act~~ 42 U.S.C. chapter 7, subchapter III for the purpose of assisting in the administration of this chapter.

Sec. 177. 21 V.S.A. § 1316 is amended to read:

§ 1316. FURNISHING DATA

Upon request ~~therefor~~, the Commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits and ~~such~~ the recipient's rights to further benefits under this chapter.

Sec. 178. 21 V.S.A. § 1318 is amended to read:

§ 1318. RECIPROCAL BENEFIT ARRANGEMENTS

(a) The Commissioner is ~~hereby~~ authorized to enter into arrangements with the appropriate agencies of other states or the federal government ~~whereby~~ under which potential rights to benefits accumulated under the unemployment compensation laws of ~~the several~~ other states or under ~~such law of the~~ federal ~~government~~ law, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms ~~which~~ that the Commissioner finds will be fair and reasonable ~~as~~ to all affected interests and will not result in any substantial loss to the Fund~~, and the~~. The Commissioner is authorized to reimburse ~~such~~ a state or federal agency for ~~such~~ benefits ~~as may be~~ paid by that agency upon the basis of wages received in employment subject to this chapter or to receive from ~~such~~ a state or federal agency ~~such~~ amounts ~~as may be~~ paid from the Fund upon the basis of wages received in employment subject to the laws of ~~such~~ the state or ~~of the~~ to federal ~~government~~ law.

(b) The Commissioner shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with ~~his~~ the individual's wages and employment covered under the unemployment compensation laws of other states ~~which~~ that are approved by the U.S. Secretary of Labor ~~of the United States~~ in consultation with the state unemployment compensation agencies as

reasonably calculated to ~~assure~~ ensure the prompt and full payment of compensation in such a situation and ~~which~~ that include provisions for:

(1) applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws; and

(2) avoiding the duplicate use of wages and employment by reason of ~~such combining~~ the combination pursuant to subdivision (1) of this subsection (b).

(c)(1) Reimbursements paid from the Fund pursuant to this section shall be deemed to be benefits for the purposes of this chapter~~, except that no~~.

(2) No charge on account of ~~said~~ reimbursements paid pursuant to subdivision (1) of this subsection (c) shall be made to an employer's experience rating record under subsection 1325(a) of this ~~title~~ subchapter.

(3) Benefits paid from the Fund to an individual, under arrangements entered into pursuant to this section, shall not be charged to an employer's experience rating record under subsection 1325(a) of this ~~title~~ subchapter when ~~such~~ the benefits would not have been payable to the individual but for this section because ~~of lack of~~ the individual lacked wages in ~~subject~~ employment necessary to qualify for benefits under section 1338 of this ~~title~~ subchapter.

Sec. 179. 21 V.S.A. § 1320 is amended to read:

§ 1320. INVESTIGATIONS; GENERAL POWERS

(a)(1) The Commissioner is authorized to ~~make such~~ conduct investigations, secure and transmit ~~such~~ information, make available ~~such~~ services and facilities, and exercise ~~such of~~ the other powers provided ~~herein with respect to the administration of~~ pursuant to this chapter as the Commissioner deems necessary or appropriate to facilitate the administration of any unemployment compensation or public employment service law~~, and in like manner,~~.

(2) The Commissioner is also authorized to accept and utilize information, services, and facilities made available to this State by any agency charged with the administration of any ~~such~~ other unemployment compensation or public employment service law.

(3) To the extent permissible under the laws and constitution of the United States, the Commissioner of Labor is authorized to enter into or cooperate in arrangements ~~whereby~~ under which facilities and services provided under this chapter and facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under this chapter, or under a similar law of ~~such~~ the foreign government.

(b) On request of an agency ~~which~~ that administers an employment security law of another state or of a foreign government, and ~~which~~ that has found in

accordance with the provisions of ~~such~~ its law that an individual is liable to repay benefits received under ~~such~~ the law, the Commissioner may collect from the individual the amount of ~~such~~ benefits to be refunded to ~~such~~ the agency, and ~~such~~ the amounts may be collected by civil action in the name of the Commissioner acting as agent for ~~such~~ the agency.

(c) Records, with any necessary authentication ~~thereof~~ of the records, required in the prosecution of any criminal action brought by another state or foreign government for misrepresentation to obtain benefits under the law of this State shall be made available to the agency administering the employment security law of ~~any such~~ the other state or foreign government for the purpose of ~~such~~ the prosecution.

(d)(1) The Commissioner may begin and prosecute civil proceedings in any other state to collect contributions, penalties, and interest legally due under this chapter.

(2) The officials of other states ~~which~~ that extend a like comity to this State may sue for the collection of contributions, interest, and penalties imposed by those other states, in the courts of this State~~; in~~. In any such case, the Commissioner of Labor ~~of this State~~ may, through ~~his or her~~ the Commissioner's legal assistant, begin and conduct the suit for the other state.

(3) The courts of this State shall recognize and enforce liability for those contributions, interest, and penalties imposed by other states ~~which~~ that extend a like comity to this State.

* * *

Sec. 180. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

(a) Payment of contributions. Contributions shall accrue and become payable by each employer for each calendar year in which ~~he or she~~ the employer is subject to this chapter, with respect to wages paid for employment, as defined in subdivision 1301(6) of this ~~title~~ subchapter, occurring during ~~such~~ the calendar year, except as otherwise provided in this section. The contributions shall become due and be payable at ~~such time and in such installments as~~ times and in installments prescribed by the Board ~~prescribes~~.

(b) Base of contributions. ~~Subsequent to December 31, 1982, the term "wages" shall not include that part of remuneration that, after remuneration equal to $8,000.00 has been paid in a calendar year to an individual by an employer with respect to employment during a calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the period January 1, 2010, through December 31, 2010, the term "wages" shall not include that part of remuneration that, after remuneration equal to $10,000.00 has been paid in a calendar year to an individual by an employer with respect to employment during a calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to~~

~~be paid into a state unemployment fund.~~ The term "wages" shall not include that part of remuneration that, after remuneration equal to $13,000.00 on January 1, 2011, and $16,000.00 on January 1, 2012, has been paid in a calendar year to an individual by an employer with respect to employment during a calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. After January 1, 2012, whenever the Unemployment Compensation Fund has a positive balance and all advances made to the State Unemployment Compensation Fund pursuant to Title XII of the Social Security Act have been repaid as of June 1, the base of contribution amount shall be adjusted on January 1 of the following year by the same percentage as any increase in the State annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of this ~~title~~ subchapter. When the unemployment contribution rate schedule established by subsection 1326(e) of this ~~title~~ subchapter is reduced to schedule III, the base of contribution amount shall be reduced by $2,000.00 on January 1 of the following year and shall be adjusted annually thereafter on January 1 of the following year by the same percentage as any increase in the State annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of this ~~title~~ subchapter. When the unemployment contribution rate schedule established by subsection 1326(e) of this ~~title~~ subchapter is reduced to schedule I, the base of contribution amount shall be reduced by $2,000.00 on January 1

of the following year and shall be adjusted annually thereafter on January 1 of the following year by the same percentage as any increase in the State annual average wage as calculated ~~by~~ pursuant to subsection 1338(g) of this ~~title~~ subchapter. For the purposes of this subsection:

(1) any employer who acquired the entire or a distinct and severable portion of the organization, trade, or business of an employer shall be treated as a single unit with its predecessor for the calendar year in which ~~such~~ the acquisition occurs; and

* * *

(d) In lieu of contributions required of employers subject to this chapter, the State of Vermont, including State hospitals but excluding any State institution of higher education, shall pay to the Commissioner, for the Unemployment Compensation Fund, an amount equal to the amount of benefits paid, including the full amount of extended benefits paid, attributable to service by individuals in the employ of the State. At the end of each calendar quarter, or at the end of any other period as determined by the Commissioner, the Commissioner shall bill the State for the amount of benefits paid during ~~such~~ the quarter or other prescribed period that is attributable to service in the employ of the State. Subdivisions (c)(3)(C) through (3)(F), inclusive, and subdivisions (c)(5) and (6) of this section as they apply to nonprofit organizations shall also apply to the State of Vermont, except that the

State shall be liable for all benefits paid, including the full amount of extended benefits paid, attributable to service in the employ of the State.

(e) Any municipality, any State institution of higher education, and any political or governmental subdivisions or instrumentalities of the State shall pay contributions unless it elects to pay to the Commissioner for the Unemployment Compensation Fund, an amount equal to the amount of benefits paid, including the full amount of extended benefits paid, attributable to service by individuals in the employ of ~~these entities~~ the entity. Subsections (a) and (b) and subdivisions (c)(3)(C) through (3)(F), inclusive, and subdivisions (c)(4) through (6), inclusive of this section as they apply to nonprofit organizations shall also apply to the entities designated in this subsection, except that these entities shall be liable for all benefits paid, including the full amount of extended benefits paid, attributable to service in the employ of these entities.

(1) Any entity designated in this subsection ~~that is, or becomes, subject to this chapter on January 1, 1978~~ may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year ~~beginning with January 1, 1978 provided~~ if it files with the Commissioner a written notice of its election within the 30-day period immediately following that date.

(2) Any entity designated in this subsection ~~that becomes subject to this chapter after January 1, 1978~~ may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year following the

date on which ~~the subjectivity begins~~ it becomes subject to the provisions of this chapter by filing a written notice of its election with the Commissioner not later than 30 days immediately following the date of the determination of that subjectivity.

(3) Any entity designated in this subsection that makes an election in accordance with subdivisions (1) and (2) of this subsection will continue to be liable for payments in lieu of contributions until it files with the Commissioner a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which the termination shall first be effective.

(4) Any entity designated in this subsection that has been paying contributions under this chapter ~~for a period subsequent to January 1, 1978~~ may change to a reimbursable basis by filing with the Commissioner not later than 30 days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. The election shall not be terminable by the organization for that year and the next year.

(5) The Commissioner may for good cause extend the period within which a notice of election~~,~~ or a notice of termination~~,~~ must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after the date that entity became subject to this chapter.

(6) The Commissioner shall notify each entity designated in this subsection of any determinations that ~~he or she may make of~~ the Commissioner makes regarding its status as an employer and of the effective

date of any election that it makes and of any termination of that election. The determination shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this ~~title~~ subchapter.

* * *

Sec. 181. 21 V.S.A. § 1322 is amended to read:

§ 1322. REPORTS; LIABILITY

(a) Every employer shall file with the Commissioner periodic reports to disclose its liability for contributions under this chapter on ~~such~~ forms and at ~~such~~ times ~~as~~ prescribed by the Commissioner ~~may prescribe to disclose his or her liability for contributions under this chapter~~.

(b)(1) Every employer subject to this chapter who sells in bulk 50 percent or more of ~~his or her~~ its assets, including any stock of goods, wares, or merchandise of any kind, fixtures, machinery, equipment, buildings, or real estate, when ~~such~~ the sale constitutes the sale of the employer's business to another shall give the Commissioner 10 days' notice of the sale before the completion of the transfer of the property.

(2) The employer shall file all contribution reports with the Commissioner to the date of the proposed transfer of property and pay all contributions, interest, and penalties due and payable ~~thereon~~. The employer shall also file the detailed quarterly wage report required by section 1314a of this ~~title (subsequent to June 30, 1986)~~ subchapter covering employee wages to date of proposed transfer. ~~When the reports are filed the~~

(3)(A) The Commissioner shall furnish to the employer within 10 days ~~thereafter~~ after the reports are filed a certificate showing that all reports have been filed and contributions, interest, and penalties have been paid to the date of the proposed transfer. If the certificate is not furnished by the Commissioner within 10 days, no liability may thereafter be imposed upon the purchaser.

(B) The employer shall present the certificate to the purchaser of the property.

(C) The failure of the purchaser to require the certificate makes the purchaser liable to the Commissioner for the unpaid contributions, interest, and penalties owed by the employer in an amount not to exceed the reasonable value of the assets purchased. The liability imposed upon the purchaser by this subsection shall be secondary to the liability of the employer.

(c) Subsection (b) of this section shall not apply to sales made under any ~~order of~~ court order or to any sales made by assignees for the benefit of creditors, executors, administrators, receivers, or any public officer in ~~his or her~~ the officer's official capacity or by any officer of the court ~~or to any other transfer excepted under Uniform Commercial Code, 9A V.S.A. § 6-103~~.

(d) An employing unit ~~which~~ that has been liable otherwise than by its election to pay contributions as an employer under this chapter for any calendar year shall file ~~such~~ reports and pay ~~such~~ contributions for the next succeeding calendar year as the Commissioner may prescribe.

Sec. 182. 21 V.S.A. § 1322a is amended to read:

§ 1322a. OUT-OF-STATE OR NONRESIDENT SUBCONTRACTORS

(a) Any contractor, who is or becomes an employer under the provisions of this chapter, who contracts with any out-of-state or nonresident subcontractor, who also is or becomes an employer under the provisions of this chapter, shall:

(1) withhold sufficient monies on ~~said~~ the contract to guarantee that all contributions, penalties, and interest are paid upon completion of ~~said~~ the contract~~,~~; or ~~shall~~

(2) require ~~of said~~ the subcontractor to secure a ~~good and sufficient~~ bond guaranteeing payment of all contributions, penalties, and interest due or to become due with respect to wages paid for employment on ~~said~~ the contract.

(b) Failure to comply with the provisions of this section shall render ~~said~~ the contractor directly liable for ~~such~~ the contributions, penalties, and interest due from ~~said~~ the subcontractor and the Commissioner shall have all of the remedies of collection against ~~said~~ the contractor under the provisions of this chapter as though the services in question were performed directly for ~~said~~ the contractor.

(c) Any ~~such~~ contractor who ~~shall become~~ becomes liable for and ~~pay~~ pays contributions with respect to individuals in the employ of ~~any such~~ a subcontractor may recover the ~~same~~ amounts paid from ~~such~~ the subcontractor.

(d) ~~For the purpose of~~ As used in this section, the words "contractor" and "subcontractor" mean and include individuals, partnerships, firms or

corporations, or other associations of persons engaged in the business of construction, alteration, repairing, dismantling, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, water wells, pipelines, and every other type of structure, project, development, or improvement coming within the definition of real property.

Sec. 183. 21 V.S.A. § 1323 is amended to read:

§ 1323. TERMINATION OF COVERAGE; AGREEMENT BY EMPLOYEE TO MAKE CONTRIBUTION

(a) An employing unit shall cease to be an employer subject to this chapter only as of the first day of January of any calendar year, if it files with the Commissioner, on or before March 31 next following, a written application for termination of coverage, and the Commissioner finds that ~~such~~ the employing unit was not an employer during the preceding calendar year~~, but these~~. The requirements of this subsection may be waived by the Commissioner for good cause.

(b) The Commissioner may terminate coverage of any employing unit on ~~his or her~~ the Commissioner's own motion when ~~he or she~~ the Commissioner finds that the employing unit has not selected coverage in accordance with subdivision 1301(5)(E) of this ~~title~~ subchapter and that:

(1) ~~that~~ the employing unit has not been an employer for the period of one year immediately preceding; ~~or~~

(2) ~~that~~ the person who is the employing unit is deceased; or

(3) ~~that~~ the employing unit has ceased to employ at least one person within the State.

(c) Any agreement by an individual ~~in his or her employ~~ employed by an employer to pay the whole or any portion of the ~~employer~~ employer's contributions required by this chapter shall be void and no employer shall make any deduction for ~~such~~ that purpose from the wages or salary of any individual ~~in his or her employ~~ employed by the employer.

Sec. 184. 21 V.S.A. § 1324 is amended to read:

§ 1324. RATE OF CONTRIBUTION

(a) ~~For contribution rate years beginning prior to July 1, 1987, the standard rate of contributions shall be five and four-tenths percent. Each employer who has not been subject to this chapter for a sufficient period of time to have his or her rate computed under section 1326 of this title shall pay contributions at a rate, not exceeding five and four-tenths percent, that is the higher of (1) one percent or (2) that percent represented by rate class 11 in applicable rate schedule determined pursuant to section 1326 of this title, in effect with respect to the calendar quarter for which contributions are payable.~~

~~(b) For contribution rate years beginning July 1, 1987 and subsequent thereto:~~

~~(1) the~~ The standard rate of contributions shall be five and four-tenths percent~~;~~.

~~(2)~~(b) ~~each~~ Each employer ~~who~~ that has not been subject to this chapter for a sufficient period of time to have the rate computed under section 1326 of this ~~title~~ subchapter shall pay contributions at the rate of one percent, except that foreign corporations classified in the three-digit North American Industry Classification System Code as 236, 237, or 238 shall pay contributions at a rate equal to the average rate as of the most recent computation date paid by all employers so classified.

Sec. 185. 21 V.S.A. § 1326 is amended to read:

§ 1326. RATE BASED ON BENEFIT EXPERIENCE

(a)(1) The Commissioner shall for each rate year compute a benefit ratio for each employer who meets the requirements of section 1327 of this ~~title~~ subchapter. For an employer whose record has been chargeable with benefits throughout the three consecutive calendar years immediately preceding the rate year for which the ratio is computed, the benefit ratio shall be the quotient obtained by dividing the total benefits charged to ~~his or her~~ the employer's record in ~~such~~ those three years by the total of ~~his or her~~ the employer's taxable payrolls for the same three-year period~~; for~~.

(2) For an employer whose record has been chargeable with benefits for at least one but less than three consecutive calendar years immediately preceding the rate year for which the ratio is computed, the benefit ratio shall be the quotient obtained by dividing the total benefits charged to ~~his or her~~ the

employer's record for ~~such~~ the calendar year or years by the total of ~~his or her~~ the employer's taxable payrolls for the same period.

(3) The contribution rate of each employer, not otherwise ineligible, who meets the requirements of section 1327 of this ~~title~~ subchapter, shall be determined under subsections (b) through (g) of this section.

(b) The Commissioner shall prepare a schedule ~~on which he or she shall list~~ that lists all employers for whom a benefit ratio has been computed pursuant to this section, in the order of their benefit ratios, beginning with the lowest such ratio, and on which shall be shown with respect to each such employer:

(1) the amount of ~~his or her~~ the employer's benefit ratio;

(2) the amount of ~~his or her~~ the employer's annual taxable payroll; and

(3) a cumulative total consisting of the amount of ~~his or her~~ the employer's annual taxable payroll plus the amount of the annual taxable payrolls of all other employers preceding ~~him or her~~ the employer on the list.

(c) The Commissioner shall segregate employers so listed into classes in accordance with the cumulative payrolls. The classes shall be determined by the cumulative payroll percentage limits set forth in column B of the table ~~below~~ set forth in subsection (e) of this section. Each such class shall be identified by the rate class number in column A that is opposite the figures in column B that represents the percentage limits of each class. In the event an employer's taxable payroll falls in more than one rate class, ~~he or she~~ the employer shall be assigned to the lower numbered rate class except that no

employer shall be assigned to a higher rate class than is assigned any other employer with the same benefit ratio.

* * *

(f) The contribution rate to become effective ~~July 1, 1977 and thereafter~~ on July 1 of each year shall be the rate determined for that class into which the given employer is placed by application of this section.

(g) If, subsequent to the assignment of rates of contribution for any rate year, the benefit ratio of any employer is recomputed and changed, ~~such~~ the employer shall be placed in that position on the list that ~~he or she~~ the employer would have occupied had ~~his or her~~ the employer's corrected benefit ratio been shown on the list, but ~~such~~ the altered position on the list shall not affect the position of any other employer.

* * *

Sec. 186. 21 V.S.A. § 1327 is amended to read:

§ 1327. RATE~~,~~; REDUCTION~~,~~; CONDITIONS

No employer's contribution rate shall be reduced from five and four-tenths percent for any rate year, except as provided in section 1324 of this ~~title~~ subchapter, unless and until ~~his or her~~ the employer's experience-rating record has been chargeable with benefits throughout the three consecutive calendar years immediately preceding the rate year with respect to which ~~said~~ the rate shall be reduced and contributions were payable by ~~him or her~~ the employer with respect to ~~such~~ the three calendar years~~; provided that an~~. An employer

who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate if ~~his or her~~ the employer's record has been chargeable with benefits throughout a lesser number of consecutive calendar years but in no event less than one calendar year immediately preceding the rate year with respect to which ~~said~~ the rate shall be reduced and contributions were payable by ~~him or her~~ the employer with respect to ~~such~~ the period.

Sec. 187. 21 V.S.A. § 1329 is amended to read:

§ 1329. COLLECTION OF UNPAID CONTRIBUTIONS; SUIT

* * *

(b) In addition to other remedies and proceedings authorized by this chapter, a civil action in the name of the Commissioner may be maintained and the remedies available in ~~such~~ a civil action, including attachment and trustee process, shall be available to the Commissioner for the collection of contributions, interest, and penalties under this chapter.

(c) An employer failing, for any two calendar quarters during the preceding 20 calendar quarters, to make return or to pay contributions required under this chapter, and who has not ceased to be an employer as provided in section 1323 of this ~~title~~ subchapter, may be required by the Commissioner to furnish a good and sufficient bond conditioned upon the payment of ~~such~~ the delinquent contributions, together with interest and penalty from the due date ~~thereof~~ of the delinquent contributions, and containing ~~such~~ any terms ~~as may be~~

~~determined~~ required by the Commissioner. An employer who fails to furnish ~~such~~ a bond when required by the Commissioner may be enjoined from employing individuals in employment, as defined by this chapter, upon complaint of the Commissioner in the Superior Court of any county in which the employer is doing business, until the contributions due, together with interest and penalty, are paid to the Commissioner.

(d) In the event of an employer's dissolution, adjudicated insolvency, adjudicated bankruptcy, receivership, assignment for benefit of creditors, or judicially confirmed extension proposals or composition, claims ~~or~~ for contributions due under this chapter and for interest ~~thereon then or thereafter due under this chapter~~ on the unpaid contributions shall be a lien upon ~~such~~ the employer's assets and shall have priority over all other claims except expenses of administration, taxes, wage claims, and prior liens valid under the laws of this State.

* * *

Sec. 188. 21 V.S.A. § 1330 is amended to read:

§ 1330. ASSESSMENT PROVIDED

When any employer fails to pay any contributions or payments required under this chapter, the Commissioner shall make an assessment of contributions against ~~such~~ the employer together with applicable interest and penalty ~~thereon~~. After making the assessment, ~~due notice shall be given thereof,~~ the Commissioner shall give notice to the employer by ordinary or

certified mail~~, to the employer~~ and the assessment shall be final unless the employer petitions for a hearing on ~~such~~ the assessment ~~within the time hereinafter specified~~ pursuant to section 1331 of this subchapter.

Sec. 189. 21 V.S.A. § 1331 is amended to read:

§ 1331. NOTICE; HEARING

(a) Any employer against whom an assessment is made may, within 30 days after the date ~~thereof~~ of the assessment, file with the Commissioner a petition for a hearing before a referee appointed for ~~such~~ that purpose~~, which~~. The petition shall set forth specifically and in detail the grounds upon which it is claimed the assessment is erroneous.

(b) Hearing or hearings on the assessment shall be held by the referee at ~~such~~ times and places ~~as may be~~ provided by the rules ~~and regulations~~ of the Board and due notice of the time and place of ~~such~~ the hearing or hearings shall be given by ordinary or certified mail to the petitioner.

(c) After the hearing ~~as above provided~~, the petitioner shall be promptly notified by ordinary or certified mail of the findings of fact, conclusions, and decision of the referee.

(d) The decision of the referee shall be final unless the employer or Commissioner makes application for review ~~thereof~~ of the decision by the Board within 30 days after the date ~~thereof~~ of the decision or unless the Board, on its own motion within ~~said~~ the same period, initiates a review ~~thereof~~ of the decision.

Sec. 190. 21 V.S.A. § 1332 is amended to read:

§ 1332. REVIEW BY BOARD; SUPREME COURT APPEAL

(a) The Board, upon an application filed or on its own motion, within the time specified in section 1331 of this subchapter, shall, on notice to interested parties, review the decision of the referee.

(b) Before rendering its decision, the Board may order the taking of additional evidence by the referee or, in its discretion, the Board may hear additional evidence to be made a part of the record in the case.

(c) Upon the basis of evidence previously submitted in the case and ~~such~~ any additional evidence ~~as~~ the Board may take or direct to be taken, the Board may affirm, modify, or reverse the findings and conclusions of the referee and shall render its decision ~~thereon~~.

(d) The parties shall be promptly notified by ordinary or certified mail of the findings of fact, conclusions, and decision of the Board. The decision of the Board shall be final unless ~~an appeal is taken therefrom~~ it is appealed to the Supreme Court.

Sec. 191. 21 V.S.A. § 1334 is amended to read:

§ 1334. JUDGMENT; EXCEPTION

* * *

(b) The Commissioner may file in the Superior Court for the county ~~wherein~~ in which the employer resides, or the Washington Superior Court if the employer is a nonresident, a certified copy of an assessment for

contributions from which an appeal has not been taken within the time allowed ~~therefor, whereupon such~~. The court, after due notice to all interested parties ~~interested~~, shall summarily render a final judgment in accordance ~~therewith~~ with the assessment. ~~Such~~ The judgment shall have the same effect, and all proceedings in relation ~~thereto~~ to the judgement shall ~~thereafter~~ be the same, as though ~~such~~ the judgment had been rendered in an action duly heard and determined by ~~such~~ the court, provided, however, there shall not be an appeal ~~therefrom~~ from the judgment except on matters of law heard and determined in ~~such~~ the court.

(c) When an assessment has been made under section 1330 of this ~~title~~ subchapter from which a timely appeal has not been taken or when any appeal taken has been finally determined under sections 1331 and 1332 of this ~~title~~ subchapter, the Commissioner may, as an additional or alternate remedy to other remedies and proceedings authorized by this chapter, issue a warrant directed to the sheriff of any county of this State. The warrant shall command the sheriff to levy upon and sell the real and personal property of any person liable for unpaid contributions, payments, interest, penalties, and costs due under this chapter, for payment of the amount due and the cost of executing the warrant, and to return the warrant to the Commissioner and to pay ~~him or her~~ the Commissioner the money collected by virtue of the warrant within 60 days after receipt of the warrant. The sheriff shall within five days after receipt of the warrant file with the county clerk a copy of the warrant, and the clerk shall

then enter in the judgment docket the name of the person liable, the amount of the contributions, payments, interest, penalties, and costs for which the warrant is issued and the date when the copy is filed. The levy and sale shall be effected in the manner prescribed for levy of execution. If a warrant is returned not fully satisfied, the Commissioner may ~~from time to time~~ issue new warrants for the balance due in accordance with the procedure ~~described hereinabove~~ set forth in this subsection.

Sec. 192. 21 V.S.A. § 1336 is amended to read:

§ 1336. LIEN~~,~~; FEE~~,~~; FORECLOSURE

(a)(1) All contributions, interest, penalties, and costs thereon due and payable by an employer under the provisions of this chapter shall be a lien upon the real estate of ~~such~~ the employer from the date a lien for ~~such~~ the contributions, interest, penalties, and costs is entered in the land records of the town in which is located real estate of the employer.

(2) A lien for ~~such~~ contributions, penalties, interest, and costs shall be created upon the personal property or franchises of the employer if ~~such~~ the lien is recorded in the town clerk's office of the town in which the employer resides~~; and, if~~. If the employer is a corporation or a co-partnership, then ~~such~~ the lien on the franchises or personal property of ~~such~~ the employer shall be recorded in the town clerk's office in the town in which ~~such~~ the employer has its principal place of business in the State.

(3) Liens created under this section shall show the name of the employer, and the amount of contributions~~,~~ and other indebtedness due to the Commissioner of Labor.

(4) A lien created under this section shall be a lien prior to all other liens except liens created for taxes due the State of Vermont, the federal government, or a town or municipality in this State and wage claims. ~~Such~~ A lien created under this section shall not be a prior lien to liens on record prior to the recording of the lien provided for ~~herein~~ by this section.

(b) There shall be paid to the town clerk by the Commissioner for recording each ~~such~~ lien, and the discharge of a recorded lien, the fees prescribed in 32 V.S.A. § 1671. The fees shall be added to the amount due from the employer under the lien.

(c) An employer upon whose property a lien is created as provided ~~herein~~ in this section shall be given ~~due~~ notice ~~thereof~~ of the lien by ordinary or certified mail within five days after the creation of ~~such~~ the lien.

(d) When the contributions, interest, penalties, and costs, secured by a lien in accordance with this section, remains unpaid for 90 days after the creation of ~~such~~ the lien, ~~such~~ the lien on personal property may be foreclosed in the same manner as provided by law for the foreclosure of mortgages on personal property; and ~~such~~ a lien on real property may be foreclosed in the same manner as provided by law for the foreclosure of mortgages on real property. The ~~foregoing~~ remedy provided by this section shall be in addition, or as an

alternative, to the remedy provided by section 1329 of this ~~title,~~ subchapter for the collection of unpaid contributions.

(e) In the event the employer files a written protest to the creation of the lien within 30 days after the date ~~thereof~~ the lien is created, assessment proceedings as provided in sections 1329–1334 of this ~~title~~ subchapter shall be had.

(f) If final judgment is in favor of the employer, the property of the employer shall be discharged from the lien. If final judgment is against the employer, the property under the lien shall be held to respond to the judgment rendered and may be taken in execution thereon unless the employer otherwise satisfies the execution and charges.

(g) The Commissioner shall issue and record a certificate of release of the lien if:

* * *

(2) There is furnished to the Commissioner a bond with surety approved by the Commissioner in a penal sum sufficient to equal the amount of contributions due, together with interest, penalty, and costs~~, said~~. The bond ~~to~~ shall be conditioned upon the payment of any judgment rendered in proceedings regularly instituted by the Commissioner to enforce collection ~~thereof~~ of the amount due.

* * *

Sec. 193. 21 V.S.A. § 1337 is amended to read:

§ 1337. ADJUSTMENTS AND REFUNDS

(a) If not later than three years after the date on which any contributions or interest thereon became due, an employer who has paid ~~such~~ the contributions or interest thereon ~~shall make application~~ applies for an adjustment ~~thereof~~ of the contributions or interest in connection with subsequent contribution payments, or for a refund ~~thereof~~ of the amounts paid because ~~such~~ an adjustment cannot be made, and the Commissioner ~~shall determine~~ determines that ~~such~~ the payments or any portion ~~thereof~~ of the payments were erroneously collected, the Commissioner shall allow ~~such~~ the employer to make an adjustment ~~thereof~~ for the amounts erroneously collected, without interest, in connection with subsequent payments by ~~him or her~~ by the employer, or if ~~such~~ the adjustment cannot be made, shall refund ~~said~~ the amount without interest from the ~~fund~~ Fund.

(b) ~~For like cause and within the same period,~~ The Commissioner may make an adjustment or refund ~~may be so made~~ on the Commissioner's own initiative for the same reasons and within the time period set forth in subsection (a) of this section.

Sec. 194. 21 V.S.A. § 1337a is amended to read:

§ 1337a. ADMINISTRATIVE DETERMINATION; HEARING ON

(a) Any employing unit aggrieved by an administrative determination affecting its rate of contributions, its rights to adjustment or refund on

contributions paid, its coverage as an employer, or its termination of coverage may, within 30 days after the date ~~thereof~~ of the determination, file with the Commissioner a petition for a hearing ~~thereon, which~~ on the determination. The petition shall set forth specifically and in detail the grounds upon which it is claimed the administrative determination is erroneous. Hearing or hearings on ~~such~~ the petition shall be held by a referee appointed for ~~such~~ that purpose, at ~~such~~ times and places as ~~may be~~ provided by rules of the Board~~, and due notice~~. Notice of the time and place of ~~such~~ the hearing or hearings shall be given by ordinary or certified mail to the petitioner.

(b) After a hearing ~~as provided in~~ pursuant to subsection (a) of this section, the petitioner shall be promptly notified by ordinary or certified mail of the findings of fact, conclusions, and decision of the referee. The decision of the referee shall be final unless the employing unit or Commissioner makes application for review ~~thereof~~ of the decision by the Board within 30 days after the date ~~thereof~~ of the decision or unless the Board, on its own motion within ~~said~~ the same period, initiates a review ~~thereof~~ of the decision.

Sec. 195. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

(a) Each eligible individual who is totally unemployed in any week shall be paid with respect to ~~such a~~ the week a weekly benefit amount determined as provided in this section.

* * *

(d)(1) To qualify for benefits an individual must:

(A) have been paid in one quarter of ~~his or her~~ the individual's base period wages in employment with an employer or employers subject to this chapter that equal at least $1,000.00; ~~and~~

(B) have been paid in ~~his or her~~ the individual's base period additional wages in employment with an employer or employers subject to this chapter that equal or exceed 40 percent of the total wages paid in the highest quarter of ~~his or her~~ the individual's base period; and

(C) have earned subsequent to the beginning of ~~his or her~~ the individual's most recent benefit year wages in employment with an employer or employers subject to this chapter that equal or exceed four times ~~his or her~~ the individual's weekly benefit amount as determined under subsection (e) of this section for that prior benefit year.

* * *

(h) Effective ~~with the first calendar week of July, 1990, and~~ with the first full calendar ~~weeks~~ week of each July ~~thereafter~~, the minimum quarterly wage requirement of subdivision (d)(1) of this section shall be adjusted by a percentage increase equal to the percentage increase, if any, in the State minimum wage effective during the prior calendar year. This adjusted minimum quarterly wage requirement shall be applicable to new claims for benefits with effective dates during or after the first full calendar week of each July ~~1990, and the first full calendar weeks of each July thereafter~~.

(i)(1) An individual filing a new claim for unemployment compensation shall, at the time of filing of ~~such~~ the claim, be advised that:

* * *

(2) Amounts deducted and withheld from unemployment compensation shall remain in the Unemployment Compensation Trust Fund until transferred to the federal and State taxing authority as a payment of income tax.

* * *

Sec. 196. 21 V.S.A. § 1343 is amended to read:

§ 1343. CONDITIONS

(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the Commissioner finds that the individual has met all of the following requirements ~~are met and the individual~~:

(1) Has registered for work at and thereafter has continued to report at an employment office in accordance with ~~regulations prescribed~~ rules adopted by the Board.

* * *

(3)(A) Is able to work~~,~~ and is available for work~~; provided, that in~~. In determining the availability of any individual for work during any week, the Commissioner may require, in addition to registration at any employment office, that the individual participate in reemployment services~~,~~ or ~~at any time~~ make ~~such~~ other efforts to secure suitable work as the Commissioner ~~may~~

reasonably ~~direct~~ requires under the circumstances and to supply proper evidence ~~thereof; and shall, if~~ of the efforts to secure work.

(B) If, without good cause, the individual fails ~~without good cause to do so~~ to comply with the requirements of subdivision (A) of this subdivision (a)(3), the individual shall be ineligible for each week ~~such~~ the failure continues~~; provided further that no~~. A claimant shall ~~be considered~~ not be ineligible in any week of unemployment for failure to comply with the provisions of this subdivision (a)(3) if ~~such~~ the failure is due to an illness or disability that occurs during a week for which the individual was entitled to waiting period credit or benefit payments and after the claimant has registered for work~~,~~ and filed a claim for benefits and ~~during a week for which the individual was entitled to waiting period credit or benefit payments~~, and no work that would have been considered suitable but for the illness or disability has been offered after the beginning of ~~such~~ the illness or disability.

* * *

(6) Participates in reemployment services, such as job search assistance services, if ~~he or she~~ the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the Commissioner.

(7) Is not self-employed or engaged in self-employment to the extent that it makes ~~him or her~~ the individual unavailable for work.

(8) Has given written notice of resignation to ~~his or her~~ the individual's employer and the employer subsequently made the termination of employment effective prior to the ~~date of termination as~~ separation date given in the notice. Provided that the claimant could not establish good cause for leaving work pursuant to subdivision 1344(a)(2)(A) of this ~~title~~ subchapter and was not discharged for misconduct as provided in subdivision 1344(a)(1)(A) of this subchapter or for gross misconduct as provided in subdivision 1344(a)(2)(B) of this subchapter, in no case shall unemployment benefits awarded under this subdivision exceed four weeks or extend beyond the date of separation as provided in the employee's notice to the employer.

(b) Notwithstanding any other provisions of this chapter, any otherwise eligible claimant regularly attending a training course or program approved for ~~him or her~~ the claimant by the Commissioner shall be deemed to be available for work and while attending the course and making satisfactory progress in the training shall not be denied benefits solely because of ~~his or her~~ attendance at the course or because of ~~his or her~~ the claimant's refusal of an offer of suitable work. Benefits paid to an eligible claimant regularly attending a training course or program approved pursuant to this subsection for any unemployment following ~~his or her~~ the claimant's refusal of an offer of suitable work, shall not be charged against the experience rating record of any employer, but shall be charged to the Fund.

(c) ~~After March 31, 1984 benefits~~ Benefits are payable on the basis of service in employment as defined in subdivisions 1301(6)(A)(ix) and (x) of this ~~title~~ subchapter, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter, except that:

(1) With respect to services performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be payable on the basis of such services for any week of unemployment commencing during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if ~~such~~ the individual performs such services in the first of ~~such~~ the academic years or terms and if there is a contract or reasonable assurance that ~~such~~ the individual will perform services in any such capacity for any educational institution in the second of ~~such~~ the academic years or terms.

(2) With respect to services performed in any other capacity for an educational institution, benefits shall not be payable on the basis of such services to any individual for any week of unemployment that commences during a period between two successive academic years or terms if ~~such~~ the individual performs such services in the first of ~~such~~ the academic years or terms and there is a reasonable assurance that ~~such~~ the individual will perform

such services for any educational institution in the second of ~~such~~ the academic years or terms, except that if benefits are denied to any individual under this subdivision and ~~such~~ the individual was not offered an opportunity to perform such services for the educational institution for the second of ~~such~~ the academic years or terms, ~~such~~ the individual shall be entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision.

(3) With respect to any services described in subdivision (1) or (2) of this subsection, benefits shall not be payable on the basis of services in any such capacities to any individual for any week that commences during an established and customary vacation period or holiday recess if ~~such~~ the individual performs such services in the period immediately before ~~such~~ the vacation period or holiday recess, and there is a reasonable assurance that ~~such~~ the individual will perform such services in the period immediately following ~~such~~ the vacation period or holiday recess.

* * *

(d) Notwithstanding any other provision of this chapter, any otherwise eligible claimant who was separated from employment due to an accident or injury resulting in a temporary total disability for which the claimant received workers' compensation benefits under chapter 9 of this title shall be entitled to receive, after the termination of the period of temporary total disability,

benefits that would have been available at the time of separation from employment. Payment of benefits for any week under this section shall be made only if, at the time the claimant files the initial claim, ~~he or she~~ the claimant was not monetarily eligible for benefits under subsection 1338(d) of this ~~title~~ subchapter and the claim is filed within six months after the termination of the period of temporary total disability.

(e) ~~After December 31, 1977, benefits~~ Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week that commences during the period between two successive sport seasons, or similar periods, if ~~such~~ the individual performed such services in the first of ~~such~~ the seasons, or similar periods, and there is a reasonable assurance that ~~such~~ the individual will perform such services in the later of ~~such~~ the seasons, or similar periods.

(f)(1) ~~After December 31, 1977, benefits~~ Benefits shall not be payable on the basis of services performed by an alien unless ~~such~~ the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of ~~section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act~~ 8

U.S.C. § 1182(d)(5). Provided, that any modifications to the provisions of ~~section~~ 26 U.S.C. § 3304(a)(14) ~~of the Federal Unemployment Tax Act~~ as provided by ~~Public Law~~ Pub. L. No. 94-566 that specify other conditions or other effective date than stated ~~herein~~ in this section for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under ~~State~~ state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

* * *

Sec. 197. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

(a) Any person who fails, without good cause, to make reasonable ~~effort~~ efforts to secure suitable work when directed to do so by the employment office or the Commissioner and has received any amount as benefits under this chapter with respect to weeks for which the person is determined to be ineligible ~~for such~~ because of the failure, and any person who by nondisclosure or misrepresentation by ~~him or her~~ the person, or by another, of a material fact (irrespective of whether ~~such~~ the nondisclosure or misrepresentation was known or fraudulent) has received any amount as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in ~~his or her~~ the person's case or while ~~he or she~~ the person was disqualified from receiving benefits, shall be liable for ~~such~~ ~~the~~ amount.

Notice of determination in such cases shall specify that the person is liable to repay to the Fund the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which ~~such~~ the benefits were paid. The determination shall be made within three years ~~from~~ after the date of ~~such~~ the overpayment.

(b) Any person who receives remuneration described in subdivision 1344(a)(5) of this ~~title~~ subchapter that is allocable in whole or in part to prior weeks during which ~~he or she~~ the person received any amounts as benefits under this chapter shall be liable for all such amounts of benefits or those portions of ~~such~~ the amounts equal to the portions of ~~such~~ the remuneration properly allocable to the weeks in question. Notice of determination in such cases shall specify that the person is liable to repay to the Fund the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which ~~such~~ the benefits were paid. The determination shall be made within three years ~~from~~ after the date of ~~such~~ the overpayment or within one year ~~from~~ after the date of receipt of the remuneration, whichever period is longer.

(c) The person liable under this section shall repay ~~such~~ the amount to the Commissioner for the Fund. In addition to the repayment, if the Commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to ~~his or her~~ the person's claim for benefits, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits. Any additional penalty amount collected shall be deposited in the Fund. ~~Such~~

The amount may be collectible by civil action in the Superior Court, in the name of the Commissioner.

(d) In any case in which under this section a person is liable to repay any amount to the Commissioner for the Fund, the Commissioner may withhold, in whole or in part, any future benefits payable to ~~such~~ the person, and credit ~~such~~ the withheld benefits against the amount due from ~~such~~ the person until it is repaid in full, less any penalties assessed under subsection (c) of this section.

(e) In addition to ~~the foregoing~~ any repayment required pursuant to subsections (a)–(d) of this section, when it is found by the Commissioner that a person intentionally misrepresented or failed to disclose a material fact with respect to ~~his or her~~ the person's claim for benefits and in the event the person is not prosecuted under section 1368 of this ~~title~~ subchapter and the penalty provided in section 1373 of this ~~title~~ subchapter is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which ~~he or she~~ the person would otherwise be entitled after the determination for such number of weeks not exceeding 26 as the Commissioner shall deem just. The notice of determination shall also specify the period of disqualification imposed ~~hereunder~~ pursuant to this subsection.

* * *

Sec. 198. 21 V.S.A. § 1348 is amended to read:

§ 1348. PROCEDURE

(a)(1) An authorized representative of the Commissioner shall ~~pass upon~~ review each claim for benefits as provided in this chapter and shall, after ~~such~~ ~~filing~~ review of the claim, promptly award ~~such~~ any benefits ~~as shall be found~~ that are determined to be payable under the provisions of this chapter. Prompt notice in writing of the determination of ~~such~~ the representative and reasons ~~therefor in respect to such claim~~ for it shall be given to the claimant, ~~his or her~~ the claimant's last employer, all other interested parties, and the Commissioner.

(2) Any interested party may, within 30 days after notice ~~thereof~~ of the determination, file an appeal from the determination with an appeals referee employed by the Commissioner. ~~Such~~ The appeal shall~~, after notice to the claimant, his or her last employer, and all other interested parties,~~ be heard within 30 days after it is filed at a place as convenient to the parties as, in the judgment of the referee, is practical~~, within 30 days after such appeal is filed with the referee; after~~. Notice of the hearing shall be provided to the claimant, the claimant's last employer, and all other interested parties. After the hearing, the determination shall be sustained, modified, or set aside by the referee as may be warranted. Prompt notice in writing of the decision of the referee and the reasons ~~therefor~~ for it shall be given to the claimant, the claimant's last employer, and all other interested parties.

(b) The authorized representative of the Commissioner may, for good cause, at any time within one year after date of the original determination, reconsider an award of benefits or the denial of a claim ~~therefor~~ for benefits, and may issue a redetermination ~~which~~ that may award, terminate, continue, increase, or decrease ~~such~~ the benefits. ~~Such~~ The redetermination shall not affect any benefits paid before the date ~~thereof~~ of the determination under authority of the prior determination in the absence of nondisclosure or misrepresentation of a material fact. Prompt notice in writing of ~~such~~ the redetermination and the reasons ~~therefor~~ for it shall be given to the claimant, ~~his or her~~ the claimant's last employer, and all other interested parties ~~any of whom~~. All parties shall have the same right to appeal and the same procedure shall be followed as provided for in case of appeal from the original determination.

Sec. 199. 21 V.S.A. § 1349 is amended to read:

§ 1349. APPEALS TO BOARD; SUPREME COURT APPEAL

(a) Within 30 days after the date ~~thereof~~ of the referee's decision pursuant to section 1348 of this chapter, an interested party may appeal from the decision of the referee to the Board, by filing ~~a written request therefor~~ an appeal in the manner prescribed by ~~regulations~~ the rules of the Board.

(b) The appeal shall be heard by the Board within a reasonable time after the appeal is filed and after notice to the claimant and ~~his or her~~ the claimant's

last employer, ~~within a reasonable time after notice of the appeal is filed, and the~~.

(c) The Board may affirm, modify, or reverse the decision of the referee solely on the basis of evidence in the record transferred to it by the referee, or upon the basis of evidence in the record and ~~such~~ any additional evidence ~~as it may direct~~ the Board directs to be taken.

(d) Upon motion made by the Commissioner, ~~a review may be initiated by~~ the Board ~~of~~ may review a decision of the referee or a benefit determination.

(e) The Board shall make its findings of fact and conclusions ~~thereon~~. Prompt notice of the findings of fact, ruling of law, conclusions, and decision of the Board shall be given ~~as hereinabove provided~~ to the interested parties.

(f) The decision shall be final unless an appeal to the Supreme Court is taken. Testimony given at any hearing upon a disputed claim shall be recorded, but the record need not be transcribed unless ordered.

Sec. 200. 21 V.S.A. § 1351 is amended to read:

§ 1351. PROCEDURE

The manner in which disputed claims shall be presented and the conduct of hearings before the Commissioner, a referee, and the Board shall be governed by ~~suitable~~ rules ~~and regulations established~~ adopted by the Board. The Commissioner, the referee, and the Board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure

except as provided in this chapter~~,~~ but may conduct a hearing or trial in such manner as to ascertain the substantial rights of the parties.

Sec. 201. 21 V.S.A. § 1357 is amended to read:

§ 1357. NOTICES; FORM AND SERVICE

Notices required under the provisions of this chapter, unless otherwise provided ~~herein~~ by the provisions of this chapter or by rules ~~of court promulgated~~ adopted by the Supreme Court, shall be deemed sufficient if given in writing and delivered to the person entitled ~~thereto~~ to it by an agent of the Commissioner, or sent by ordinary or certified mail to the last address of the person appearing ~~upon~~ in the records of the Commissioner. The manner of service shall be certified by the agent of the Commissioner making the service. Regardless of the manner of service and unless otherwise provided, appeal periods shall commence to run from the date of the determination or decision rendered. ~~In the event that~~ If a person to whom a notice has been sent files with the Commissioner within 60 days ~~from~~ after the date of ~~said~~ the notice a sworn statement to the effect that the notice was not received, or if the Commissioner is satisfied that the addressee did not receive the notice, a new notice shall be sent to that person and the appeal period shall commence to run from the date on which the new notice is sent.

Sec. 202. 21 V.S.A. § 1358 is amended to read:

§ 1358. UNEMPLOYMENT COMPENSATION TRUST FUND;

ESTABLISHMENT AND CONTROL

(a) ~~There is hereby established as a special fund, to~~ The Unemployment Compensation Trust Fund is established. The Fund shall be kept separate and apart from all other public monies or funds of this State~~, an Unemployment Compensation Fund, which~~ and shall be administered by the Commissioner exclusively for the purposes of this chapter.

(b) ~~This~~ The Fund shall consist of:

(1) all contributions collected under this chapter;

(2) interest earned upon any monies in the Fund;

(3) any property or securities acquired through the use of monies belonging to the Fund;

(4) all earnings of ~~such~~ the property or securities;

(5) all money credited to this State's account in the Unemployment Trust Fund pursuant to ~~section 903 of the Social Security Act as amended~~ 42 U.S.C. § 1103; and

(6) all other monies received for the Fund from any other source.

(c) All monies in the Fund shall be mingled and undivided.

Sec. 203. 21 V.S.A. § 1359 is amended to read:

§ 1359. ADMINISTRATION OF UNEMPLOYMENT COMPENSATION TRUST FUND

(a) The Fund shall be administered in trust and used solely to pay benefits and refunds upon vouchers drawn on the Fund by the Commissioner pursuant to this chapter and to such rules as the Board is authorized to adopt, except that money credited to this State's account under ~~Section 903 of the Social Security Act, as amended,~~ 42 U.S.C. § 1103 shall be used exclusively as provided in subsection ~~(b)~~(d) of this section.

(b) There shall be maintained within the Fund three separate fund accounts:

(1) a clearing account;

(2) an Unemployment Trust Fund account; and

(3) a benefit account.

(c) All monies payable to the Fund ~~upon receipt thereof~~ shall be immediately deposited in the clearing account upon receipt, and, after clearance ~~thereof~~, shall, except that the monies may be expended for the payment of refunds under this chapter, be deposited immediately with the U.S. Secretary of the Treasury to the credit of the Unemployment Trust Fund account of the State of Vermont in the Unemployment Trust Fund established and maintained pursuant to ~~the act of Congress designated as~~ the Social Security Act, as amended. The Commissioner shall requisition from the Vermont Unemployment Trust Fund account ~~such~~ amounts ~~from time to time~~

~~as~~ that are necessary for and to be used solely in the payment of benefits and refunds under this chapter. The requisitioned sums shall be deposited in the benefit account. Any monies so withdrawn shall not be used for expenses of administration or any purpose other than the payment of benefits and refunds under this chapter. Requirements with respect to specific appropriation or other formal release by State officers of monies belonging to the State shall not be applicable to withdrawals from the Fund.

~~(b)~~(d) Money credited to the account of this State in the Unemployment Trust Fund by the U.S. Secretary of the Treasury ~~of the United States of America under section 903 of the Social Security Act, as amended~~:

(1) ~~may~~ May not be requisitioned from this State's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. ~~Such~~ The money may be requisitioned under subsection (a) of this section for the payment of benefits. That money may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter but only under a specific appropriation by the ~~Legislature~~ General Assembly and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law ~~which~~ that:

(A) specifies the purpose for which the money is appropriated and the amount appropriated ~~therefor~~ for that purpose;

(B) limits the period within which the money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(C) limits the amount ~~which~~ that may be obligated during any 12-month period beginning on July 1 and ending on the next June 30~~, including the 12-month period which began on July 1, 1968 and ends on June 30, 1969,~~ to an amount ~~which~~ that does not exceed the amount by which:

(i) the aggregate of the amounts credited to the account of this State under ~~Section 903 of the Social Security Act, as amended,~~ 42 U.S.C. § 1103 during the same 12-month period and the 14 preceding 12-month periods, exceeds;

(ii) the aggregate of the amount obligated for administration and paid out for benefits and charged against the amounts credited to the account of this State during those 15 12-month periods.

(2) ~~which~~ That is obligated for administration or paid out for benefits shall be charged against equivalent amounts ~~which~~ that were first credited and ~~which~~ that are not already so charged; except that no amount obligated for administration during a 12-month period specified ~~herein~~ in this section may be charged against any amount credited during such a 12-month period earlier than the 14th preceding such period. Amounts credited to this State's account in the Unemployment Trust Fund under ~~Section 903 of the Social Security Act, as amended, which has~~ 42 U.S.C. § 1103 that have been appropriated for

expenses of administration shall be excluded from the Unemployment Compensation Trust Fund balance for the purposes of section 1326 of this title.

~~(c)~~(e) Money appropriated as provided ~~herein~~ in this section for the payment of expenses of administration shall be requisitioned as needed for the payment of obligations incurred under the appropriation and, upon requisition, shall be deposited in the Unemployment Compensation Administration Fund from which those payments shall be made. Money so deposited shall, until expended, remain a part of the Unemployment Compensation Trust Fund and, if it will not be expended, shall be returned promptly to the account of this State in the Unemployment Trust Fund.

Sec. 204. 21 V.S.A. § 1361 is amended to read:

§ 1361. MANAGEMENT OF FUNDS UPON DISCONTINUANCE OF UNEMPLOYMENT TRUST FUND

The provisions of sections 1358–1360 of this ~~title~~ subchapter to the extent that they relate to the federal Unemployment Trust Fund, shall be operative only so long as ~~such~~ the federal Unemployment Trust Fund continues to exist and so long as the U.S. Secretary of the Treasury continues to maintain for this State a separate book account of all Funds deposited ~~therein~~ in the federal Unemployment Trust Fund by this State for benefit purposes, together with this State's proportionate share of the earnings of ~~such~~ the Unemployment Trust Fund, from which only the Commissioner of Labor is permitted to make withdrawals. If and when ~~such Unemployment Trust Fund shall~~ federal law no

longer ~~be required by the laws of the United States~~ requires the federal Unemployment Trust Fund to be maintained ~~as aforesaid~~ as a condition of approval of this chapter as provided in Title III of the Social Security Act, then all monies, properties, or securities ~~therein~~ in the Fund, belonging to the Unemployment Compensation Trust Fund of this State, shall be transferred to the treasurer of the Unemployment Compensation Trust Fund, who shall hold, invest, transfer, sell, deposit, and release ~~such~~ the monies, properties, or securities in a manner approved by the Commissioner and appropriate for trust funds, subject to all claims for benefits under this chapter.

Sec. 205. 21 V.S.A. § 1362 is amended to read:

§ 1362. UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

~~There is hereby created the~~ The Unemployment Compensation Administration Fund is created to consist of all monies received by the State or by the Commissioner for the administration of this chapter. ~~This special~~ The fund shall be a special fund managed pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund shall be handled through the State Treasurer as other State monies are handled, but it shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of ~~such~~ this chapter and its balance shall not lapse at any time but shall remain continuously available to the Commissioner for expenditures consistent ~~herewith~~ with the provisions of this section. All

federal monies allotted or apportioned to the State by the Secretary of Labor, or other agency, for the administration of this chapter shall be paid into the Unemployment Compensation Administration Fund and are hereby appropriated to ~~such~~ the Fund.

Sec. 206. 21 V.S.A. § 1363 is amended to read:

§ 1363. EXPENDITURES

All monies made available by or received by the State for the State employment service, as provided in chapter 15 of this title, shall be paid to and expended from the Unemployment Compensation Administration Fund, and a special employment service account shall be maintained for that purpose as a part of ~~said~~ the Fund. For the purpose of establishing and maintaining free public employment offices, the Commissioner is authorized to enter into agreements with the Railroad Retirement Board or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this State or with any private, nonprofit organization, and as a part of any such agreement, the Commissioner may accept monies, services, or quarters as a contribution to the employment service account.

Sec. 207. 21 V.S.A. § 1364 is amended to read:

§ 1364. REPLACEMENT

This State shall replace any monies received ~~after July 1, 1941,~~ from the Secretary of Labor under Title III of the Social Security Act~~, any~~

~~unencumbered balances in the Unemployment Compensation Administration Fund as of that date,~~ any monies ~~thereafter~~ granted to this State pursuant to the provisions of the Wagner-Peyser Act, and any monies made available by the State or its political subdivisions and matched by ~~such~~ monies granted to this State pursuant to the provisions of the Wagner-Peyser Act, ~~which~~ that the Secretary of Labor finds after reasonable notice and opportunity for hearing to the Commissioner have, because of any action or contingency, been lost or ~~have been~~ expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of this chapter. In the event that there are insufficient funds in the Contingent Fund as provided in section 1365 of this ~~title~~ subchapter, ~~such~~ the monies shall be promptly replaced by monies appropriated for ~~such~~ the purpose from the general funds of this State to the Unemployment Compensation Administration Fund for expenditure as provided in sections 1362 and 1363 of this ~~title~~ subchapter. The Commissioner shall promptly report to the Governor, and the Governor to the General Assembly, the amount required for ~~such~~ the replacement.

Sec. 208. 21 V.S.A. § 1365 is amended to read:

§ 1365. CONTINGENT FUND

(a) There is ~~hereby~~ created a special fund to be known as the Contingent Fund. All interest, fines, and penalties collected under the provisions of ~~the unemployment compensation law after April 1, 1947~~ this chapter, together

with any voluntary contributions tendered as a contribution to this Fund, shall be paid into this Fund. ~~Such~~ The monies shall not be expended or available for expenditures in any manner ~~which~~ that would permit their substitution for, or a corresponding reduction in, federal funds ~~which~~ that would in the absence of ~~such~~ the monies be available to finance expenditures for the administration of the unemployment compensation law.

(b) ~~But nothing~~ Nothing in this chapter shall prevent ~~such~~ the monies from being used as a revolving fund to cover expenditures, necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of ~~such~~ the expenditures against ~~such~~ the funds when received.

(c) The monies in this Fund shall be used by the Commissioner for the payment of costs of administration ~~which~~ that are found not to have been properly and validly chargeable against federal grants, or other funds, received for or in the Unemployment Compensation Administration Fund ~~on or after January 1, 1947~~. No expenditure of the Fund shall be made unless and until the Commissioner finds that no other funds are available or can properly be used to finance ~~such~~ the expenditures.

(d) The State Treasurer shall co-sign all expenditures from this Fund authorized by the Commissioner.

(e) The monies in this Fund are ~~hereby specifically made~~ available to replace, within a reasonable time, any monies received by this State pursuant

to ~~section 302 of the federal Social Security Act, as amended, which~~ 42 U.S.C. § 502 that because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of the unemployment compensation law.

(f) The monies in this Fund shall be continuously available to the Commissioner for expenditure in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund except as ~~herein~~ provided pursuant to this section.

(g) ~~Provided, however, that on~~ On December 31 of each year, all monies in excess of $10,000.00 in this Fund shall be transferred to the Unemployment Compensation Trust Fund. On or before March 31 of each year, an audit of this Fund ~~will~~ shall be completed and a report of that audit ~~will~~ shall be made public.

(h) In the event that a refund of interest, a fine, or a penalty is found necessary, and ~~such~~ the interest, fine, or penalty has been deposited in the Contingent Fund, ~~such~~ the refund shall be made from the Contingent Fund.

Sec. 209. 21 V.S.A. § 1367a is amended to read:

§ 1367a. CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS

(a) An individual filing a new claim for unemployment compensation shall, at the time of filing ~~such~~ the claim, disclose whether or not the individual owes child support obligations as defined under subsection (f) of this section. If ~~any~~

~~such~~ the individual discloses that ~~he or she~~ the individual owes child support obligations and is determined to be eligible for unemployment compensation, the Commissioner shall notify the state or local child support enforcement agency enforcing ~~such~~ the obligation that the individual has been determined to be eligible for unemployment compensation.

(b) Notwithstanding the provisions of sections 1366 and 1367 of this ~~title~~ subchapter, the Commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations as defined under subsection (f) of this section:

* * *

(2) the amount ~~(~~, if any~~)~~, determined pursuant to an agreement submitted to the Commissioner under ~~Section 454(20)(B)(i) of the Social Security Act~~ 42 U.S.C. § 654(19)(B)(i) by the state or local child support enforcement agency, unless subdivision (3) of this subsection is applicable; or

(3) any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process ~~(~~, as that term is defined in ~~Section 462(e) of the Social Security Act)~~ 42 U.S.C. § 659(i)(5), properly served upon the Commissioner.

* * *

(d) Any amount deducted and withheld under subsection (b) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by ~~such~~ the individual to the state or

local child support enforcement agency in satisfaction of the individual's child support obligations.

(e) For purposes of this section, the term "unemployment compensation" means any compensation payable under the state law ~~(~~, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment~~)~~.

(f) ~~The term~~ As used in this section, "child support obligations" ~~is defined for purposes of these provisions as including only~~ means obligations ~~which~~ that are being enforced pursuant to a plan described in ~~Section 454 of the Social Security Act which~~ 42 U.S.C. § 654 that has been approved by the Secretary of Health and Human Services under part D of Title IV of the Social Security Act.

(g) ~~The term~~ As used in this section, "state or local child support enforcement agency" ~~as used in this section~~ means any agency of a state or political subdivision ~~thereof~~ of a state operating pursuant to a plan described in subsection (f) of this section.

(h) The Commissioner shall implement the provisions of this section only if appropriate arrangements have been made for full reimbursement by the state or local child support enforcement agency for all administrative costs incurred by the Commissioner under this section ~~which~~ that are attributable to

child support obligations being enforced by the state or local child support enforcement agency.

Sec. 210. 21 V.S.A. § 1368 is amended to read:

§ 1368. FALSE STATEMENTS TO INCREASE PAYMENTS

A person shall not ~~willfully and~~ intentionally make a false statement or representation to obtain or increase any benefit or other payment under this chapter, either for ~~himself, herself,~~ the employee or any other person.

Sec. 211. 21 V.S.A. § 1369 is amended to read:

§ 1369. FALSE STATEMENTS TO AVOID UNEMPLOYMENT PROGRAM OBLIGATIONS

A person who ~~willfully~~ intentionally makes a material false statement or representation to avoid becoming or remaining subject to this chapter, or to avoid or reduce a contribution or other payment required of an employer under this chapter for either ~~herself or himself~~ themselves or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than $5,000.00.

Sec. 212. 21 V.S.A. § 1370 is amended to read:

§ 1370. FURNISHING REPORTS

A person shall not ~~willfully~~ intentionally fail or refuse to furnish any reports ~~duly~~ required under this chapter or to submit ~~his or her~~ the person's records to inspection when ~~duly~~ required under this chapter, or to make or require any

deduction from wages to pay all or any portion of the contributions required from employers.

Sec. 213. 21 V.S.A. § 1372 is amended to read:

§ 1372. VIOLATION BY CORPORATE AGENT

If the employer in question is a corporation, any official or agent ~~thereof~~ of the corporation responsible for ~~such~~ a falsehood, failure, or refusal mentioned in sections 1369–1371 of this ~~title~~ subchapter shall be subject to the penalties provided in section 1373 of this ~~title~~ subchapter.

Sec. 214. 21 V.S.A. § 1373 is amended to read:

§ 1373. GENERAL PENALTY; ~~CIVIL~~ ADMINISTRATIVE

A person who violates a provision of this chapter or any lawful rule ~~or regulation~~ of the Board, for which no other penalty is provided, shall be assessed an administrative penalty of not more than $5,000.00.

Sec. 215. 21 V.S.A. § 1374 is amended to read:

§ 1374. REPRESENTATION IN COURT

The Attorney General shall represent the Commissioner and State in any court action relating to this chapter or to its administration and enforcement, except as other counsel may be designated by the Commissioner with the approval of the Attorney General; provided, however, in prosecutions under this chapter the State's Attorney of the county ~~wherein such~~ in which the offense occurs shall represent the State as in other causes.

Sec. 216. 21 V.S.A. § 1376 is amended to read:

§ 1376. LIMITATION OF LIABILITY OF STATE

Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter and to the extent that monies are available ~~therefor~~ for the payment of benefits to the credit of the Unemployment Compensation Trust Fund. Neither the State nor the Commissioner shall be liable for any amount in excess of such sums.

Sec. 217. 21 V.S.A. § 1377 is amended to read:

§ 1377. RIGHTS ~~HEREUNDER~~ SUBJECT TO LEGISLATIVE CONTROL

All the rights, privileges, or immunities conferred by this chapter or by acts done pursuant ~~hereto~~ to this chapter shall exist subject to the power of the General Assembly to amend or repeal this chapter at any time; and there shall be no vested rights of any kind against ~~such~~ the amendment or repeal or the termination of this chapter or the subdivisions of any of its provisions by its own terms.

Sec. 218. 21 V.S.A. § 1378 is amended to read:

§ 1378. REQUIREMENTS FOR OBTAINING LICENSE OR GOVERNMENTAL CONTRACT

(a) ~~For purposes of~~ As used in this section, "agency" means any unit of State government, including agencies, departments, boards, commissions, authorities, ~~or~~ and public corporations.

* * *

(c) Every agency shall, upon request, furnish to the Commissioner a list of licenses and contracts issued or renewed by ~~such~~ the agency during the reporting period; provided, however, that the Secretary of State shall, with respect to certificates of authority to transact business issued to foreign corporations, furnish to the Commissioner only those certificates originally issued by the Secretary of State during the reporting period and not renewals of ~~such~~ the certificates. The lists should include the name, address, Social Security or federal identification number of ~~such~~ the licensee or provider, and ~~such~~ any other information ~~as~~ required by the Commissioner ~~may require~~.

(d) If the Commissioner determines that any employing unit that has agreed to furnish goods, services, or real estate space to any agency has neglected or refused to pay contributions or payments in lieu of contributions and that the employing unit's liability for ~~such~~ the contributions or payments in lieu of contributions is not under appeal, the Commissioner shall notify the agency and the employing unit in writing of the amount owed by ~~such~~ the employing unit. Upon receipt of ~~such~~ the notice, the agency shall ~~thereafter~~ transfer to the Commissioner any amounts that would otherwise be payable by the agency to the employing unit, up to the amount certified by the Commissioner. The Commissioner may treat any such payment as if it were a payment received from the employing unit.

(e) No agency of the State shall make final payment of any amount owed under a contract that contemplates the employment of any employing unit

within the State or the use of any property within the State, or otherwise release any employing unit from the obligations of any such contract, unless ~~such~~ the employing unit shall first obtain a certificate issued by the Commissioner that the employing unit is in good standing with respect to or in full compliance with a plan to pay any and all contributions or payments in lieu of contributions due as of the date of issuance of the certificate.

(f) Upon written request by the Commissioner and after notice and hearing to the employing unit as required under any applicable provision of law, an agency shall revoke or suspend any license or other authority to conduct a trade or business ~~(~~, including a license to practice a profession~~)~~, issued to any employing unit if the agency finds that contributions or payments in lieu of contributions have not been paid and the employing unit's liability for contributions or payments in lieu of contributions is not under appeal. For purposes of such findings, the written representation to that effect by the Commissioner to the agency shall constitute prima facie evidence ~~thereof~~ that contributions have not been paid and the employing unit's liability is not under appeal. The Commissioner shall have the right to intervene in any hearing conducted with respect to ~~such~~ a license revocation or suspension. Any findings made by the agency with respect to ~~such~~ a license revocation or suspension shall be made only for the purposes of ~~such~~ the proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from ~~such~~ a license revocation or suspension. Any license or

certificate of authority suspended or revoked under this section shall not be reissued or renewed until the agency receives a certificate issued by the Commissioner that the applicable employing unit is in good standing with respect to any and all contributions or payments in lieu of contributions payable to the Commissioner as of the date of issuance of ~~such~~ the certificate. Any person aggrieved by the decision of the agency may appeal ~~therefrom~~ from the decision in accordance with the provisions of 3 V.S.A. chapter 25.

* * *

Sec. 219. 21 V.S.A. § 1383 is amended to read:

§ 1383. SEVERABILITY OF PROVISIONS

It is ~~hereby declared to be~~ the purpose and intention of the General Assembly that the provisions of this chapter are severable and that the invalidity or ineffectiveness of any provision or provisions of ~~such~~ this chapter shall not affect the validity or operative force of the remainder of the chapter, except only that it is the legislative intent that the whole chapter shall fail if any one or more of the following and only of the following provisions, are finally determined to be invalid and ineffective:

* * *

(2) the requirement contained in section 1359 of this ~~title~~ subchapter providing for the deposit with the U.S. Secretary of the Treasury ~~of the United States~~ of all monies received in the Unemployment Compensation Trust Fund and the use of monies requisitioned from the U.S. Secretary of the Treasury;

* * *

(5) the provisions of sections 1386–1388 of this ~~title~~ subchapter with respect to suspension or termination of the operation of this chapter or parts ~~thereof~~ of this chapter in the event of modification or invalidity of ~~the Act of Congress designated as~~ 42 U.S.C. chapter 7, the Social Security Act.

Sec. 220. 21 V.S.A. § 1384 is amended to read:

§ 1384. CONSTRUCTION

(a) This chapter is ~~declared to be~~ enacted in correlation with Titles III and IX of ~~the Act of Congress approved August 14, 1935, designated as~~ the Social Security Act, 42 U.S.C. chapter 7, and with the Federal Unemployment Tax Act, 26 U.S.C. chapter 23, and the expediency of certain provisions of this chapter depend ~~as hereinafter set forth~~ upon the scope and operation within this State of the provisions of ~~said titles and of said act as originally enacted or as hereafter amended~~ Titles III and IX of the Social Security Act and the 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 the effective date of ~~said~~ the interpretation or extension shall ~~so declare and thereupon and thereafter~~ issue a declaration that:

(1) the word "employer" and the words "individual in employment," as used in this chapter ~~shall extend to and~~ include ~~in the first instance~~, all employing units having in their employ ~~such~~ the applicable smaller number of persons and the individuals in their employ~~,~~; and ~~in the second instance~~

(2) all employing units having in their employ individuals who ~~thereafter shall be~~ are newly defined as being in "employment" and the individuals in their employ.

(c) ~~Said~~ The affected persons shall be treated as individuals in the employ of ~~said~~ the employer with respect to contributions and eligibility for benefits under this chapter.

Sec. 221. 21 V.S.A. § 1385 is amended to read:

§ 1385. CONTINGENT PROVISIONS

If the Federal Unemployment Tax Act ~~has been or shall be~~ is amended, interpreted, or extended so that employing units not ~~heretofore~~ previously included under the definition of "employer," as that term is used in this chapter, are included under ~~such~~ the definition after ~~said~~ the Act ~~of Congress~~ is ~~so~~ amended, interpreted, or extended, then, subject to other provisions of this chapter, benefits shall become payable to any individual on the basis of wages earned in the employ of ~~such~~ the newly defined employer, and ~~such~~ the wages shall be available to any individual for determining ~~his or her~~ the individual's eligibility for benefits after the effective date of ~~such~~ the extension, or after the date when ~~such~~ the newly defined employer's approved election to be so

defined ~~shall have~~ has made ~~him or her~~ the employer subject to this chapter, and the benefit year of ~~such~~ the individual shall ~~have begun subsequent to~~ begin after the date ~~such~~ the newly defined employer became subject to this chapter.

Sec. 222. 21 V.S.A. § 1386 is amended to read:

§ 1386. OPERATION DEPENDENT UPON FEDERAL ACT

(a) ~~It is hereby declared to be the legislative judgment~~ The General Assembly finds that the expediency and beneficial operation of this chapter are dependent upon the effective operation within this State of certain sections of the Federal Unemployment Tax Act~~, and amendments thereto~~:

(1) ~~section 3301 of said Act~~ 26 U.S.C. § 3301, imposing an excise tax upon employers as defined in ~~said~~ the Act;

(2) ~~section~~ 26 U.S.C. § 3302 allowing ~~against said~~ credits against the federal tax ~~credits~~ for contributions ~~exacted of~~ paid by employers ~~for~~ into an unemployment fund ~~whether or not exacted in full of the particular taxpayer under certain circumstances~~ under the unemployment compensation law of a state;

(3) ~~section~~ 26 U.S.C. § 3303 prescribing the conditions upon which ~~said~~ certain credits under 26 U.S.C. § 3302 may be allowed ~~in addition to actual payments by said taxpayer~~;

(4) ~~sections~~ 26 U.S.C. §§ 3303 and 3304 requiring the certification ~~for the purpose of said credits~~ of state law for certain credits under 26 U.S.C. § 3302 and prescribing the conditions ~~precedent of such~~ for certification.

(b) If any ~~of said~~ sections ~~shall be~~ identified in subsection (a) of this section is repealed, amended, suspended, or finally declared invalid ~~so as to deprive~~ in a manner that deprives a contributor under this ~~act~~ chapter of credits against the ~~excise tax against him or her under said section~~ tax imposed pursuant to 26 U.S.C. § 3301 ~~of the Federal Unemployment Tax Act~~, then any contribution required by this chapter, to the extent that ~~by reason of said~~ the repeal, amendment, suspension, or declared invalidity of ~~said~~ the federal ~~act, a contributor is~~ law deprived the contributor of the benefit of ~~such~~ the credit, shall be suspended as provided in section 1387 of this title.

Sec. 223. 21 V.S.A. § 1387 is amended to read:

§ 1387. SUSPENSION OF CONTRIBUTIONS

~~Whenever~~ If the Governor ~~shall determine~~ determines that the conditions ~~of~~ for the suspension of the contributions required by this chapter~~, as hereinbefore defined,~~ pursuant to section 1386 of this subchapter exist ~~by reason~~ because of any repeal, amendment, suspension, or declared invalidity of the ~~federal~~ Social Security Act, 42 U.S.C. chapter 7, or the Federal Unemployment Tax Act, 26 U.S.C. chapter 23, ~~he or she~~ the Governor shall ~~so declare by~~ issue a proclamation ~~and thereupon the suspension hereinbefore provided~~ regarding the suspension of contributions pursuant to section 1386 of this subchapter and

the suspension shall become effective and continue for a period of two years ~~from said~~ after the date of the proclamation, subject to ~~such legislative amendment, modification, or repeal as may be enacted within said~~ legislation amending, modifying, or repealing the proclamation during that period.

Sec. 224. 21 V.S.A. § 1388 is amended to read:

§ 1388. INVALIDITY OF ACTS

If the ~~federal~~ Social Security Act, 42 U.S.C. chapter 7, or the Federal Unemployment Tax Act, 26 U.S.C. chapter 23, shall be finally held and determined to be wholly invalid or shall be repealed, then this chapter shall become wholly inoperative and ineffective except ~~only~~ that ~~thereafter~~ the Commissioner shall ~~continue in office for the purpose of~~:

(1) ~~recovering~~ recover any monies on deposit with the U.S. Secretary of the Treasury ~~of the United States~~ and ~~the redistribution to contributors of~~ redistribute all monies on hand to contributors in proportion to contributions received~~, said redistribution to be~~ under the direction of a presiding judge of a Superior Court upon an action brought by the Commissioner against five or more employers; and

(2) ~~doing~~ take any other ~~act or thing~~ actions necessary or proper to liquidate assets and discharge the Commissioner's obligations ~~of the office~~ pursuant to this chapter.

Sec. 225. 21 V.S.A. § 1421 is amended to read:

§ 1421. DEFINITIONS

~~The following words and phrases, as~~ As used in this subchapter~~, shall have the following meanings unless the context clearly requires otherwise~~:

(1) "Extended benefit period" means a period ~~which~~ that:

* * *

(B) ends with either of the following weeks, whichever occurs later:

* * *

(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 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~~

~~(ii) The~~ the seasonally adjusted average rate of total unemployment in this State ~~(seasonally adjusted)~~ for the period consisting of the most recent three months for which data for all states are published before the close of ~~such~~ the week:

~~(I)~~(i) equaled or exceeded 6.5 percent; and

~~(II)~~(ii) equaled or exceeded 110 percent of ~~such~~ the average rate for either ~~(~~,or both~~)~~, of the corresponding three-month periods ending in the two preceding calendar years.

(3) State "off" indicator. There is a State "off" indicator for a week if the requirements of both subdivisions (A) and (B) of this subdivision are satisfied.

(A) ~~There is a State "off" indicator for a week beginning after September 25, 1982 and before March 7, 1993, if the~~ 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 that week and the

immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter was:

(i) less than five percent; or

(ii) less than six percent and less than 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding two calendar years.

(B) ~~There is a State "off" indicator for a week beginning after March 6, 1993, if there would be a State "off" indicator pursuant to subdivision (3)(A) of this section and the~~ The requirements of either subdivision ~~(2)(B)(ii)(I)~~ (2)(B)(i) or ~~(II)~~(ii) of this section are not satisfied.

(4) "Rate of insured unemployment" and "rate of total unemployment."

(A) "Rate of insured unemployment," ~~for purposes of~~ as used in subdivisions (2)(A) and (3)(A) of this section, means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the Commissioner on the basis of ~~his or her~~ the Commissioner's reports to the U.S. Secretary of Labor ~~of the United States~~, by the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

(B) ~~For purposes of~~ As used in subdivisions (2)(B) and (3)(B) of this section, determinations of the "rate of total unemployment" in this State for

any period ~~(~~,and of any seasonal adjustment~~)~~, shall be made by the U.S. Secretary of Labor ~~of the United States~~.

(5) "Regular benefits" mean benefits payable to an individual under this chapter or under any other ~~State~~ state's law, including benefits payable ~~to federal civilian employees and to ex-servicemen~~ for federal service pursuant to ~~chapter 85 of Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, other than extended benefits.

(6) "Extended benefits" mean benefits, including benefits payable ~~to federal civilian employees and to ex-servicemen~~ for federal service pursuant to ~~chapter 85 of Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, payable to an individual under the provisions of this section for weeks of unemployment in ~~his or her~~ the individual's eligibility period.

(7) "Eligibility period" of an individual means the period consisting of weeks in ~~his or her~~ the individual's benefit year ~~which~~ that begin in an extended benefit period and, if ~~his or her~~ the individual's benefit year ends within the extended benefit period, any weeks ~~thereafter which~~ after the individual's benefit year that begin in that period.

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in ~~his or her~~ the individual's eligibility period:

(A) has received, prior to ~~such~~ that week, all of the regular benefits that were available to ~~him or her~~ the individual under this chapter or any other state law, including dependent's allowances and benefits payable ~~to federal~~

~~civilian employees and ex-servicemen~~ for federal service under ~~chapter 85 of Title 5 of the U.S. Code~~ 5 U.S.C. chapter 85, in ~~his or her~~ the individual's current benefit year that includes the week; provided that, for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to ~~him or her~~ the individual although as a result of a pending appeal with respect to wages or employment that were not considered in the original monetary determination in ~~his or her~~ the individual's benefit year, ~~he or she~~ the individual may subsequently be determined to be entitled to added regular benefits; or

(B) ~~his or her~~ the individual's benefit year having expired prior to the week, has no, or insufficient, wages or employment on the basis of which ~~he or she~~ the individual could establish a new benefit year that would include that week; and

(C) the individual has no right to unemployment benefits or allowances~~, as the case may be,~~ under the Railroad Unemployment Insurance Act, and ~~such~~ other federal laws ~~as are~~ specified in regulations issued by the U.S. Secretary of Labor ~~of the United States~~; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if ~~he or she~~ the individual is seeking such benefits and the appropriate agency finally determines that ~~he or she~~ the individual is not entitled to benefits under ~~such~~ the law ~~he or she~~ the individual is considered an exhaustee.

(9) "State law" means the unemployment insurance law of any state, approved by the U.S. Secretary of Labor ~~of the United States~~ under ~~section~~ 26 U.S.C. § 3304 ~~of the Internal Revenue Code of 1986~~.

(10) "Suitable work" means, with respect to any individual, any work ~~which~~ that is within the individual's capabilities; except that, if the individual furnished evidence satisfactory to the Commissioner that the individual's prospects for obtaining work in ~~his or her~~ the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to the individual shall be made in accordance with the provisions of subdivision 1344(a)(2) of this ~~title~~ chapter.

Sec. 226. 21 V.S.A. § 1423 is amended to read:

§ 1423. ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS

(a) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in ~~his or her~~ the individual's eligibility period only if the Commissioner finds that with respect to ~~such~~ the week:

(1) ~~he or she~~ the individual is an ~~"~~exhaustee~~" as defined in section 1421 of this title,~~;

(2) ~~he or she~~ the individual has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits~~.~~;

(3) ~~For eligibility periods based upon benefit years beginning on and after January 3, 1988 and before March 7, 1993,~~ the total wages paid ~~which~~ that established ~~that~~ the benefit year ~~must~~ equal or exceed one and one-half times the wages paid in the highest quarter of that base period~~.~~; and

(4) ~~For eligibility periods based upon benefit years beginning on and after March 7, 1993,~~ the total wages paid ~~which~~ that established ~~that~~ the benefit year ~~must~~ exceed 40 times the individual's most recent weekly benefit amount.

(b) Except as provided in subsection (c) of this section, an individual shall not be eligible for extended benefits for any week if:

(1) extended benefits are payable for ~~such~~ the week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and

(2) no extended benefit period is in effect for ~~such~~ the week in ~~such~~ that state.

* * *

Sec. 227. 21 V.S.A. § 1423a is amended to read:

§ 1423a. DISQUALIFICATIONS

(a) Notwithstanding any other provision of this subchapter, if so found by the Commissioner, payment of extended compensation shall not be made to any individual for any week of unemployment in ~~his or her~~ the individual's eligibility period during which the individual:

(1) ~~during which he or she~~ fails to accept any offer of suitable work; ~~or~~

(2) fails to apply for any suitable work to which ~~he or she~~ the individual was referred by the Commissioner; or

(3) ~~during which he or she~~ fails to actively engage in seeking work.

(b) If any individual is ineligible for extended compensation for any week by reason of a failure described in subsection (a) of this section, the individual shall be ineligible to receive extended compensation for any week which begins during a period ~~which~~ that:

(1) begins with the week following the week in which ~~such~~ the failure occurs; and

(2) does not end until ~~such~~ the individual has been employed during at least four weeks ~~which~~ that begin after ~~such~~ the failure and the total of the remuneration earned by the individual for being so employed is not less than the product of six multiplied by the individual's average weekly benefit amount as determined for ~~his or her~~ the individual's benefit year.

(c) Extended compensation shall not be denied under subsection (a) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if:

(1) ~~if~~ the gross average weekly remuneration payable to that individual for the position does not exceed the sum of:

(A) the individual's average weekly benefit amount as determined for ~~his or her~~ the individual's benefit year, plus

(B) the amount, if any, of supplemental unemployment compensation benefits, as defined in ~~section~~ 26 U.S.C. § 501(c)(17)(D) ~~of the Internal Revenue Code of 1986~~, payable to that individual for that week;

(2) ~~if~~ the position was not offered to the individual in writing and was not listed with the State employment service;

(3) ~~if~~ the failure would not result in a denial of compensation under the provisions of subdivision 1344(a)(2) of this ~~title~~ chapter to the extent that those provisions are not inconsistent with the provisions of subdivision 1421(10) of this ~~title~~ subchapter and subsection (d) of this section; or

(4) ~~if~~ the position pays wages less than the higher of:

(A) the minimum wage provided by ~~section 6(a)(1) of the Fair Labor Standards Act of 1938~~ 29 U.S.C. § 206(a)(1), without regard to any exemption; or

(B) any applicable state or local minimum wage.

(d) For purposes of this subsection, an individual shall be treated as actively engaged in seeking work during any week if:

* * *

(2) the individual provides tangible evidence to the Commissioner that ~~he or she~~ the individual has engaged in such an effort during that week.

(e) No provision of section 1344 ~~which~~ of this chapter that terminates a disqualification for voluntarily leaving employment, being discharged for misconduct, or refusing suitable employment shall apply for purposes of

determining eligibility for extended compensation unless that termination is based upon employment subsequent to the date of the disqualification.

Sec. 228. 21 V.S.A. § 1426(b) is amended to read:

(b) Computations required by the provisions of section 1421 of this ~~title~~ subchapter shall be made by the Commissioner, in accordance with regulations prescribed by the U.S. Secretary of Labor ~~of the United States~~.

Sec. 229. 21 V.S.A. § 1427 is amended to read:

§ 1427. AMENDMENTS TO THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

To the extent that the Federal-State Extended Unemployment Compensation Act of 1970 ~~has been or may be~~, Pub. L. No. 91-373, is amended ~~so as~~ to authorize this State to pay benefits for an extended benefit period in a manner other than provided by this title, then, and in such cases, all the terms and conditions contained in the amended provisions of ~~such~~ the federal law shall become a part of this title to the extent necessary to authorize the payment of benefits to eligible individuals as permitted under ~~such~~ those provisions, provided that the federal share continues to be at least 50 percent of the extended benefits paid to individuals under the extended benefits program.

Sec. 230. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

(a) An employer wishing to participate in an STC program shall submit a Department of Labor electronic application or a signed written short-time

compensation plan to the Commissioner for approval. The Commissioner may approve an STC plan only if the following criteria are met:

* * *

(5) The plan certifies that the aggregate reduction in work hours is in lieu of layoffs of one or more workers ~~which~~ that would have resulted in an equivalent reduction in work hours and ~~which~~ that the Commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation.

* * *

(7) The identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the Department. ~~The plan shall not subsidize seasonal employers during the off-season.~~

* * *

(9) The plan ~~will~~ shall not subsidize seasonal employers during the off-season, nor subsidize employers who have traditionally used part-time employees or intermittent employment.

(10) The employer agrees to maintain records relative to the plan for a period of three years and furnish reports relating to the proper conduct of the plan and agrees to allow the Commissioner or ~~his or her~~ the Commissioner's authorized representatives access to all records necessary to verify the plan

prior to approval and, after approval, to monitor and evaluate application of the plan.

(11) The plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how ~~he or she~~ it will notify the employees in the affected group and work with them to implement the program once the plan is approved.

* * *

(b) In the event of any conflict between any provision of sections 1451–1460 of this ~~title~~ subchapter, or the ~~regulations implemented~~ rules adopted pursuant to these sections, and applicable federal law, the federal law shall prevail and the provision shall be deemed invalid.

Sec. 231. 21 V.S.A. § 1453 is amended to read:

§ 1453. APPROVAL OR REJECTION; RESUBMISSION

The Commissioner shall approve or reject a plan in writing within 30 days ~~of its receipt~~ after receiving it, and in the case of rejection shall state the reasons ~~therefor~~ for the rejection. The reasons for rejection shall be final and nonappealable, but the employer shall be allowed to submit another plan for approval~~,~~ that addresses the reasons that led to the rejection of the original plan.

Sec. 232. 21 V.S.A. § 1455 is amended to read:

§ 1455. REVOCATION

(a) The Commissioner may revoke approval of a plan for good cause. The revocation order shall be in writing and shall specify the date the revocation is effective and the reasons ~~therefor~~ for revocation.

* * *

(c) ~~Such~~ The action may be taken at any time by the Commissioner on ~~his or her~~ the Commissioner's own motion. The Commissioner shall review the operation of each qualified employer plan at least once during the first three months that the plan is in effect to ~~assure~~ ensure its compliance with the requirements of this subchapter. In addition, the Commissioner shall investigate any written complaint about the operation of the approved plan and determine in writing whether or not good cause exists for revocation. ~~Such~~ The determination to investigate is not appealable.

(d) An employer may appeal a revocation decision by the Commissioner and ~~such~~ the appeal shall be treated as a ~~"~~contested case~~"~~ under the Administrative Procedure Act.

Sec. 233. 21 V.S.A. § 1458 is amended to read:

§ 1458. SHORT-TIME COMPENSATION BENEFITS

* * *

(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 week for which benefits are paid under this provision shall count as a week of short-time compensation.

(3) An individual who does not work during a week for the short-time employer, and is otherwise eligible, shall be paid ~~his or her~~ the individual's full weekly unemployment compensation benefit amount under the provisions of

the regular unemployment compensation program. Such a week shall not be counted as a week for which short-time compensation benefits were received.

* * *

Sec. 234. 21 V.S.A. § 1502 is amended to read:

§ 1502. DEFINITIONS

As used in this chapter:

* * *

(6) "Employee" includes any employee, and is not limited to the employees of a particular employer unless this chapter explicitly states otherwise, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment, but does not include an individual;

* * *

(B) employed by ~~his or her~~ the individual's parent or spouse;

(C) employed in the domestic service of any family or person at ~~his or her~~ the person's home;

* * *

(F) employed by an employer subject to the Railway Labor Act ~~as amended from time to time~~, 45 U.S.C. §§ 151–165; or

* * *

(7) "Employer" means any person employing five or more employees and any person acting as an agent of an employer, employing five or more employees, directly or indirectly, but does not include:

(A) ~~The~~ the United States or any wholly owned government corporation or any federal reserve bank~~.~~;

(B) ~~This~~ this State or any political subdivision ~~thereof~~ of this State or any incorporated or interstate school district~~.~~;

(C) ~~Any~~ any person subject to the Railway Labor Act, ~~as amended from time to time.~~ 45 U.S.C. §§ 151–165;

(D) ~~Any~~ any labor organization ~~(~~, other than when acting as an employer~~)~~, or anyone acting in the capacity of officer or agent of ~~such~~ a labor organization~~.~~; or

(E) ~~A~~ a person operating a hospital or a nursing home, if no part of the net earnings inures to the benefit of a private individual or shareholder.

* * *

(11) "Professional employee" means:

* * *

(B) any employee who:

* * *

(ii) is performing related work under the supervision of a professional person to qualify ~~himself or herself~~ to become a professional employee as defined in subdivision (A) of this subdivision (11).

* * *

(13) "Supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if ~~in connection with the foregoing~~ the exercise of ~~such~~ the authority is not of a merely routine or clerical nature but requires the use of independent judgment.

* * *

Sec. 235. 21 V.S.A. § 1504 is amended to read:

§ 1504. GENERAL DUTIES

(a) All employers~~,~~ and their officers, agents, and employees or representatives shall exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, wages, hours of employment, and conditions of work, and to settle all disputes, whether arising out of the application of those agreements or growing out of any dispute between the employer and the employer's employees ~~thereof~~.

(b) All labor disputes between employers and their employees shall, upon the request of either party, be considered within 15 days ~~of~~ after the request, or at ~~such times as may be~~ a time that is mutually agreed to, and, if possible, settled, with all expedition, in conference between representatives designated and authorized ~~so~~ to confer, by the employer or by the employer's employees

~~thereof~~ who are interested in the dispute. However, this obligation does not compel either party to agree to a proposal or make a concession.

Sec. 236. 21 V.S.A. § 1505 is amended to read:

§ 1505. APPLICATION

This chapter shall not apply to any employer or any labor dispute ~~which~~ that affects commerce within the meaning of the National Labor Relations Act, ~~as amended~~ 29 U.S.C. § 151–169, unless the National Labor Relations Board shall have ceded jurisdiction ~~thereof~~ to the Board pursuant to ~~section 10(a) of the Act~~ 29 U.S.C. § 160 or shall have declined to assert jurisdiction ~~thereof~~ pursuant to ~~section 14(c) of the Act~~ 29 U.S.C. § 164(c).

Sec. 237. 21 V.S.A. § 1543 is amended to read:

§ 1543. APPROPRIATE UNIT; BASIS FOR DETERMINATION

(a) The Board shall decide in each case whether, in order to ~~assure~~ ensure the employees have the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purpose of collective bargaining is the employer unit, craft unit, plant unit, or a subdivision thereof. However, the Board shall not decide that:

* * *

Sec. 238. 21 V.S.A. § 1544 is amended to read:

§ 1544. RULES ~~AND REGULATIONS~~

(a) The Board shall have authority ~~from time to time~~ to ~~make~~ adopt, amend, and rescind ~~such~~ rules ~~and regulations, not inconsistent with this chapter,~~ as ~~may be~~ necessary to carry out the provisions of this chapter.

* * *

Sec. 239. 21 V.S.A. § 1581 is amended to read:

§ 1581. PETITIONS FOR ELECTION; FILING~~,~~; INVESTIGATIONS~~,~~; HEARINGS~~,~~; DETERMINATIONS

(a) A petition may be filed with the Board, in accordance with ~~regulations prescribed~~ rules adopted by the Board:

* * *

(c) In determining whether or not a question of representation exists, it shall apply the same ~~regulations and~~ rules ~~of decision~~ regardless of the identity of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation for a consent election in conformity with ~~regulations and~~ rules ~~of decision~~ of the Board.

* * *

Sec. 240. 21 V.S.A. § 1582 is amended to read:

§ 1582. ELECTION; ELIGIBILITY TO VOTE~~,~~; RUNOFF ELECTIONS

An election shall not be directed in any bargaining unit or any subdivision within which, in the preceding 12 months, a valid election has been held. Employees engaged in an economic strike who are not entitled to reinstatement are eligible to vote, under ~~regulations~~ rules of the Board consistent with the provisions of this ~~Act~~ chapter, in any election conducted within 12 months after the beginning of the strike. In any election where none of the choices on the ballot receive a majority, a runoff shall be conducted by the Board. The ballot shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

Sec. 241. 21 V.S.A. § 1621 is amended to read:

§ 1621. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

(b) It shall be an unfair labor practice for a labor organization or its agents:

(1)(A) To restrain or coerce employees in the exercise of the rights guaranteed in section 1503 of this ~~title~~ chapter. However this subdivision shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership ~~therein; or~~ in the labor organization.

* * *

(7) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object ~~thereof~~ of the picketing is forcing or requiring an employer to recognize or bargain with a labor organization as the employee's representative, or forcing or requiring the employees of an employer to accept or select the labor organization as their collective bargaining representative, unless the labor organization is currently certified as the representative of the employees:

* * *

(C) Where the picketing has been conducted without a petition under section 1581 of this title being filed within 30 days after the picketing began. When such a petition has been filed, the Board shall ~~forthwith~~ promptly, without regard to section 1581 of this ~~title~~ chapter or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in ~~such~~ the unit as the Board finds to be appropriate and shall certify the results ~~thereof~~ of the election. This subdivision (C) shall not be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public ~~(~~,including consumers~~)~~, that an employer does not employ members of, or have a contract with, a labor organization, unless an effect of the picketing is to induce any individual employed by any other person in the course of ~~his or her~~ the individual's employment, not to pick up, deliver, or transport any goods or not to perform any services. This subdivision (b)(7) shall not be

construed to permit any act which would otherwise be an unfair labor practice under this subsection.

(8) Compulsory membership; employees' rights. A labor organization entering into an agreement requiring a person's membership ~~therein~~ in the labor organization as a condition of employment by the employer shall not:

(A) discriminate against a person seeking or holding membership ~~therein~~ in the labor organization on account of race, color, disability, religion, creed, sex, sexual orientation, gender identity, age, or national origin;

* * *

(C) cause the discharge from employment of employees who refuse membership ~~therein~~ in the labor organization because of religious beliefs.

(c) It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express or implied, ~~whereby~~ under which the employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting, or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person, and any contract or agreement entered into before or after enactment of this chapter containing such an agreement shall be to that extent unenforceable and void.

* * *

(e)(1) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of

the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising ~~thereunder~~ under the agreement, and the execution of a written contract incorporating any agreement reached is requested by either party; but the failure or refusal of either party to agree to a proposal, or to change or withdraw a lawful proposal, or to make a concession shall not constitute, or be evidence direct or indirect of, a breach of this obligation.

* * *

* * * Title 22 * * *

Sec. 242. 22 V.S.A. chapter 2 is amended to read:

CHAPTER 2. INTERSTATE LIBRARY COMPACT

* * *

§ 23. INTERSTATE LIBRARY DISTRICTS—ARTICLE III

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant ~~hereto~~ to this compact remain applicable, ~~such~~ the district may establish, maintain, and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement ~~therefor~~. Any private library agency or agencies within an interstate library

district may cooperate ~~therewith,~~ with; assume duties, responsibilities and obligations ~~thereto,~~ of; and receive benefits ~~therefrom~~ from the district as provided in any library agreement to which such agency or agencies become party.

* * *

(c) If a library agreement provides for joint establishment, maintenance, or operation of library facilities or services by an interstate library district, ~~such~~ the district shall have power to do any one or more of the following in accordance with ~~such~~ the library agreement:

~~1.~~(1) Undertake, administer, and participate in programs or arrangements for securing, lending, or servicing of books and other publications~~,~~; any other materials suitable to be kept or made available by libraries~~,~~; library equipment; or ~~for~~ the dissemination of information about libraries, the value and significance of particular items ~~therein~~ in libraries, and the use ~~thereof~~ of items.

~~2.~~(2) Accept for any of its purposes under this compact any and all donations and grants of money, equipment, supplies, materials, and services~~,~~ (conditional or otherwise), from any state of the United States or any subdivision or agency ~~thereof~~ of a state, or interstate agency, or from any institution, person, firm, or corporation, and receive, utilize, and dispose of the same.

~~3.~~(3) Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

~~4.~~(4) Employ professional, technical, clerical, and other personnel and fix terms of employment, compensation, and~~,~~ other appropriate benefits; and, where desirable, provide for the in-service training of ~~such~~ the personnel.

~~5.~~(5) Sue and be sued in any court of competent jurisdiction.

~~6.~~(6) Acquire, hold, and dispose of any real or personal property or any interest or interests ~~therein~~ in property as may be appropriate to the rendering of library service.

~~7.~~(7) Construct, maintain, and operate a library, including any appropriate branches ~~thereof~~ of a library.

~~8.~~(8) Do such other things as may be incidental to or appropriate for the carrying out of any of the ~~foregoing~~ powers enumerated in this subsection.

§ 24. INTERSTATE LIBRARY DISTRICTS; GOVERNING BOARD—ARTICLE IV

(a) An interstate library district ~~which~~ that establishes, maintains, or operates any facilities or services in its own right shall have a governing board ~~which~~ that shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board ~~which~~ that shall be organized and conduct its business in accordance with ~~provision therefor in~~ the library

agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in ~~such~~ any manner as the library agreement may provide.

§ 25. STATE LIBRARY AGENCY COOPERATION—ARTICLE V

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing, and disposition of items or collections of materials ~~which~~ that, by reason of expense, rarity, specialized nature, or infrequency of demand ~~therefor,~~ would be appropriate for central collection and shared use. Any such programs, services, or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service, or arrangement shall contain provisions covering the subjects detailed in Article VI [section 26 of this title] of this compact for interstate library agreements.

§ 26. LIBRARY AGREEMENTS—ARTICLE VI

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library

agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

~~1.~~(1) Detail the specific nature of the services, programs, facilities, arrangements, or properties to which it is applicable.

~~2.~~(2) Provide for the allocation of costs and other financial responsibilities.

~~3.~~(3) Specify the respective rights, duties, obligations, and liabilities of the parties.

~~4.~~(4) Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters ~~which~~ that may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to ~~such~~ the agency by the constitution or statutes of its state.

* * *

§ 27. APPROVAL OF LIBRARY AGREEMENTS—ARTICLE VII

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party ~~thereto~~ to the agreement is situated, who shall determine whether the agreement is in proper form and compatible with the laws of ~~his or her~~ the state. The attorneys

general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth ~~herein~~ in this compact and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted ~~hereunder~~ pursuant to this section within 90 days of its submission shall constitute an approval ~~thereof~~ of the agreement.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provisions of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having ~~such~~ the power of control and shall be approved or disapproved by ~~him or her~~ the officer or ~~it~~ agency as to all matters within ~~his or her~~ the officer or ~~its~~ the agency's jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

§ 28. OTHER LAWS APPLICABLE—ARTICLE VIII

Nothing in this compact or in any library agreement shall be construed to supersede, alter, or otherwise impair any obligation imposed on any library by

otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of ~~such~~ the trust.

§ 29. APPROPRIATION AND AID—ARTICLE IX

(a) Any public agency party to a library agreement may appropriate funds to the interstate library district established ~~thereby~~ by the agreement in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which ~~such~~ the public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which ~~such~~ the district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

§ 30. COMPACT ADMINISTRATOR—ARTICLE X

Each state shall designate a compact administrator with whom copies of all library agreements to which ~~his or her~~ the state or any public library agency ~~thereof~~ of the state is party shall be filed. The administrator shall have such other powers as may be conferred upon ~~him or her~~ the administrator by the laws of ~~his or her~~ the state and may consult and cooperate with the compact administrators of other party states and take ~~such~~ the steps as may effectuate the purposes of this compact. If the laws of a party state so provide, ~~such~~ the

state may designate one or more deputy compact administrators in addition to its compact administrator.

§ 31. ENTRY INTO FORCE AND WITHDRAWAL—ARTICLE XI

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment ~~thereof~~ of the compact by ~~such~~ that state.

(b) This compact shall continue in force with respect to a party state and remain binding upon ~~such~~ the state until six months after ~~such~~ the state has given notice to each other party state of the repeal ~~thereof~~ of the compact. ~~Such~~ The withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided ~~therein~~ in the agreement.

§ 32. CONSTRUCTION AND SEVERABILITY—ARTICLE XII

This compact shall be liberally construed so as to effectuate the purposes ~~thereof~~ of the compact. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability ~~thereof~~ of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability ~~thereof~~ of the compact to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held

contrary to the constitution of any party state ~~party thereto~~, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

* * *

§ 41. TOWN PARTICIPATION RESTRICTED

No town of this State may be a party to a library agreement ~~which~~ that provides for the construction or maintenance of a library under Article III, subdivision (c-7) [section 23(c)~~7~~(7). of this title] of the compact, nor pledge its credit in support of ~~such a~~ the library, or contribute to the capital financing ~~thereof~~ of the library, except after compliance with any laws applicable to towns relating to or governing capital outlays and the pledging of credit.

§ 42. STATE LIBRARY AGENCY DEFINED

As used in the compact, "state library agency," with reference to this State, means, the ~~department~~ Department of ~~libraries~~ Libraries and any department of ~~state~~ State government providing library services.

* * *

Sec. 243. 22 V.S.A chapter 3 is amended to read:

CHAPTER 3. PUBLIC LIBRARIES

* * *

§ 102. GENERAL AUTHORITY; PROCEDURE

* * *

(b) The trustees may make, sign and acknowledge, and file in the office of the Secretary of State a statement in writing setting forth the intent of the trustees to form a corporation, a copy of the will or instrument by which the endowment of ~~such~~ the library is provided, the name adopted for the corporation, which shall not be the name of a corporation already existing, and the name of the municipality in which the library and the principal place of business of the corporation will be located, the managers who may be designated trustees, managers, or directors of ~~such~~ the corporation, and the names of the trustees, managers, or directors who are to constitute the original board and who shall hold office until their successors are elected and qualified as provided in section 106 of this title.

* * *

§ 103. POWERS GENERALLY

An organization formed under the provisions of section 102 of this title shall be a body corporate and politic to be known by the name stated in its certificate. It shall have and possess the ordinary rights and incidents of a corporation, and shall be capable of taking, holding, and disposing of real and personal estate for the purposes of its organization. The provisions of a will, deed, or other instrument by which an endowment of a library is provided, and accepted by the trustees, managers, or directors shall, as to ~~such~~ the endowment, be a part of the organic and fundamental law of ~~such~~ the corporation.

§ 104. PUBLIC LIBRARIES; TRUSTEES, MANAGERS, OR DIRECTORS

The trustees, managers, or directors of ~~such~~ the corporation shall compose its members and shall not be more than 15 nor less than five in number.

* * *

§ 106. VACANCIES

(a) ~~They~~ The trustees, managers, or directors may fill by election vacancies occurring in their number.

(b) When a trustee, manager, or director is elected to fill a vacancy, a certificate under the seal of the corporation, giving the name of the person elected, shall be recorded in the office of the county clerk where the articles of incorporation are recorded.

§ 107. BYLAWS

~~They~~ The trustees, managers, or directors may make bylaws for the management of ~~such~~ the corporation and library. The bylaws shall set forth the officers of the corporation and define and prescribe their respective duties.

§ 108. EMPLOYMENT OF AGENTS AND EMPLOYEES

~~They~~ The trustees, managers, or directors may appoint and employ from time to time agents and employees as they may deem necessary for the efficient administration and conduct of the library and all the affairs of ~~such~~ the corporation.

§ 109. EXEMPTION FROM TAXATION

When the instrument providing the endowment declares that the institution shall be a free public library, ~~such~~ the library and other property of the corporation shall be forever exempt from taxation.

§ 110. MERGER

Two or more library corporations in the same municipality or in different municipalities may, by a majority vote of the members of all the corporations, at meetings warned for that purpose, unite and assume the corporate name of any one of the corporations. The plan of incorporation shall contain ~~regulations~~ articles necessary to carry out the provisions of this chapter.

* * *

Sec. 244. 22 V.S.A. § 172 is amended to read:

§ 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS

* * *

(b) Unless authorized by other provisions of law, the library's officers, employees, and volunteers shall not disclose the records except:

* * *

(4) to custodial parents or guardians of patrons under ~~age~~ 16 years of age; or

* * *

Sec. 245. 22 V.S.A. chapter 5 is amended to read:

CHAPTER 5. VERMONT HISTORICAL SOCIETY

§ 281. MEMBERS AND TRUSTEES EX OFFICIO

The Secretary of State and the State Librarian, by virtue of their offices, shall be members of the Vermont Historical Society and of the Board of Trustees ~~thereof~~ of the Society.

§ 282. DIRECTOR

* * *

(b) The Director shall have charge of the collections of the Society and ~~such~~ any historical objects, books, and documents of the State as shall be placed ~~therewith~~ with the Society for use.

* * *

§ 284. DISPOSITION OF BOOKS, COLLECTIONS, AND PROPERTY

If the Society is ever dissolved, the Society's books, collections, and property ~~thereof~~ shall become the property of the State. ~~Such~~ The Society shall not sell or dispose of any part of its books or collections, except by way of exchange or to further the objects of the Society and then only upon the vote of the Board of Trustees of the Society. Any sale or disposal ~~thereof~~ of books or collections contrary to the provisions of this section shall be void.

* * *

Sec. 246. 22 V.S.A. § 605 is amended to read:

§ 605. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF LIBRARIES

The duties and functions of the Department of Libraries shall be to provide, administer, and maintain:

(1) A law library to serve the Supreme Court, the Attorney General, other members of the Judiciary, the legal profession, members of the ~~Legislature~~ General Assembly, officials of State government, and the general public.

* * *

(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~~;

(2) the town, city, or village has voted to instruct ~~such~~ its Trustees to ~~make application therefor~~ apply to the State Librarian for the benefits set forth in section 631 of this subchapter; and ~~unless such~~

(3) the Trustees have provided, in a manner satisfactory to the Board of Libraries, for the care, custody, and distribution of the books furnished under this subchapter.

Sec. 248. 22 V.S.A. § 634 is amended to read:

§ 634. AID TO FREE PUBLIC LIBRARIES

The State Librarian may assist free public or other nonprofit libraries ~~which~~ that formulate and implement plans for the systematic and effective coordination of libraries and library services. Grants may be made in accordance with standards of the service, consistent with ~~the Federal Library Services and Construction Act, chapter 16 of Title 20, U.S. Code as amended~~ 20 U.S.C. chapter 72, subchapter II.

Sec. 249. 22 V.S.A. § 701(7) is amended to read:

(7) "Secretary" means the Secretary of ~~the Agency of~~ Commerce and Community Development.

Sec. 250. 22 V.S.A. § 723(c) is amended to read:

(c) The State Historic Preservation Officer and the Division shall adopt a procedure for the efficient review in accordance with this chapter and the National Historic Preservation Act, 16 U.S.C. chapter 1A, subchapter II, of undertakings related to the provision of broadband services, and shall take all feasible steps to effect such efficient review. Unless contrary to federal requirements, any review of pole attachments shall be conducted using a systemic approach. ~~As used in this subsection, "broadband" means high-speed Internet access that meets the minimum technical objectives adopted by the Department of Public Service pursuant to 30 V.S.A. § 8077(a).~~

Sec. 251. 22 V.S.A. § 724(c) is amended to read:

(c) Use for intended purposes. The Division for Historic Preservation shall ensure that donations and gifts are used for the purposes intended.

Sec. 252. 22 V.S.A. § 741(a) is amended to read:

(a) There is established ~~a~~ the Vermont Advisory Council on Historic Preservation. The Council shall consist of seven members, appointed by the Governor, at least four of whom shall fulfill the professional requirements of the National Historic Preservation Act.

Sec. 253. 22 V.S.A. § 743 is amended to read:

§ 743. COOPERATION OF AGENCIES

An agency, department, division, or commission shall:

* * *

(2) Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of properties under its ownership that are listed on the State or National Register; the measures and procedures shall comply with applicable standards prescribed by the ~~State~~ Division for Historic Preservation ~~Division~~.

(3) Develop plans for the maintenance, through preservation, rehabilitation, or restoration, of historic properties under their ownership in a manner that is compatible with preservation objectives and ~~which~~ that does not result in an unreasonable economic burden to public interest.

(4) Institute procedures to ~~assure~~ ensure that its plans, programs, codes, and ~~regulations~~ rules contribute to the preservation and enhancement of sites, structures, and objects of historical, architectural, archaeological, or cultural significance.

Sec. 254. 22 V.S.A. § 764 is amended to read:

§ 764. PERMITS FOR EXPLORATION

The State Historic Preservation Officer, with the advice of the State Archaeologist, may issue permits for exploration and field investigations to be undertaken on State lands or within the boundaries of designated State

archaeological landmarks to an amateur or professional whom the State Historic Preservation Officer deems properly qualified to conduct the activity, subject to such rules ~~and regulations~~ as the Division may prescribe, with a view toward disseminating the knowledge gained through ~~his or her~~ the State Historic Preservation Officer's activities; and, provided that a summary report of the undertakings, containing relevant maps, documents, drawings, and photographs be submitted to the Division; and, provided further, that all specimens so collected under permit shall be the permanent property of the State and that the State Archaeologist shall make prior arrangements for the disposition of specimens derived from the activities in an appropriate institution of the State or for the loan of the specimens to qualified institutions in or out of the State.

Sec. 255. 22 V.S.A. § 767(3) is amended to read:

(3) The Division shall initiate actions within 60 days ~~of~~ following notification under subdivision (1) of this subsection and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering the data, including analysis and publications, and the costs shall be included as part of the contractor's costs if the adverse effect is caused by work being done under contract to a State agency.

Sec. 256. 22 V.S.A. § 781 is amended to read:

§ 781. RULES ~~AND REGULATIONS~~

The custodian of underwater historic properties shall be the Division, which shall administer the preservation and protection of these properties in accordance with this chapter. The Division may prescribe such rules ~~and regulations~~ as are necessary to preserve, protect, and recover any or all underwater historic properties.

Sec. 257. 22 V.S.A. § 782 is amended to read:

§ 782. ISSUANCE OF PERMITS

Any qualified person desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced, or destroyed, shall first make application to the State Historic Preservation Officer for a permit to conduct the operations. The State Historic Preservation Officer, with the advice of the State Archaeologist, may grant the applicant a permit for such a period of time and under such conditions as ~~he or she~~ the State Historic Preservation Officer may deem to be in the best ~~interest~~ interests of the State. The permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered, the fair compensation or share to be determined by the State Archaeologist. Superior title to all objects recovered shall be retained by the State unless or until they are released to the permittee by the State

Archaeologist. All exploration and recovery operations undertaken under a permit issued under this section shall be carried out under the general supervision of the State Archaeologist and in such manner that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration. Holders of permits shall be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any recovery operations.

Sec. 258. 22 V.S.A. § 952 is amended to read:

§ 952. VERMONT WEB PORTAL; VERMONT WEB PORTAL BOARD; MEMBERSHIP

(a) There is created the Vermont web portal that shall be governed by a Board consisting of 12 members as follows:

* * *

(10) one member of the House of Representatives who is also a member of the ~~Legislative Information Technology Committee~~ Joint Information Technology Oversight Committee, appointed by the Speaker of the House, and one member of the Vermont Senate who is also a member of the ~~Legislative Information Technology Committee~~ Joint Information Technology Oversight Committee, appointed by the Committee on Committees.

* * *

Sec. 259. 22 V.S.A. § 953(c)(2) is amended to read:

(2) The Governor's approval shall be final unless within 30 days ~~of~~ following receipt of the information a member of the Joint Fiscal Committee requests the charge be placed on the agenda of the Joint Fiscal Committee or, when the General Assembly is in session, be held for legislative approval. In the event of such request, the charge shall not be accepted until approved by the Joint Fiscal Committee or the ~~Legislature~~ General Assembly. During the legislative session, the Joint Fiscal Committee shall file a notice with the House Clerk and Senate Secretary for publication in the respective calendars of any charge approval requests that are submitted by the Administration. Beginning on July 1, 2012, and every three years thereafter, all web portal fees shall be included in the annual consolidated Executive Branch fee report pursuant to 32 V.S.A. § 605.

* * * Title 23 * * *

Sec. 260. 23 V.S.A. § 110(a) is amended to read:

(a) Whenever any check issued in payment of any fee or for any other purpose is tendered to the Department of Motor Vehicles and payment is not honored by the bank on which the check is drawn, the Commissioner shall send a written notice of its nonpayment to the maker or person presenting the check and if the check is not immediately made good ~~forthwith~~, ~~he or she~~ the Commissioner shall suspend the license or registration of the person or persons. In no case shall the license or registration be reinstated until

settlement has been made in full. Settlement in full shall also include the payment of any penalties assessed by the State Treasurer.

Sec. 261. 23 V.S.A. § 204 is amended to read:

§ 204. SURRENDER OF LICENSE OR REGISTRATION

(a) A person whose license to operate a motor vehicle, nondriver identification card, or motor vehicle registration has been issued in error shall immediately surrender ~~forthwith his or her~~ the license or registration upon demand of the Commissioner or ~~his or her~~ the Commissioner's authorized inspector or agent. The demand shall be made in person or by notice in writing sent by first-class mail to the last known address of the person.

(b) The Commissioner or ~~his or her~~ the Commissioner's authorized inspector or agent and all enforcement officers are authorized to take possession of any certificate of title, nondriver identification card, registration, or license issued by this or any other jurisdiction that has been revoked, canceled, or suspended, or that is fictitious, stolen, or altered.

* * *

Sec. 262. 23 V.S.A. § 301 is amended to read:

§ 301. PERSONS REQUIRED TO REGISTER

Residents, except as provided in chapter 35 of this title, shall annually register motor vehicles owned or leased for a period of more than 30 days and operated by them, unless currently registered in Vermont. Notwithstanding this section, a resident who has moved into the State from another jurisdiction

shall register ~~his or her~~ the resident's motor vehicle within 60 days ~~of~~ after moving into the State. ~~A person~~ An individual shall not operate a motor vehicle nor draw a trailer or semi-trailer on any highway unless ~~such~~ the vehicle is registered as provided in this chapter. Vehicle owners who have apportioned power units registered in this State under the International Registration Plan are exempt from the requirement to register their trailers in this State.

Sec. 263. 23 V.S.A. § 303(a) is amended to read:

(a) The Commissioner or ~~his or her~~ the Commissioner's duly authorized agent shall register a motor vehicle, trailer, or semi-trailer ~~when~~ upon application ~~therefor~~, on a form prescribed by the Commissioner that is filed with the Commissioner, showing ~~such~~ the motor vehicle to be properly equipped and in good mechanical condition~~, is filed with him or her,~~ and accompanied by the required registration fee and evidence of the applicant's ownership of the vehicle in ~~such~~ the form as the Commissioner may reasonably require. Except for State or municipal vehicles, registrants and titled owners shall be identical.

Sec. 264. 23 V.S.A. § 304(b)(2)(D) is amended to read:

(D) When an individual's membership in a qualifying organization ceases or is terminated, the individual shall immediately surrender any special registration plates issued under this subsection to the Commissioner ~~forthwith~~. However, a retired member of the Vermont National Guard may renew or,

upon payment of a $10.00 fee, acquire~~,~~ the special guard plates after notification of eligibility for retired pay has been received.

Sec. 265. 23 V.S.A. § 307(b) is amended to read:

(b) In case of the loss, mutilation, or destruction of a certificate, the owner of the vehicle described in it shall ~~forthwith~~ immediately notify the Commissioner and remit a fee of $20.00, upon receipt of which the Commissioner shall furnish the owner with a duplicate certificate.

Sec. 266. 23 V.S.A. § 381 is amended to read:

§ 381. FEES TURNED OVER TO STATE TREASURER

(a) Except as otherwise provided, all fees for registering motor vehicles, licensing operators, and all other motor vehicle fees shall be collected by the Commissioner and ~~forthwith~~ immediately paid into the State Treasury or deposited to ~~such~~ a bank to the credit of the State Treasurer as ~~he or she~~ the State Treasurer may direct.

* * *

Sec. 267. 23 V.S.A. § 415(a) is amended to read:

(a) In addition to any other provision of law relating to registration of motor trucks with a gross weight of 18,000 pounds or over and powered by gasoline or any other nondiesel fuel, or fees paid ~~therefor~~ for the registration of motor trucks with a gross weight of 18,000 pounds or over and powered by gasoline or any other nondiesel fuel, a person owning or operating a motor truck upon the highways of the State, registered in this State, shall apply to the

Commissioner of Motor Vehicles for a nondiesel fuel user's license for each ~~such~~ motor truck to be so operated. Application shall be made upon a form prescribed by ~~such~~ the Commissioner and shall set forth ~~such~~ the information as the Commissioner may require. The application shall be accompanied by a license fee of $6.50 for each motor truck listed in the application. However, any license issued under this section prior to July 1, 1990 shall remain in effect for the term of the issuance. The Commissioner shall issue a license and an identification tag, plate, or sticker for each ~~such~~ motor truck, which tag, plate, or sticker shall be of ~~such~~ the size and design and contain ~~such~~ the information as the Commissioner shall prescribe. Except as otherwise provided, any such license and tag, plate, or sticker shall become void on January 1 next following the date of issue. Such licenses shall be carried in the motor truck~~,~~ and the tag, plate, or sticker shall be affixed to ~~said~~ the motor truck and visible and legible at all times ~~be visible and legible~~. This section shall not apply to motor trucks owned by federal, State, provincial, or municipal governments nor to motor trucks, otherwise required to be licensed under this section, that are being operated under the provisions of ~~sections~~ section 463 or 516 of this title.

Sec. 268. 23 V.S.A. § 462(a) is amended to read:

(a) The Commissioner may cancel, revoke, or suspend the registration of a dealer under the provisions of this chapter or section 3204, 3305, or 3504 of this title whenever, after the dealer has been afforded the opportunity of a hearing before the Commissioner or upon conviction in any court in any

jurisdiction, it appears that the dealer has willfully violated any vehicle or motorboat law of this State or any lawful ~~regulation~~ rule of the Commissioner applying to dealers, or when it appears that the dealer has engaged in fraudulent or unlawful practices related to the purchase, sale, or exchange of vehicles or motorboats. A dealer whose registration has been canceled, revoked, or suspended shall ~~forthwith~~ immediately return to the Commissioner the registration certificate and any and all number plates ~~or,~~ numbers, or decals furnished ~~him or her~~ to the dealer by the Commissioner, and the privilege to operate, purchase, sell, or exchange vehicles or motorboats under ~~his or her~~ the dealer's number shall cease. An application for a new dealer's registration for that dealer will not be considered until a revocation period has been served.

Sec. 269. 23 V.S.A. § 495 is amended to read:

§ 495. SUSPENSION OF REGISTRATION

The Commissioner may cancel a registration certificate issued to a transporter whenever, after hearing before the Commissioner or upon conviction in any court in this State, the Commissioner finds that the transporter has violated any motor vehicle law in this State or any lawful ~~regulation~~ rule of the Commissioner applying to transporters. A transporter whose certificate has been ~~cancelled~~ canceled shall ~~forthwith~~ immediately return to the Commissioner the registration certificate and the number plates furnished ~~him or her~~ to the transporter by the Commissioner.

Sec. 270. 23 V.S.A. § 601(a)(1) is amended to read:

(a)(1) Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless ~~he or she~~ the resident holds a valid license issued by the State ~~of Vermont~~. A new resident who has moved ~~into the State~~ to Vermont from another jurisdiction and who holds a valid license to operate motor vehicles under section 208 of this title shall procure a Vermont license within 60 days ~~of~~ after moving to ~~the State~~ Vermont. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

Sec. 271. 23 V.S.A. § 606 is amended to read:

§ 606. AGE LIMIT

An operator's license shall not be issued to ~~any person~~ an individual under 18 years of age. ~~Any person~~ An individual who has previously held a junior operator's license in Vermont prior to application for a license under this section shall have held that license for a minimum of six months or until 18 years of age ~~18~~ and maintained a record without any suspensions, revocations, or recalls for the six-month period preceding licensure under this section.

Sec. 272. 23 V.S.A. § 611 is amended to read:

§ 611. POSSESSION OF LICENSE CERTIFICATE

Every licensee shall have ~~his or her~~ the licensee's operator's license certificate in ~~his or her~~ the licensee's immediate possession at all times when operating a motor vehicle. However, ~~a person~~ a licensee cited with violating

this section or section 610 of this ~~title~~ subchapter shall not be convicted if ~~he or she~~ the licensee sends a copy of or produces to the issuing enforcement agency within seven business days ~~of~~ after the traffic stop an operator's license certificate that was valid or had expired within 14 days prior to the traffic stop.

Sec. 273. 23 V.S.A. § 613 is amended to read:

§ 613. REPLACEMENT LICENSE

(a) In case of the loss, mutilation, or destruction of a license or error in a license, the licensee shall ~~forthwith~~ immediately notify the Commissioner who shall furnish ~~such~~ the licensee with a replacement on receipt of $24.00.

(b) A replacement license shall not be issued to any ~~person~~ individual who has surrendered ~~his or her~~ the individual's license to another jurisdiction in connection with obtaining a license in that jurisdiction.

Sec. 274. 23 V.S.A. § 671(a) is amended to read:

(a) In ~~his or her~~ the Commissioner's discretion, the Commissioner may suspend indefinitely or for a definite time the license of an operator, or the right of an unlicensed individual to operate a motor vehicle, after opportunity for a hearing upon not less than 15 days' notice, if the Commissioner has reason to believe that the holder ~~thereof~~ of the license or right to operate is an individual who is incompetent to operate a motor vehicle or is operating improperly so as to endanger the public. If, upon receipt of such notice, the individual requests a hearing, ~~such~~ the suspension shall not take effect unless the Commissioner, after hearing, determines that the suspension is justified. If

the Commissioner imposes a suspension, ~~he or she~~ the Commissioner may order the license delivered to ~~him or her~~ the Commissioner. Not less than six months from the date of suspension and after each subsequent six months ~~thereafter~~, an individual upon whom such suspension has been imposed may apply for reinstatement of ~~his or her~~ the individual's license or right to operate or for a new license. Upon receipt of such application, the Commissioner shall ~~thereupon~~ cause an investigation to be made and, if so requested, conduct a hearing to determine whether such suspension should be continued in effect.

Sec. 275. 23 V.S.A. § 672 is amended to read:

§ 672. SUSPENDING OR REVOKING RIGHT OF NONRESIDENT OPERATOR

(a) The Commissioner may suspend or revoke the right of any nonresident operator to operate a motor vehicle in this State for the same causes and under the same conditions and in the same manner that ~~he or she~~ the Commissioner could suspend or revoke the license of any resident operator. ~~Thereupon~~ Upon suspension or revocation, the right of ~~such~~ the nonresident operator to operate any motor vehicle in this State shall terminate~~,~~ and ~~he or she~~ the nonresident operator shall be subject to the same penalties as a resident operator who operates after the suspension or revocation of ~~his or her~~ the resident operator's license.

(b) Whenever a nonresident operator has ~~his or her~~ the nonresident operator's right to operate a motor vehicle in this State suspended or revoked,

the Commissioner shall mail a copy of the notice of suspension or revocation as well as a copy of the court document resulting in the suspension or revocation to the state or province of residence or licensing.

Sec. 276. 23 V.S.A. § 722 is amended to read:

§ 722. RECOMMENDATION OF A COURT

When a motor vehicle operator is convicted of a violation of chapter 13, subchapters 1 through 5 ~~of chapter 13~~ of this title involving the operation of a motor vehicle in motion, the judge of the court in which the conviction was obtained may recommend, in writing, to the Commissioner ~~of Motor Vehicles~~ that the operator be required to attend a driver retraining course. The judge may delay sentencing the operator until ~~he or she has had~~ the judge receives an answer to ~~his or her~~ the judge's recommendation from the Commissioner. If advised by the Commissioner that the operator has been ordered to take a driver retraining program, the judge may further delay sentencing the operator for a period not to exceed 90 days. If the judge receives evidence that the operator has satisfactorily completed a driver retraining course, ~~he or she~~ the judge may then consider all the facts and circumstances of the case and either impose a penalty and costs or waive all or any part of the penalty and costs, making a note of the action on the original warrant. In such cases, the court shall in no way be relieved of the duty of immediately filing ~~forthwith~~ upon conviction the report required under section 1709 of this title.

Sec. 277. 23 V.S.A. § 731(b) is amended to read:

(b) It is the intent of the General Assembly that revenue from fee increases specified in ~~this act~~ 1990 Acts and Resolves No. 286 shall be used for administration of the motorcycle rider training program and expenses relating to the program, including instructor training, licensing improvement, alcohol and drug education, public awareness, a driver improvement program for motorcyclists, technical assistance, program promotion, and other motorcycle safety programs. Funds may also be used for reimbursement of persons with course sites.

Sec. 278. 23 V.S.A. § 751(b)(1)(B) is amended to read:

(B) confirms that the individual is at least 18 years of age and, if the individual is 18 years of age, that ~~he or she~~ the individual has at least one year of driving experience or has been issued a commercial ~~driver~~ driver's license; and

Sec. 279. 23 V.S.A. § 800(c) is amended to read:

(c) Every operator of a vehicle required to be registered shall have proof of financial responsibility as required by subsection (a) of this section when operating ~~such~~ a vehicle on the highways of this State. A person may prove financial responsibility using a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device. An operator cited for violating this subsection shall not be convicted if ~~he or she~~ the operator sends or

produces to the issuing enforcement agency within seven business days ~~of~~ after the traffic stop proof of financial responsibility that was in effect at the time of the traffic stop.

Sec. 280. 23 V.S.A. § 802(c) is amended to read:

(c) When a resident of Vermont, or ~~a person~~ an individual holding a Vermont operator's license, as a result of a motor vehicle crash in any other state has been required to furnish ~~such~~ the other state with evidence of future financial responsibility and because of failure to do so ~~has had his or her~~ the individual's operating privilege has been suspended or revoked ~~therefor~~, upon being notified by the proper official of such other jurisdiction of ~~such~~ the suspension or revocation, the Commissioner ~~of Motor Vehicles~~ shall suspend the Vermont operator's license or right of ~~such person~~ the individual to operate motor vehicles, and ~~such~~ the suspension shall remain in effect until the ~~person suspended shall furnish~~ individual furnishes the Commissioner with satisfactory evidence that ~~he or she~~ the individual has complied with the requirement to furnish ~~such~~ the other state with evidence of future financial responsibility.

Sec. 281. 23 V.S.A. § 806 is amended to read:

§ 806. ADDITIONAL EVIDENCE

Additional evidence of financial responsibility shall be furnished to the Commissioner, at any time, upon ~~his or her~~ the Commissioner's request ~~therefor~~.

Sec. 282. 23 V.S.A. § 941(g) is amended to read:

(g) Within 30 days ~~of~~ after receipt of a written request by a person reasonably claiming the right to recover damages after a crash involving owners or operators of motor vehicles for bodily injury, sickness, or disease, including death, or for property damages resulting from the ownership, maintenance, or use of a motor vehicle, an insurer that may be liable to satisfy part or all of the claim under a policy subject to this chapter shall provide a statement, by a duly authorized agent of the insurer, setting forth the names of the insurer and insured, and the limits of liability coverage.

Sec. 283. 23 V.S.A. § 1001(b) is amended to read:

(b) The Commissioner may adopt rules uniform with the regulations of the federal agency having jurisdiction over motor vehicles subject to federal law so far as the ~~regulations~~ rules are applicable to the vehicles or to vehicles of the same type not subject to federal law, or to both.

Sec. 284. 23 V.S.A. § 1042(c) is amended to read:

(c) Any decision of the Secretary made under this section may be appealed, in writing, to the Transportation Board within 30 days ~~of~~ after the Secretary's decision. The Transportation Board shall decide the question within 45 days ~~of~~ after receipt of the appeal~~,~~ and may take evidence or testimony.

Sec. 285. 23 V.S.A. § 1203(g) is amended to read:

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any ~~person~~ individual as the result

of a crash involving a vehicle and the circumstances of ~~such~~ the crash within five days ~~of~~ after such death.

Sec. 286. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(b) Form of officer's affidavit. A law enforcement officer's affidavit in support of a suspension under this section shall be in a standardized form for use throughout the State and shall be sufficient if it contains the following statements:

* * *

(6) The officer complied with the ~~Soldiers and Sailors~~ Servicemembers Civil Relief Act, codified at 50 U.S.C. chapter 50 ~~(50 U.S.C. § 501 et seq.)~~.

* * *

(c) Notice of suspension. On behalf of the Commissioner of Motor Vehicles, a law enforcement officer requesting or directing the administration of an evidentiary test shall serve notice of intention to suspend and of suspension on a person who refuses to submit to an evidentiary test or on a person who submits to a test the results of which indicate that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title. The notice shall be signed by the law enforcement officer requesting the test.

A copy of the notice shall be sent to the Commissioner of Motor Vehicles, and a copy shall be mailed or given to the defendant within three business days ~~of~~ after the date the officer receives the results of the test. If mailed, the notice is deemed received three days after mailing to the address provided by the defendant to the law enforcement officer. A copy of the affidavit of the law enforcement officer shall also be mailed by first-class mail or given to the defendant within seven days ~~of~~ after the date of notice.

* * *

(g) Preliminary hearing. The preliminary hearing shall be held within 21 days ~~of~~ after the alleged offense. Unless impracticable or continued for good cause shown, the date of the preliminary hearing shall be the same as the date of the first appearance in any criminal case resulting from the same incident for which the person received a citation to appear in court. The preliminary hearing shall be held in accordance with procedures prescribed by the Supreme Court.

(h) Final hearing.

(1) If the defendant requests a hearing on the merits, the court shall schedule a final hearing on the merits to be held within 21 days ~~of~~ after the date of the preliminary hearing. In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the defendant or for good cause shown. The final hearing may only be continued

by the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following:

* * *

Sec. 287. 23 V.S.A. § 1206(a) is amended to read:

(a) First conviction—generally. Except as otherwise provided, upon conviction of ~~a person~~ an individual for violating a provision of section 1201 of this ~~title~~ subchapter, or upon final determination of an appeal, the court shall immediately forward the conviction report ~~forthwith~~ to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the ~~person's~~ operator's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle, as applicable, for a period of 90 days and until the ~~defendant~~ operator complies with section 1209a of this title.

Sec. 288. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of ~~a person~~ an individual violating a provision of section 1201 of this title and upon final determination of an appeal, the court shall immediately forward the conviction report ~~forthwith~~ to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the ~~person's~~ operator's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle, as applicable, for 18 months and until the ~~defendant~~ operator complies

with section 1209a of this title. However, during the suspension, an eligible ~~person~~ operator may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title.

(b) Third conviction. Upon a third or subsequent conviction of ~~a person~~ an individual violating a provision of section 1201 of this title and upon final determination of any appeal, the court shall immediately forward the conviction report ~~forthwith~~ to the Commissioner of Motor Vehicles. The Commissioner shall immediately revoke the ~~person's~~ operator's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle, as applicable, for life. However, during this lifetime revocation, an eligible ~~person~~ operator may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

Sec. 289. 23 V.S.A. § 1213c(n)(2) is amended to read:

(2) If the State has not commenced a prosecution for a second or subsequent violation of section 1201 of this title within 90 days ~~of~~ after the detention, arrest, lodging, or release upon citation, the person may sell, transfer, or encumber the subject vehicle.

Sec. 290. 23 V.S.A. § 1227(d) is amended to read:

(d) To inspect a school bus, a certified inspection mechanic shall not be required to have a commercial ~~driver~~ driver's license if ~~he or she~~ the mechanic:

* * *

Sec. 291. 23 V.S.A. § 1246 is amended to read:

§ 1246. RESTRICTIONS

~~A person shall not use on a vehicle of any kind operated~~ An individual shall not operate a motor vehicle on the highway during the period stated in section 1243 of this ~~title~~ subchapter if the motor vehicle utilizes any lighting device of over four candle power equipped with a reflector, unless ~~such~~ the device, ~~and~~ the lens used ~~therein~~ within the device, and ~~such~~ the candle power is approved by the Commissioner ~~of Motor Vehicles~~, nor unless the ~~same~~ device shall ~~be so designed, deflected, or arranged that~~ produce a beam of reflected light ~~therefrom~~ that, when measured 75 feet or more ahead of the lamps, shall not rise more than six inches above the height of the bulb in ~~such~~ the lamp and in no event more than 42 inches from the level surface on which the vehicle stands under all conditions of load. When vehicles are approaching each other from opposite directions, spotlights shall not be used except when projecting their rays directly on the ground and at a distance not exceeding 30 feet in front of the vehicle.

Sec. 292. 23 V.S.A. § 1258 is amended to read:

§ 1258. CHILD RESTRAINT SYSTEMS; ~~PERSONS~~ INDIVIDUALS UNDER 18 YEARS OF AGE ~~18~~

(a) No ~~person~~ individual shall operate a motor vehicle, other than a type I school bus, in this State upon a public highway unless every occupant under 18 years of age ~~18~~ is properly restrained in a federally approved child

passenger restraining system as defined in 49 C.F.R. § 571.213, as may be amended, or a federally approved safety belt, as follows:

* * *

Sec. 293. 23 V.S.A. § 1281 is amended to read:

§ 1281. ADDITIONAL EQUIPMENT

In addition to other equipment required by this title, any school bus as ~~described~~ defined in section 4 of this title shall be equipped as follows:

* * *

(8) In addition to the foregoing, all motor vehicles in which the original seating equipment has been modified or added to must comply with the following:

* * *

(B) ~~A~~ There must be a minimum of 36 inches of headroom for someone in a sitting position above the top of the undepressed cushion line of ~~all~~ the seats ~~shall be provided~~.

(C) ~~A~~ There must be a minimum of 12 inches ~~shall be provided~~ from the top of the undepressed cushion line to the floor.

* * *

Sec. 294. 23 V.S.A. § 1282(a) is amended to read:

(a) Before an individual may assume the duty of transporting school pupils in either a Type I or Type II school bus, ~~he or she~~ the individual shall as a minimum:

(1) For Type I, have a valid State of Vermont commercial ~~driver~~ driver's license with a passenger endorsement and a school bus driver's endorsement or, for Type II, have a valid State of Vermont license with a school bus driver's endorsement or have a license from another jurisdiction valid for the class or type of vehicle to be driven.

* * *

Sec. 295. 23 V.S.A. § 1396(c) is amended to read:

(c) Any decision of the Secretary made under this section may be appealed, in writing, to the Transportation Board within 30 days ~~of~~ after the Secretary's decision. The Transportation Board shall decide the question within 45 days ~~of~~ after receipt of the appeal and may take evidence or testimony. Except as otherwise provided, the designated legal load limit for the highway or bridge shall not be less than 20,000 pounds for a single traction engine, tractor, trailer, motor truck, or other motor vehicle for the State system or any class 1 or 2 town highway nor less than 16,000 pounds for any other town highway.

Sec. 296. 23 V.S.A. § 1400(a) is amended to read:

(a) A person ~~or corporation~~ owning or operating a traction engine, tractor, trailer, motor truck, or other motor vehicle that desires to operate it over State highways or class 1 town highways in excess of the weight and size limits provided by this subchapter shall apply to the Commissioner for a permit. In ~~his or her~~ the Commissioner's discretion, with or without hearing, the Commissioner may issue to the person ~~or corporation~~ a permit authorizing the

person to operate the traction engine, tractor, trailer, motor truck, or other motor vehicle upon State highways and class 1 town highways as ~~he or she~~ the Commissioner may designate and containing the regulation subject to which the traction engine, tractor, trailer, motor truck, or other motor vehicle is to be operated. The permit shall not be granted until satisfactory proof is furnished to the Commissioner that the traction engine, tractor, trailer, motor truck, or other motor vehicle has been registered and the prescribed fee paid for a gross weight equal to a maximum legal load limit for its class. No additional registration fee shall be payable to authorize the use of the traction engine, tractor, trailer, motor truck, or other motor vehicle in accordance with the terms of the permit. The approval may be withdrawn for cause~~,~~ and may be withdrawn without cause any time after March 31 next following the date of issuance. When approval is withdrawn for cause or on March 31, the Commissioner shall ~~forthwith~~ immediately revoke the permit; when approval is withdrawn otherwise, ~~he or she~~ the Commissioner shall revoke the permit within one month after withdrawal.

Sec. 297. 23 V.S.A. § 1452(d) is amended to read:

(d) Any bindings used ~~hereunder~~ for securing loads of wood or wood products as required under this section shall have a capacity of at least 2,750 pounds working load limit as rated by the manufacturer.

Sec. 298. 23 V.S.A. § 1749 is amended to read:

§ 1749. PENALTY

(a) The penalty that may be voluntarily paid by any ~~person so~~ individual violating any ordinance regulating metered parking in the town shall be $1.00. For other violations involving parking, a penalty not to exceed $5.00 for the first violation and not to exceed $15.00 for the second or subsequent ~~offense~~ violation within 30 days ~~of~~ after the penalty for a previous violation ~~shall be paid~~ is due. Other violations of the ordinances of the town shall be punished in the manner prescribed by law.

(b) Notwithstanding subsection (a) of this section, ~~a person~~ an individual violating a parking ordinance for ~~persons~~ individuals with disabilities may be ~~fined~~ assessed a civil penalty of not more than $25.00 for each ~~offense~~ violation.

Sec. 299. 23 V.S.A. § 2023(a) and (b) are amended to read:

(a) If an owner transfers ~~his or her~~ the owner's interest in a vehicle, other than by the creation of a security interest, ~~he or she~~ the owner shall, at the time of delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided ~~therefor~~ on the certificate or as the Commissioner prescribes, and of the odometer reading or hubometer reading or clock meter reading of the vehicle at the time of delivery in the space provided ~~therefor~~ on the certificate, and cause the certificate and assignment to be mailed or delivered to the transferee or to the Commissioner. Where title to

a vehicle is in the name of more than one person, the nature of the ownership must be indicated by one of the following on the certificate of title:

* * *

(b) Upon request of the owner or transferee, a lienholder in possession of the certificate of title shall, unless the transfer was a breach of ~~his or her~~ the lienholder's security agreement, either deliver the certificate to the transferee for delivery to the Commissioner or, upon receipt of notice from the transferee of the owner's assignment, the transferee's application for a new certificate, and the required fee, mail or deliver the certificate, application, and fee to the Commissioner. The delivery of the certificate does not affect the rights of the lienholder under ~~his or her~~ the lienholder's security agreement. If a dealer accepts a vehicle with a preexisting security interest as part of the consideration for a sale or trade from the dealer, the dealer shall mail or otherwise tender payment to satisfy the security interest within five days ~~of~~ after the sale or trade.

Sec. 300. 23 V.S.A. § 2027(b) is amended to read:

(b) The Commissioner, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee, and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner. If the outstanding certificate of title is not delivered to ~~him or her~~ the Commissioner,

the Commissioner shall ~~make~~ demand ~~therefor~~ the outstanding certificate of title from the holder ~~thereof~~.

Sec. 301. 23 V.S.A. § 2043(1) is amended to read:

(1) The owner shall immediately execute the application, in the space provided ~~therefor~~ on the certificate of title or on a separate form the Commissioner prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder and the date of ~~his or her~~ the lienholder's security agreement, and cause the certificate, the application, and the required fee to be delivered to the lienholder.

Sec. 302. 23 V.S.A. § 2045(b) is amended to read:

(b) Upon satisfaction of the security interest of a subordinate lienholder who does not possess the certificate of title, the subordinate lienholder shall, within 12 business days after a request for release of the security interest, fully execute a release in the form the Commissioner prescribes and deliver the release to the owner or the owner's designee. The lienholder in possession of the certificate of title shall either deliver the certificate to the owner or the owner's designee for delivery to the Commissioner or, if the lienholder in possession receives the release, mail or deliver it with the certificate to the Commissioner, who shall release the subordinate lienholder's rights on the certificate or issue a new certificate. A subordinate lienholder whose security interest is fully satisfied but receives the certificate of title pursuant to

subsection (a) of this section shall, within three business days ~~of~~ after its receipt, mail or deliver the title to the owner or the owner's designee.

Sec. 303. 23 V.S.A. § 2084(a) and (b) are amended to read:

(a) An enforcement officer, sheriff, or constable who learns of the theft of a vehicle not since recovered, or of the recovery of a vehicle whose theft or conversion ~~he or she~~ the enforcement officer, sheriff, or constable knows or has reason to believe has been reported to the Commissioner, shall ~~forthwith~~ immediately report the theft or recovery to the Commissioner.

(b) An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the Commissioner, but the Commissioner may disregard the report of a conversion unless a warrant has been issued for the arrest of ~~a person~~ an individual charged with the conversion. ~~A person~~ An individual who has so reported the theft or conversion of a vehicle shall, ~~forthwith~~ immediately after learning of its recovery, report the recovery to the Commissioner.

Sec. 304. 23 V.S.A. § 2154(a)(1) and (2) are amended to read:

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days ~~of~~ after the date of receipt of the abandoned motor vehicle certification form, the Commissioner shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department shall, within three business days ~~of~~ after receipt of the form for certification of abandoned motor vehicle, send notice to the last known registered owner and lienholder of the vehicle. The notice shall be sent by certified mail, return receipt requested, and shall advise the last known registered owner of the motor vehicle's location and a telephone number where additional information about the motor vehicle may be obtained. If the receipt is not returned to the Department within seven business days, the Commissioner shall, by first-class mail, send a second notice. Within 21 days ~~of~~ after sending the second notice, the last known registered owner or lienholder may reclaim and retrieve the motor vehicle by presenting to the Department satisfactory evidence of ownership and paying or arranging to pay any fees or charges authorized by section 2155 of this title. If the last known registered owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days ~~of~~ after the second mailing, the Commissioner shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title.

Sec. 305. 23 V.S.A. § 3007(a) is amended to read:

(a) In addition to any other provision of law relating to registration of motor vehicles, or fees paid ~~therefor~~ for the registration of motor vehicles, a person owning or operating upon the highways of the State a motor truck that is registered in the State and uses fuel as defined in section 3002 of this title

shall, for each motor truck to be so operated, apply to the Commissioner for a diesel fuel user's license, which shall be renewed at the time of renewal of the truck's registration. Application shall be made upon a form prescribed by the Commissioner and shall set forth ~~such~~ the information as the Commissioner may require. Applications filed at the time of the initial registration or renewal of a registration shall be accompanied by a $6.50 annual license fee for each motor truck listed in the application, except that no fee shall be required for motor trucks with a gross weight of less than 26,001 pounds.

Sec. 306. 23 V.S.A. § 3011(c) and (d) are amended to read:

(c) If the liability upon a bond filed by a licensee with the Commissioner becomes discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the Commissioner any surety on a bond has become unsatisfactory or unacceptable, the Commissioner shall require the licensee to file a new bond with satisfactory sureties in the same amount and, upon failure to do so, the Commissioner shall ~~forthwith~~ immediately revoke the license.

(d) If a licensee fails or refuses to increase the amount of a bond or file a bond as required by the Commissioner within 15 days after notice is mailed to ~~him or her, his or her~~ the licensee, then the licensee's license shall be revoked ~~forthwith~~ immediately.

Sec. 307. 23 V.S.A. § 3013(c) is amended to read:

(c) The Commissioner or ~~his or her~~ the Commissioner's agents may examine the books and records of any distributor, dealer, or user during the usual business hours of the day to verify the truth and accuracy of any statement, report, or return or to determine if the tax imposed by this chapter has been paid. If the books and records of a nonresident licensee are not available for examination in this State, the Commissioner may request ~~him or her to~~ that the nonresident licensee furnish at ~~his or her~~ the Commissioner's office in Montpelier ~~such~~ the books and records ~~he or she~~ the Commissioner reasonably requires. If ~~such~~ the licensee shall be unable or unwilling to comply with the request, the Commissioner is authorized to charge ~~him or her~~ the licensee a reasonable per diem fee and expenses for the auditor making ~~such~~ the examination out of state, which shall be payable within 30 days ~~of~~ after the mailing of a bill by the Commissioner.

Sec. 308. 23 V.S.A. § 3015(4) is amended to read:

(4) All taxes, interest, user license fees, and penalties collected by the Department of Motor Vehicles under this chapter shall be ~~forthwith~~ paid immediately to the State Treasurer and credited to the Transportation Fund.

Sec. 309. 23 V.S.A. § 3016(a) is amended to read:

(a) If the Commissioner is not satisfied that the report filed or the amount of tax paid by a taxpayer is accurate, after investigating and finding such inaccuracy, ~~he or she~~ the Commissioner may make an additional assessment of

taxes due from the taxpayer based upon ~~his or her~~ the Commissioner's investigation. In estimating the tax due from a licensed user, fuel consumption shall be computed at the rate of 10 miles per gallon for vehicles registered up to and including 10,000 pounds and at four miles per gallon for all vehicles registered over 10,000 pounds for any unreported Vermont mileage in excess of four percent of the operator's total Vermont mileage. Any tax assessed for mileage up to four percent of the operator's total Vermont mileage shall be assessed based on the operator's fuel consumption average for ~~his or her~~ the operator's entire fleet. A penalty equal to 10 percent and interest at the rate of one and one-half percent per month shall be payable on the additional assessment, with interest computed from the date the tax payment was due. The Commissioner shall give notice by mail to the taxpayer of the additional assessment, penalty, and interest and shall designate the error or reason for the assessment. Payment shall be due within 30 days ~~of~~ after the date of mailing the notice. The Commissioner may, in ~~his or her~~ the Commissioner's discretion, waive all or any part of the penalty.

Sec. 310. 23 V.S.A. § 3017(b) is amended to read:

(b) In addition to the fee prescribed in subsection (a) of this section, any person who fails to pay any tax when due, except a tax assessed pursuant to sections 3016 and 3018 of this title, shall pay in addition to the tax interest calculated at one and one-half percent per month on the tax from the due date, until paid. In addition, if the taxpayer fails to pay the tax liability in full within

30 days, a penalty equal to five percent of the outstanding tax liability for each month or portion ~~thereof~~ of a month shall be paid; provided, however, that in no event shall the amount of the penalty imposed ~~hereunder~~ under this section exceed 25 percent of the tax liability unpaid on the prescribed date of payment. The Commissioner may remit all or any part of the penalty if ~~he or she~~ the Commissioner is satisfied that the delay was excusable.

Sec. 311. 23 V.S.A. § 3018 is amended to read:

§ 3018. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF TAX BY COMMISSIONER; PENALTY AND INTEREST

If any person neglects or refuses to file any report required by this chapter, the Commissioner shall make an estimate of the tax due, based upon information available to the Commissioner, for the period for which that person failed to make the report and shall assess the tax due from the licensee, adding to the amount thus determined a penalty of 50 percent. In estimating the tax due from a licensed user, fuel consumption shall be computed at the rate of 10 miles per gallon for vehicles registered up to 10,000 pounds and four miles per gallon for those vehicles registered over 10,000 pounds. The assessment shall bear interest at the rate of one and one-half percent per month from the date the tax payment was due until paid. The Commissioner shall give the licensee notice by mail of the assessment and payment shall be due within 15 days ~~of~~ after the date of the mailing of the notice.

Sec. 312. 23 V.S.A. § 3024(b)(2) is amended to read:

(2) to violate any regulation issued by the Commissioner pursuant to the authority granted ~~hereunder~~ under this section; or

Sec. 313. 23 V.S.A. § 3105(b) is amended to read:

(b) The Commissioner or ~~his or her~~ the Commissioner's agents may examine the books and records of any distributor or dealer during the usual business hours of the day to verify the truth and accuracy of any statement, record, report, or return or to determine if the tax imposed by this chapter has been paid. If the books and records of a nonresident licensee are not available for examination in this State, the Commissioner may request ~~him or her to~~ that the nonresident licensee furnish at ~~his or her~~ the Commissioner's office in Montpelier ~~such~~ the books and records ~~he or she~~ the Commissioner reasonably requires. If the licensee is unable or unwilling to comply with the request, the Commissioner is authorized to charge ~~him or her~~ the licensee a reasonable per diem fee and expenses for the auditor making the examination out of state, which shall be payable within 30 days ~~of~~ after the mailing of a bill by the Commissioner.

Sec. 314. 23 V.S.A. § 3110(a) is amended to read:

(a) If the Commissioner is not satisfied that the report filed or the amount of tax paid by a distributor is accurate, after investigating and finding such inaccuracy, ~~he or she~~ the Commissioner may make an additional assessment of taxes due from the distributor based upon ~~his or her~~ the Commissioner's

investigation. A penalty equal to 10 percent and interest at the rate of one and one-half percent per month shall be payable on the additional assessment, with interest computed from the date the tax payment was due. The Commissioner shall give notice by mail to the distributor of the additional assessment. Payment shall be due within 30 days ~~of~~ after the date of mailing the notice.

Sec. 315. 23 V.S.A. § 3111 is amended to read:

§ 3111. NEGLECT OR REFUSAL TO FILE A REPORT; ESTIMATE OF TAX BY COMMISSIONER; PENALTY AND INTEREST

If a distributor neglects or refuses to file any report required by this chapter, the Commissioner shall make an estimate of the tax due, based upon information available to the Commissioner, for the period for which the distributor failed to make the report, and shall assess the tax due from the licensee, adding to the amount thus determined a penalty of 50 percent. The assessment shall bear interest at the rate of one and one-half percent per month from the date the tax payment was due until paid. The Commissioner shall give the licensee notice by mail of the assessment and payment shall be due within 15 days ~~of~~ after the date of the mailing of the notice.

Sec. 316. 23 V.S.A. § 3117(c) and (d) are amended to read:

(c) If the liability upon a bond filed by a licensee with the Commissioner becomes discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the Commissioner any surety on a bond has become unsatisfactory or unacceptable, the Commissioner shall

require the licensee to file a new bond with satisfactory sureties in the same amount and, upon failure to do so, the Commissioner shall ~~forthwith~~ immediately revoke the license.

(d) If a licensee fails or refuses to increase the amount of a bond or file a bond as required by the Commissioner within 15 days after notice mailed to ~~him or her, such~~ the licensee, then the license shall be revoked ~~forthwith~~ immediately.

Sec. 317. 23 V.S.A. § 3219(a) is amended to read:

(a) The Commissioner may impose an administrative penalty of not more than $250.00 against VAST or its agent for each violation of this subchapter or the rules adopted ~~thereunder~~ under this subchapter. A penalty arising from a single violation may be assessed against VAST or its agent, as may be appropriate, but not against both.

Sec. 318. 23 V.S.A. § 3305(g) is amended to read:

(g) The owner shall notify the Commissioner of the transfer of any part of ~~his or her~~ the owner's interest other than the creation of a security interest in a motorboat numbered in this State under subsections (a) and (b) of this section or of the destruction or abandonment of the motorboat, within 15 days ~~of~~ after the transfer, destruction, or abandonment. The transfer, destruction, or abandonment shall end the certificate of number for the motorboat except that in the case of a transfer of a part interest which does not affect the owner's

right to operate the motorboat, the transfer shall not end the certificate of number.

Sec. 319. 23 V.S.A. § 3703 is amended to read:

§ 3703. TEMPORARY AUTHORIZATION

Any International Registration Plan registrant based in this State may apply by mail and be issued temporary authorization to operate a vehicle not in the registrant's fleet for a period not to exceed 45 days for a fee of $15.00. Any person to whom temporary authorization is issued shall submit an application by mail for permanent registration for the vehicle covered by the temporary authorization within 10 days ~~of~~ after the date of its issuance. Failure to submit an application within the 10-day period may result in the suspension of the temporary authorization. The temporary authorization shall be kept with the vehicle while being operated.

Sec. 320. 23 V.S.A. § 3705(b) is amended to read:

(b) The Commissioner shall mail notice of any fees due to the registrant, and payment of these fees must be received within 15 days ~~of~~ after the date of the notice.

Sec. 321. 23 V.S.A. § 3823(b) is amended to read:

(b) A security interest is perfected by the delivery to the Commissioner of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the lienholder and the date of ~~his or her~~ the lienholder's security agreement, and the required fee. It is perfected as of the

time of its creation if delivery is completed within 20 days ~~thereafter~~ after the time of its creation, otherwise as of the time of the delivery.

Sec. 322. 23 V.S.A. § 3823(c)(1) is amended to read:

(1) If the parties understood at the time the security interest attached that the vessel, snowmobile, or all-terrain vehicle would be kept in this State and it was brought into this State within 30 days ~~thereafter~~ after the time the security interest attached for purposes other than transportation through this State, the validity of the security interest in this State is determined by the law of this State.

Sec. 323. 23 V.S.A. § 3831 is amended to read:

§ 3831. REPORT OF THEFT; RECOVERY OF UNCLAIMED VESSEL, SNOWMOBILE, OR ALL-TERRAIN VEHICLE

(a) An enforcement officer, sheriff, or constable who learns of the theft of a vessel, snowmobile, or all-terrain vehicle not since recovered, or of the recovery of a vessel, snowmobile, or all-terrain vehicle whose theft or conversion ~~he or she~~ the enforcement officer, sheriff, or constable knows or has reason to believe has been reported to the Commissioner, shall ~~forthwith~~ immediately report the theft or recovery to the Commissioner.

(b) An owner or a lienholder may report the theft of a vessel, snowmobile, or all-terrain vehicle, or its conversion if a crime, to the Commissioner, but the Commissioner may disregard the report of a conversion unless a warrant has been issued for the arrest of ~~a person~~ an individual charged with the

conversion. ~~A person~~ An individual who has reported the theft or conversion of a vessel, snowmobile, or all-terrain vehicle shall, ~~forthwith~~ immediately after learning of its recovery, report the recovery to the Commissioner.

(c) An operator of a place of business for garaging, repairing, parking, or storing vessels, snowmobiles, or all-terrain vehicles for the public, in which a vessel, snowmobile, or all-terrain vehicle remains unclaimed for a period of 30 days, shall, within five days after the expiration of that period, report the vessel, snowmobile, or all-terrain vehicle as unclaimed, to the Commissioner. A vessel, snowmobile, or all-terrain vehicle left by its owner whose name and address are known to the operator or ~~his or her~~ the operator's employee is not considered unclaimed. ~~A person~~ An individual who fails to report a vessel, snowmobile, or all-terrain vehicle as unclaimed in accordance with this subsection forfeits all claims and liens for its garaging, parking, or storing and shall be fined not more than $25.00 for each day ~~his or her~~ the individual's failure to report continues.

Sec. 324. 23 V.S.A. § 4108(d)(2)(B) is amended to read:

(B) was exempted from the commercial ~~driver~~ driver's license requirements in 49 C.F.R. § 383.3(c); and

Sec. 325. 23 V.S.A. § 4110(b) is amended to read:

(b) When a licensee or permittee changes the licensee's or permittee's name, mailing address, or residence or in the case of the loss, mutilation, or destruction of a license or permit, the licensee or permittee shall ~~forthwith~~

immediately notify the Commissioner and apply in person for a duplicate license or permit in the same manner as set forth in subsection (a) of this section. The fee for a duplicate license or permit shall be $18.00.

* * * Title 24 * * *

Sec. 326. 24 V.S.A. § 2792 is amended to read:

§ 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

* * *

(b) ~~[Repealed.]~~

~~(c)~~ The State Board shall elect a chair and vice chair from among its membership.

~~(d)~~(c) The Department shall provide staff and administrative support to the State Board, shall produce guidelines to direct municipalities seeking to obtain designation under this chapter, and shall pay per diem compensation for board members pursuant to 32 V.S.A. § 1010(b).

~~(e) [Repealed.]~~

~~(f) [Repealed.]~~

Sec. 327. 24 V.S.A. § 2793e(d) is amended to read:

(d) Designation process. ~~Upon~~ At the first meeting of the State Board held after 45 days ~~of~~ after receipt of a completed application, for designation of a neighborhood development area, the State Board, after opportunity for public comment, shall approve a neighborhood development area if the Board determines that the applicant has met the requirements of this section.

Sec. 328. 24 V.S.A. § 4303(8)(F)(i) is amended to read:

(i) Any project or improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications that are solely necessary to ~~assure~~ ensure safe living conditions.

Sec. 329. 24 V.S.A. § 4442(d) is amended to read:

(d) Petition for popular vote. Notwithstanding ~~subdivision~~ subsection (c)~~(1)~~ of this section, a vote by the legislative body on a bylaw, amendment, or repeal shall not take effect if five percent of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment, or repeal, and the petition is filed within 20 days of the vote. In that case, a meeting of the municipality shall be duly warned for the purpose of acting by Australian ballot upon the bylaw, amendment, or repeal.

* * * Title 26 * * *

Sec. 330. 26 V.S.A. § 376(c) is amended to read:

(c) After giving an opportunity for a hearing, the Board shall take disciplinary action described in subsection ~~1361(b)~~ 1374(b) of this title against a podiatrist or applicant found guilty of unprofessional conduct.

Sec. 331. 26 V.S.A. § 1836(b) is amended to read:

(b) The Director may adopt rules necessary for the protection of the public to ~~assure~~ ensure that an applicant whose license has lapsed or who has not worked for more than three years as an osteopathic physician is professionally

qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

* * * Title 28 * * *

Sec. 332. 28 V.S.A. § 724(d)(3) is amended to read:

(3) The offender's violation is absconding from community supervision furlough. ~~As used in this subdivision, "absconding" means:~~

Sec. 333. REPEAL

28 V.S.A. § 808d (definitions for the already repealed 28 V.S.A. § 808c) is repealed.

* * * Title 29 * * *

Sec. 334. 29 V.S.A. § 161 is amended to read:

§ 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

(a) ~~Bids; selection.~~

(1) When the construction cost of any State project exceeds the sum of $50,000.00, the Commissioner of Buildings and General Services shall publicly advertise or invite three or more bids. The contract for any such State project or improvement shall be awarded to one of the three lowest responsible bidders, conforming to specification, with consideration being given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, and ~~his or her~~ the bidder's ability to render satisfactory service, but the Commissioner of Buildings and General

Services with the approval of the Secretary of Administration, shall have the right to reject any and all bids and to invite other bids.

* * *

(b) Each contract awarded under this section for any State project with a construction cost exceeding $100,000.00, a construction project with a construction cost exceeding $200,000.00 that is authorized and at least 50 percent funded by a capital construction act pursuant to 32 V.S.A. § 701a, or a construction project with a construction cost exceeding $200,000.00 that is at least 50 percent funded by the Cash Fund for Capital ~~Infrastructure~~ and ~~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.

* * * Title 30 * * *

Sec. 336. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC UTILITY COMMISSION

* * *

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the Commission may be removed only for cause. When a Commission member who hears all or a substantial part of a case retires from office before ~~such~~ the case is completed, ~~he or she~~ the member shall remain a member of the Commission for the purpose of concluding and deciding ~~such~~ the case, and signing the findings, orders, decrees, and judgments ~~therein~~. A retiring chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For ~~such~~ this service, ~~he or she~~ the member shall receive a reasonable compensation to be fixed by the remaining members of the Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the Commission enters a final order ~~therein~~ on it even though ~~such~~ the order is appealed to the Supreme Court and the case remanded by that Court to the Commission. Upon remand the Commission then in office may in its discretion consider relevant evidence

including any part of the transcript of testimony in the proceedings prior to appeal.

* * *

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.

* * *

(4) The rules, when initially prescribed or any amendments to them, including any repeal, modification, or addition, shall take effect on the date provided by the Commission in its order of promulgation unless objected to by the Legislative Committee on Judicial Rules as provided in 12 V.S.A. chapter 1. If an objection is made by the Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been reported to the General Assembly by the Chair of the Commission at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days ~~of~~ following that session, including the date of the filing of the report.

* * *

Sec. 339. 30 V.S.A. § 12 is amended to read:

§ 12. REVIEW BY SUPREME COURT

A party to a cause who feels aggrieved by the final order, judgment, or decree of the Commission may appeal to the Supreme Court. However, the Commission, in its discretion and before final judgment, may permit an appeal to be taken by any party to the Supreme Court for determination of questions of law in ~~such~~ the manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court. Notwithstanding the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing

of a notice of appeal, as provided ~~herein~~, shall operate as a stay of enforcement of an order of the Commission unless the Commission or the Supreme Court grants a stay under the provisions of section 14 of this ~~title~~ chapter.

Sec. 340. 30 V.S.A. § 17 is amended to read:

§ 17. FEES OF WITNESSES; DUTIES OF CLERK

The fees of witnesses before the Commission shall be the same as in the Superior Court. In all causes ~~in~~ on behalf of or for the convenience or safety of the public, and in the investigation of accidents, the fees of witnesses and the expense of summoning them shall be paid by the clerk of the Commission. From time to time, the clerk shall make requisition on the Commissioner of Finance and Management for money to pay ~~such~~ the fees and expenses, and the Commissioner of Finance and Management shall issue warrants ~~therefor~~ for them. The clerk shall quarterly, on February, May, August, and November 1, render to the Commissioner of Finance and Management an account of ~~his or her~~ receipts and disbursements under this section, and pay any unexpended balance into the State Treasury.

Sec. 341. 30 V.S.A. § 20(b) is amended to read:

(b) Proceedings, including appeals ~~therefrom~~, for which additional personnel may be retained are:

* * *

Sec. 342. 30 V.S.A. § 21 is amended to read:

§ 21. PARTICULAR PROCEEDINGS AND ACTIVITIES; ASSESSMENT OF COSTS

(a) An agency may allocate the portion of the expense incurred or authorized by it in retaining additional personnel pursuant to section 20 of this ~~title~~ chapter to the applicant or the company or companies involved. As used in this section, "agency" means an agency, board, commission, or department of the State enabled to authorize or retain personnel under section 20 of this ~~title~~ chapter.

(1) The Commission shall upon petition of an applicant or company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and complexity of the project, the necessity and reasonableness of ~~such~~ the costs, and may amend or revise ~~such~~ the allocations. Nothing in this section shall confer authority on the Commission to select or decide the personnel, the expenses of whom are being allocated, unless such personnel are retained by the Commission. Prior to allocating costs, the Commission shall make a determination of the purpose and use of the funds to be raised ~~hereunder~~, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of the retention of personnel whose costs are being allocated, and estimate the total costs to be imposed. With the approval of the Commission, ~~such~~ the estimates may be revised as necessary. From time to

time during the progress of the work of ~~such~~ the additional personnel, the agency retaining the personnel shall render to the company detailed statements showing the amount of money expended or contracted for in the work of ~~such~~ the personnel, which statements shall be paid by the applicant or the company into the State Treasury at ~~such~~ the time and in ~~such~~ the manner as the agency may reasonably direct.

* * *

Sec. 343. 30 V.S.A. § 22(a) is amended to read:

(a) For the purpose of maintaining the Department of Public Service and Public Utility Commission, including expenses related to maintaining an adequate engineering, legal, and administrative force in the Department of Public Service and paying all the incidental expenses ~~incident thereof~~, including rents, each person, partnership, association, or private or municipal corporation conducting a business subject to the supervision of the Department of Public Service and Public Utility Commission, including electric cooperatives, shall pay into the State Treasury on or before April 15 annually, in addition to the taxes now required by law to be paid, a tax, at the rate ~~hereinafter~~ named, according to the nature of the public service business engaged in by such person, partnership, association, or private or municipal corporation, based on the gross operating revenue received by such person, partnership, association, or private or municipal corporation in the conduct of such business in the State during the year next preceding, as shown by the

annual report filed on or before such date with the Department of Public Service on the form prescribed by it and containing such information as may be necessary to enable the Department to determine the amount of the tax payable.

Sec. 344. 30 V.S.A. § 23 is amended to read:

§ 23. PUBLIC SERVICE RESERVE FUND

There is ~~hereby~~ created a fund to be known as the Public Service Reserve Fund for the purpose of providing the financial means for the Public Utility Commission and the Department of Public Service to employ legal counsel, official stenographers, and disinterested competent persons to examine into and testify in any matter involved in a hearing under sections 218, 225, 226, and 227 of this title other than the hearings referred to in sections 20 and 21 of this ~~title~~ chapter. Payments into the Public Service Reserve Fund shall be made as follows: All electric distribution companies, cooperative, municipal, and privately owned, which have been allocated a share of St. Lawrence power by the Department, shall pay into the State Treasury for such reserve on or before September 15, 1961 and September 15, 1962, in addition to the taxes now required by law to be paid, a tax to produce a total of $37,500.00 in the aggregate for each such payment to be paid by each such company in proportion to its purchase of St. Lawrence power, during the calendar years 1959 and 1960. Thereafter, on June 30 of each year, there shall be deducted from the balance in the special fund for the maintenance of the Department's

engineering and accounting force and personnel employed by the Commission the tax revenues payable under section 22 of this ~~title~~ chapter in that year, and the balance thus determined shall be transferred from the special fund for the maintenance of the engineering and accounting force to the Public Service Reserve Fund; provided, however, that, if at June 30 of any year the balance in ~~such~~ the public service reserve fund shall be in excess of $100,000.00, the amount of ~~such~~ excess shall ~~forthwith~~ immediately be transferred to the General Fund.

Sec. 345. 30 V.S.A. § 25 is amended to read:

§ 25. ASSESSMENT

When the Department of Public Service discovers from the examination of the return or otherwise that the revenue of any company, or any portion ~~thereof~~ of it, has not been assessed, it may at any time within two years after the time when the return was due, assess the same and give notice to the company of ~~such~~ the assessment, and within 30 days ~~such~~ the company shall ~~thereupon~~ have an opportunity to confer with the Department as to the proposed assessment. The limitation of two years to the assessment of ~~such~~ the tax or additional tax shall not apply to the assessment of additional taxes upon fraudulent returns. After the expiration of 30 days ~~from such~~ following the notification, the Department shall reassess the revenue of ~~such~~ the company or any portion ~~thereof which~~ of it that it finds has not ~~theretofore~~ been assessed and shall give notice to the company so reassessed, of the amount of the tax

and interest and penalties, if any, and the amount ~~thereof~~ shall be due and payable within 10 days ~~from~~ following the date of ~~such~~ notice. No additional tax amounting to less than $1.00 shall be assessed.

Sec. 346. 30 V.S.A. § 27 is amended to read:

§ 27. REVIEW

The assessment by the Commission or Department of Public Service of any tax or penalty under the provisions of sections 20–25 of this ~~title~~ chapter may be appealed to the Washington Superior Court. The appeal shall be filed within 90 days after the receipt by the company or its agent of written notice by the Commission or Department of its assessment. ~~Thereupon, appropriate~~ Appropriate proceedings shall be ~~had~~ held and the relief, if any, to which the company may be found entitled may be granted and any taxes, interest, or penalties paid~~,~~ and found by the Court to be illegally assessed~~,~~ shall be ordered refunded to the company with interest at six percent per annum from the time of payment, with costs~~,~~ and judgment entered accordingly.

Sec. 347. 30 V.S.A. § 30(h) is amended to read:

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes after investigation violated section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections.

* * *

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

* * *

(ii) Within 15 days ~~of~~ following the close of the comment period, may file a revised draft citation with the Commission. The revised draft citation may be accompanied by a stipulation or agreed settlement between the person and the Department with a request for Commission approval.

(D) The Commission may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Commission shall take any such action within 25 days ~~of~~ following the close of the public comment period~~,~~ or the filing of a revised draft citation, whichever is later. ~~Such a~~ The Commission proceeding shall supersede the draft citation.

(3) If the Commission has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative citation to the person. Within 30 days ~~of~~ following receipt of a final administrative citation, the person shall respond in one of the following ways:

* * *

Sec. 348. 30 V.S.A. § 32 is amended to read:

§ 32. INJUNCTION PROCEEDINGS

Whenever the Department of Public Service is of the opinion that a company subject to its supervision is failing or omitting or is about to fail or omit to do anything required of it by law or by order of the Commission or is doing anything or permitting anything or is about to do anything or to permit anything to be done contrary to or in violation of law or of any order of the Commission, the Department of Public Service may commence an action or proceeding in the Superior Court for the purpose of having ~~such~~ the violations or threatened violations stopped and prevented by injunction. ~~Such~~ An action or proceeding shall begin by a petition alleging the violation complained of and praying for appropriate relief by way of injunction. It shall ~~thereupon~~ be the duty of the court to specify the time, not exceeding 21 days after service of a copy of the petition, within which the company complained of must answer the petition, and the court may grant a temporary injunction in accordance with the laws of the State and rules in ~~such~~ the case made and provided. The obtaining of a temporary injunction shall constitute a waiver by the State of its sovereign immunity to pay the person enjoined damages as ~~such~~ the person may sustain by reason for ~~such~~ the injunction if the court shall eventually decide that the State was not equitably entitled ~~thereto~~ to it and the State shall be liable to pay to the person enjoined ~~such~~ the sums as would be payable by any other person in the premises. In case of default in answer, or after answer,

the court shall immediately inquire into the facts and circumstances in ~~such~~ the manner as the court directs without other or formal pleadings and without respect to any technical requirement. ~~Such other~~ Other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order, judgment, or writs effective may be joined as parties upon application of counsel to the Department. The final judgment in any ~~such~~ action or proceeding shall either dismiss the action or proceeding or direct that an injunction be issued as prayed for in the petition or in such modified form as the court may determine will afford appropriate relief.

Sec. 349. 30 V.S.A. § 51 is amended to read:

§ 51. RESIDENTIAL BUILDING ENERGY STANDARDS; STRETCH CODE

* * *

(f) Certification.

(1) Issuance; recording. A certification may be issued by a builder, a licensed professional engineer, a licensed architect, or an accredited home energy rating organization. If certification is not issued by a licensed professional engineer, a licensed architect, or an accredited home energy rating organization, it shall be issued by the builder. Any certification shall certify that residential construction meets the RBES. The Department of Public Service will develop and make available to the public a certificate that lists key features of the RBES. Any person certifying shall use this certificate or one

substantially like it to certify compliance with the RBES. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. The certificate shall certify that the residential building has been constructed in compliance with the requirements of the RBES. The person certifying under this subsection shall provide a copy of each certificate to the Department of Public Service and shall ~~assure~~ ensure that a certificate is recorded and indexed in the town land records. A builder may contract with a licensed professional engineer, a licensed architect, or an accredited home energy rating organization to issue certification and to indemnify the builder from any liability to the owner of the residential construction caused by noncompliance with the RBES.

* * *

(g) Action for damages.

(1) Except as otherwise provided in this subsection, a person aggrieved by noncompliance with this section may bring a civil action against a person who has the obligation of certifying compliance under subsection (e) of this section. ~~This action~~ The person may seek injunctive relief, damages, court costs, and attorney's fees. As used in this subdivision, "damages" means:

* * *

Sec. 350. 30 V.S.A. § 53(e) is amended to read:

(e) Private right of action for damages against a certifier.

(1) Except as otherwise provided in this subsection, a person aggrieved by another person's breach of that other person's representations contained in a certification or supporting affidavit issued or received as provided under subsection (d) of this section, within 10 years after the earlier of completion of construction or occupancy of the affected commercial building or portion of that building, may bring a civil action in Superior Court against a person who has an obligation of certifying compliance under subsection (d) of this section alleging breach of the representations contained in that person's certification. ~~This action~~ The person may seek injunctive relief, damages arising from the aggrieved party's reliance on the accuracy of those representations, court costs, and reasonable attorney's fees in an amount to be determined by the court. As used in this subdivision, "damages" includes costs incidental to increased energy consumption.

* * *

Sec. 351. 30 V.S.A. § 102(c) is amended to read:

(c) For good cause, after an opportunity for hearing, the Commission may amend or revoke any certificate awarded under the provisions of this section. If any ~~such~~ certificate is revoked, the corporation shall no longer have authority to conduct any business that is subject to the jurisdiction of the

Commission, whether or not regulation ~~thereunder~~ has been reduced or suspended under section 226a or 227a of this title.

Sec. 352. 30 V.S.A. § 106 is amended to read:

§ 106. OWNERSHIP OF STOCK IN OTHER CORPORATIONS

When a corporation subject to the regulation of the Public Service Commission, prior to April 2, 1915, was authorized by its charter or otherwise to hold stock in another corporation, ~~such~~ the public service corporation may petition the Public Utility Commission for authority to increase the amount of stock of ~~such~~ the other corporation ~~which~~ that may be owned by the petitioning corporation. If the Commission finds and adjudges that ~~such~~ an increase will promote the general good of the State, it may issue its certificate and order authorizing the same, and t~~hereupon~~ the charter or articles of incorporation shall be amended to conform to ~~such~~ the order.

Sec. 353. 30 V.S.A. § 107(e)(2) is amended to read:

(2) "Voting security" means any stock or security presently entitling the owner or holder ~~thereof~~ to vote in the direction or management of the affairs of a company or any security issued under or pursuant to any agreement, trust, or arrangement ~~whereby~~ where a trustee or trustees or agent or agents for the owner or holder of ~~such~~ a security are presently entitled to vote in the direction or management of the affairs of a company.

Sec. 354. 30 V.S.A. § 108(c) is amended to read:

(c)(1) A municipality shall not issue bonds or notes or pledge its net revenues under 24 V.S.A. chapter 53, respecting the ownership or operation of a gas or electric utility, unless the Public Utility Commission first finds, upon petition of the municipality and after notice and an opportunity for hearing, that the proposed action will be consistent with the general good of the State.

(2) If the Public Utility Commission does not issue its ruling within 90 days ~~of~~ following the filing of the petition, as may be extended by consent of the municipality, the issuance of the proposed bonds or notes or pledge of net revenues shall be deemed to be consistent with the general good of the State.

* * *

Sec. 355. 30 V.S.A. § 110 is amended to read:

§ 110. EMINENT DOMAIN; COMPANIES AUTHORIZED

When it is necessary for a corporation formed under this chapter or a foreign corporation under the jurisdiction of the Public Utility Commission to acquire property within this State, or some easement or other limited right in ~~such~~ property in order that it may render adequate service to the public in the conduct of its business, it may condemn ~~such~~ property or right, as provided in sections 111–124 of this ~~title~~ chapter. All other companies, as defined in sections 201 and 501 of this title, which are within the scope of sections 203 and 501 of this title, shall have the same power of condemnation and be subject

to the same procedure as ~~hereinafter~~ provided for condemnation by corporations subject to the jurisdiction of the Public Utility Commission.

Sec. 356. 30 V.S.A. § 112(a) is amended to read:

(a) When the Commission finds:

(1) ~~In~~ in the case of dams, that a certificate of public good authorizing the project as ~~herein~~ required, or a license from the Federal Power Commission has been granted; ~~and~~

(2) ~~That~~ that the condemnation of ~~such~~ property or right is necessary in order that the petitioner may render adequate service to the public in the conduct of the business which it is authorized to conduct, and in conducting which it will, according to the laws of this State, be under an obligation to serve the public on reasonable terms, and pursuant to the ~~regulations~~ rules of the Commission;

(3) ~~That~~ that the condemnation of the property or right will not unduly interfere with the orderly development of the region and scenic preservation; and

(4) ~~That~~ that the condemnation of ~~such~~ property or right is sought in order that the petitioner may render adequate service to the public in the conduct of such business, the Commission shall adjudge the petitioner entitled to condemn ~~such~~ property or right, shall assess the compensation to be paid ~~therefor~~, and shall determine the time and manner of such payment.

Sec. 357. 30 V.S.A. § 113 is amended to read:

§ 113. COMPENSATION; WHERE PARTY CANNOT BE FOUND

When a person to whom ~~such~~ compensation ~~or any part thereof~~ is due cannot be found, ~~or~~ is under any legal disability, or is out of this State, the Commission may order ~~such~~ the compensation ~~or part thereof~~ to be deposited with the county clerk of the county ~~wherein~~ where the hearing was held. ~~Such~~ The money shall be invested and paid out according to orders made by a Superior judge.

Sec. 358. 30 V.S.A. § 123 is amended to read:

§ 123. EXPENSE

The entire expense of whatever land may be necessary for the reinterment of ~~such~~ remains and the cost of removal and reerection of headstones or monuments shall be paid by the corporation acquiring ~~such~~ the burial ground and the easement ~~therein~~.

Sec. 359. 30 V.S.A. § 126 is amended to read:

§ 126. SAVING CLAUSE; CORPORATIONS FORMED BEFORE APRIL 2, 1915

All corporations formed prior to April 2, 1915, by special act or under the general laws of this State, that are conducting any business subject to regulation by the Public Utility Commission~~,~~ shall, with respect to acts done after ~~such~~ that date, be deemed to be within the provisions of this chapter and the provisions of the general corporation law in like manner as a corporation

formed under this chapter. However, a corporation ~~theretofore~~ formed shall not do any act in violation of any restriction contained in its charter. ~~The foregoing provisions of this section shall be subject to the exceptions and qualifications contained in 11 V.S.A. §§ 2 and 3, so far as the same may be applicable to corporations formed under the provisions of this chapter.~~

Sec. 360. 30 V.S.A. § 127 is amended to read:

§ 127. UTILITY POLES IN EASEMENTS ACROSS PRIVATE PROPERTY

(a) Utility easements and State rules regarding utility rights of way and pole attachments shall include, as an authorized utility use, the installation of fiber-optic cable for purposes of providing broadband service to the public or for providing utility network management and monitoring, or both. ~~Such~~ The use of the utility easement and right of way is generally of the type contemplated in utility easements, does not materially burden the landowner beyond what was intended in the conveyance or condemnation, serves the public good, and facilitates the construction of broadband networks ~~as contemplated in this act~~.

(b) This section shall apply to all utility easements and State rules in effect on or after ~~the effective date of this act~~ June 8, 2021. This section shall not apply to an easement that contains an express prohibition on the installation and operation of fiber-optic cable.

Sec. 361. 30 V.S.A. § 202(i) is amended to read:

(i) It shall be a goal of the Electrical Energy Plan to ~~assure~~ ensure, by 2028, that at least 60 MW of power are generated within the State by combined heat and power (CHP) facilities powered by renewable fuels as defined in section 8002 of this title. In order to meet this goal, the Plan shall include incentives for development and strategies to identify locations in the State that would be suitable for CHP. The Plan shall include strategies to ~~assure~~ ensure the consideration of CHP potential during any process related to the expansion of natural gas services in the State.

Sec. 362. 30 V.S.A. § 202e is amended to read:

§ 202e. TELECOMMUNICATIONS AND CONNECTIVITY

* * *

(c)(1) The Director may request from telecommunications service providers voluntary disclosure of information regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. ~~Such~~ The information may include data identifying projected coverage areas, projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities.

(2) The Director may enter into a nondisclosure agreement with respect to any voluntary disclosures under this subsection, and the information disclosed ~~pursuant thereto~~ shall remain confidential. Alternatively, entities that

voluntarily provide information requested under this subsection may select a third party to be the recipient of ~~such~~ the information. The third party may aggregate information provided by the entities, but shall not disclose provider-specific information it has received under this subsection to any person, including the Director. The third party shall only disclose the aggregated information to the Director. The Director may publicly disclose aggregated information based upon the information provided under this subsection. The confidentiality requirements of this subsection shall not affect whether information provided to any agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

* * *

Sec. 363. 30 V.S.A. § 203 is amended to read:

§ 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES

The Public Utility Commission and the Department of Public Service shall have jurisdiction over the following described companies within the State, their directors, receivers, trustees, lessees, or other persons or companies owning or operating ~~such~~ the companies and of all plants, lines, exchanges, and equipment of ~~such~~ the companies used in or about the business carried on by them in this State as covered and included ~~herein~~ in this chapter. ~~Such~~ This jurisdiction shall be exercised by the Commission and the Department so far as may be necessary to enable them to perform the duties and exercise the powers conferred upon them by law. The Commission and the Department may, when

they deem the public good requires, examine the plants, equipment, lines, exchanges, stations, and property of the companies subject to their jurisdiction under this chapter.

* * *

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 attaching entity may hire a qualified contractor to complete the make-ready work. All pole owners and attaching entities shall submit to the Commission a list of contractors whom they allow to perform make-ready surveys, make-ready installation or maintenance, or other specified tasks upon their equipment. The Commission shall provide the appropriate list to an attaching entity, upon request.

* * *

Sec. 365. 30 V.S.A. § 209a(n) is amended to read:

(n) Report to ~~Legislature~~ General Assembly. Upon approval of a cost mitigation order, the Commission shall submit a report to the ~~Legislature~~ General Assembly containing the order and detailed information on the findings of the Commission, including the risks, savings, and costs likely to result from the buydowns and other appropriate modifications of purchase power arrangements contained in the order.

Sec. 366. 30 V.S.A. § 210 is amended to read:

§ 210. ELECTRIC COMPANIES; INTERCONNECTION FACILITIES

(a) The Public Utility Commission shall have jurisdiction to order electric companies subject to its supervision to build or rebuild electric transmission lines in order to provide adequate interconnection between the transmission

systems of the State. The Commission shall have power to exercise ~~the~~ this jurisdiction ~~herein conferred~~ only after due notice to all interested parties and opportunity for hearing and after making findings based upon adequate evidence that the ordered construction:

(1) is necessary in the interests of consumers of electrical energy;

(2) is not detrimental to the interests of the investors of the company ordered to build or rebuild; and

(3) will serve the public good.

(b) The Commission may allocate the cost of building or rebuilding between the companies whose facilities are to be interconnected, providing that the findings ~~herein~~ referred to are made as to each company affected by ~~such~~ the allocation.

Sec. 367. 30 V.S.A. § 212c(b) is amended to read:

(b) The Commission shall make its final determination under this subsection within six months after a filing by the Department. The Department's rate filings and any adjustments or exceptions ~~thereto~~ to them shall be consistent with the procedures set forth in sections 225, 226, 227, 228, and 229 of this ~~title~~ chapter, where applicable.

Sec. 368. 30 V.S.A. § 212d is amended to read:

§ 212d. ACCESS; NEGOTIATIONS; COMMISSION ORDER

(a) Upon a finding by the Commission that the retail sale will promote the general good of the State under section 212c of this ~~title~~ subchapter, Vermont

electric utility companies shall enter into negotiations for contracts with the Department that are necessary for sale and distribution, including lease of facilities, provision of services to the Department to distribute electric energy, and the assurance of adequate reliability. The rates, charges, terms, or other conditions of such contracts shall be established by negotiations or pursuant to subsection (b) of this section. No electric utility company with which the Department shares a service territory may unreasonably deny replacement power needed by the Department to ~~assure~~ ensure adequate reliability of service.

(b) If, pursuant to subsection (a) of this section, the Department and a company are unable to negotiate the rates, charges, terms, or other conditions of ~~such~~ the contracts including the assurance of adequate reliability, either may petition the Public Utility Commission to establish the rates, terms, charges, or conditions ~~thereunder~~, or resolve any other related matter, as the Commission determines to be just and reasonable. The Commission shall establish rates or charges under this section to compensate or reimburse such company for all costs reasonably and necessarily incurred by it to provide such arrangements. The Commission shall offer an opportunity for commencing a hearing within 45 days ~~of~~ following filing of the petition and shall make either a final decision or, if unable to do so, an interim decision within three months of filing of the petition. If, within three months of filing, the Commission is unable to reach a final decision on the petition, the Commission shall direct the company to

provide to the Department the necessary arrangements, including if necessary or appropriate, backup reliability, and access to facilities to allow the Department to distribute the electric energy involved in its proposal on an interim basis under such interim terms and conditions as the Commission finds to be reasonable pending a final Commission decision on the petition. The Commission shall render a final decision on the petition within six months ~~from~~ following the date it is filed.

Sec. 369. 30 V.S.A. § 218(a) is amended to read:

(a) When, after opportunity for hearing, the rates, tolls, charges, or schedules are found unjust, unreasonable, insufficient, or unjustly discriminatory, or are found to be preferential or otherwise in violation of a provision of this chapter, the Commission may order and substitute ~~therefor~~ such rates, tolls, charges, or schedules, and make such changes in any ~~regulations~~ rules, measurements, practices, or acts of such company relating to its service, and may make such order as will compel the furnishing of such adequate service as shall at such hearing be found by it to be just and reasonable. This section shall not be construed to require the same rates, tolls, or charges from any company subject to supervision under this chapter for like service in different parts of the State, but the Commission in determining these questions shall investigate local conditions and its final findings and judgment shall take cognizance thereof. This section does not prohibit a telecommunications company from filing tariffs that condition the availability

of an intrastate service upon subscription to an interstate or unregulated service from the same or an affiliated company; provided that an incumbent local exchange carrier shall provide a plan to allocate reasonably revenue between the regulated intrastate service and other services. The Commission shall retain the authority to review the tariff filing to determine whether it is just and reasonable.

Sec. 370. 30 V.S.A. § 218d is amended to read:

§ 218d. ALTERNATIVE REGULATION OF ELECTRIC AND NATURAL GAS COMPANIES

* * *

(n)(1) Notwithstanding subsection (a) of this section and sections 218, 225, 226, 227, and 229 of this ~~title~~ chapter, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to change its rates for service to its customers if the rate change is:

(A) applied to all customers equally;

(B) not more than two percent during any twelve-month period;

(C) cumulatively not more than 10 percent from the rates last approved by the Commission; and

(D) not going to take effect more than 10 years from the last approval for a rate change from the Commission.

(2) The municipal company or electric cooperative shall provide written notice of a rate change pursuant to this subsection to its customers, the Department of Public Service, and the Commission at least 45 days prior to implementing the rate change. Included with the submission shall be a rate analysis describing the rationale for the rate change. Unless an objection to the rate change is filed by the Department of Public Service with the Commission within 45 days ~~of~~ following this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may implement the rate change.

* * *

(o)(1) Notwithstanding subsections (a) and (n) of this section and sections 218, 225, 226, 227, and 229 of this ~~title~~ chapter, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to offer innovative rates or services to their customers as pilot programs without obtaining prior approval from the Commission if the rate or service:

* * *

(2) The municipal company or electric cooperative shall provide written notice of an innovative rate or service to its customers, the Department of Public Service, and the Commission at least 45 days prior to offering the innovative rate or service to its customers. Included with the submission shall be the terms and conditions of service. Unless an objection to the innovative

rate or service is filed with the Commission within 45 days ~~of~~ following this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may commence offering the innovative rate or service to its customers.

(3) The municipal company or electric cooperative shall provide written notice to the Department of Public Service and the Commission at least 45 days prior to the end of an innovative rate or service duration period with any proposed modifications to the terms and conditions. Unless an objection to the innovative rate or service is filed with the Commission within 45 days ~~of~~ following this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may continue offering the innovative rate or service to its customers. The Commission may allow for the innovative rate or service to remain in effect pending the outcome of an investigation into the notice filing.

* * *

Sec. 371. 30 V.S.A. § 218e is amended to read:

§ 218e. IMPLEMENTING STATE ENERGY POLICY; MANUFACTURING

To give effect to the policies of section 202a of this ~~title~~ subchapter to provide reliable and affordable energy and ~~assure~~ ensure the State's economic vitality, it is critical to retain and recruit manufacturing and other businesses and to consider the impact on manufacturing and other businesses when

issuing orders, adopting rules, and making other decisions affecting the cost and reliability of electricity and other fuels. Implementation of the State's energy policy should:

* * *

Sec. 372. 30 V.S.A. § 223 is amended to read:

§ 223. APPEAL FROM MUNICIPAL AUTHORITIES

A person or corporation aggrieved by an order or decision of the municipal authorities made under the provisions of any statute, relative to the granting of a license or permit for location, may bring an appeal ~~therefrom~~ to the Commission at any time within 30 days ~~from~~ following the date of ~~such~~ the order or decision. After notice and public hearing of all parties interested, as provided in section 208 of this ~~title~~ subchapter, the decision of the Commission thereon shall be final, subject to a right to transfer such cause to the Supreme Court as provided by section 12 of this title.

Sec. 373. 30 V.S.A. § 225 is amended to read:

§ 225. RATE SCHEDULES

(a) Within a time to be fixed by the Commission, each company subject to the provisions of this chapter shall file with the Department, with separate filings to the Directors for Regulated Utility Planning and Public Advocacy, schedules which shall be open to public inspection, showing all rates, including joint rates, for any service performed or any product furnished by it within the State, and as ~~a~~ part ~~thereof~~ of it shall file the rules ~~and regulations~~ that in any

manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the schedules approved by the Department, shall be published by the company in two newspapers with general circulation in the State within 15 days after such filing. A change shall not ~~thereafter~~ be made in any such schedules, including schedules of joint rates or in any ~~such~~ of the rules ~~and regulations~~, except upon 45 days' notice to the Commission and to the Department of Public Service, and ~~such~~ notice to parties affected by ~~such~~ the schedules as the Commission shall direct. The Commission shall consider the Department's recommendation and take action pursuant to sections 226 and 227 of this ~~title~~ subchapter before the date on which the changed rate is to become effective. All ~~such~~ changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 45 days prior to the time the same are to take effect. Subject only to temporary increases, rates may not ~~thereafter~~ be raised without strictly complying with the notice and filing requirements set forth in this section. In no event may a company amend, supplement, or alter an existing filing or substantially revise the proof in support of such filing in order to increase, decrease, or substantiate a pending rate request, unless, upon opportunity for hearing, the company demonstrates that ~~such~~ a change in filing or proof is necessary for the purpose of providing adequate and efficient service. However, upon application of any company subject to the provisions of this chapter, and with the consent of the Department of Public Service, the

Commission may for good cause shown prescribe a shorter time within which such change may be made; but a change which in effect decreases such tolls or rates may be made upon five days' notice to the Commission and the Department of Public Service and ~~such~~ notice to parties affected as the Commission shall direct.

(b) Immediately upon receipt of notice of a change in a rate schedule filed by a company, the Department shall investigate the justness and reasonableness of that change. Within 30 days ~~of~~ following receipt of this notice, the Department shall either report to the Commission the results of its investigations together with its recommendation for acceptance of the change, or it shall notify the Commission and other parties that it opposes the change. If the Department of Public Service reports its acceptance of the change in rates, the Commission may accept the change, or it may on its own motion conduct an investigation into the justness and reasonableness of the change, or it may order the Department to appear before it to justify its recommendation to accept the change. In no event shall a change go into effect without the approval of the Commission, except when a rate change is suspended and temporary or permanent rates are allowed to go into effect pursuant to subsection 226(a) or 227(a) of this ~~title~~ subchapter. The Commission shall consider the Department's recommendation and take action pursuant to sections 226 and 227 of this ~~title~~ subchapter within 45 days ~~of~~ following receipt of notice of a change in a rate schedule. In the event that the

Department opposes the change, the Commission shall hear evidence on the matter and ~~make such~~ issue any orders as justice and law require. In any hearing on a change in rates, whether or not opposed by the Department, the Commission may request the appearance of the Attorney General or appoint a member of the Vermont bar to represent the public or the State.

~~(c) [Repealed.]~~

Sec. 374. 30 V.S.A. § 226a(e) is amended to read:

(e) If at any time, after notice and opportunity for hearing, the Commission determines that changes in federal regulatory law, unforeseen and significant economic shifts, or changes in technology have created either extremely severe economic hardships for the company or a condition that is severely detrimental and contrary to the public good, the Commission shall order the Department and the company to renegotiate relevant portions of a contract negotiated under this section, and any renegotiated provisions shall be subject to the Commission's approval under the procedures of subsection (c) of this section. If at any time the General Assembly is concerned that such conditions exist, it may, by joint resolution, direct the Commission to conduct a hearing and make a determination ~~thereon~~. If the Department and the company fail to reach a negotiated agreement within four months of receipt of an order to negotiate from the Commission, the Commission shall hold a hearing to determine the appropriate content of the relevant portions of the contract. In ~~such~~ proceedings, the public contract advocate shall represent the interests of the

public and the State, and any interested party may intervene. The Commission shall complete its hearings and render its decision within four months from the date that the Department and the company failed to agree under an order to negotiate. If the Department and the company agree within 14 days ~~of~~ following the Commission's decision to accept the Commission's determination of the appropriate content of the contract, the contract shall continue in effect as modified until its termination date. If the Department or the company does not accept the Commission's determination, the contract shall terminate under the terms specified in subsection (f) of this section 30 days after the date of the Commission's decision.

Sec. 375. 30 V.S.A. § 227a(a)(3) is amended to read:

(3) that adequate safeguards exist to ~~assure~~ ensure that any services provided by a competitor which continue to be regulated are not supporting or subsidizing any services offered in the competitive market, and that no company shall allocate revenues from regulated activities to unregulated activities nor allocate costs from unregulated activities to regulated activities and, upon request, shall provide the Commission and the Department with information, including cost studies indicating whether any regulated services are supporting any services which are deregulated; and

Sec. 376. 30 V.S.A. § 227b(b) is amended to read:

(b) The Secretary of Administration shall develop a standard contract and a standard contracting procedure for the use of State-owned buildings and land

for wireless telecommunications facilities. The contract and contracting procedure shall provide for:

(1) criteria and procedures for making a wireless facility development proposal;

(2) final consideration of each completed facility development proposal within 60 days ~~of~~ following the proposal's submission in the manner prescribed by the Secretary;

* * *

Sec. 377. 30 V.S.A. § 227c(c) is amended to read:

(c) In determining whether to modify, reduce, or suspend regulatory requirements, the Commission shall consider whether competition in the market combined with the remaining requirements under this title:

(1) will be sufficient to ensure that the charges, practices, classifications, or ~~regulations~~ rules related to the service are just and reasonable, and are not unjustly or unreasonably discriminatory; and

* * *

Sec. 378. 30 V.S.A. § 227d is amended to read:

§ 227d. SMALL ELIGIBLE TELECOMMUNICATIONS CARRIERS

* * *

(b) For any carrier that elects exemption under subsection (a) of this section:

(1) The carrier shall provide notice of its election to its existing customers within 30 days ~~of~~ following its election and to any new customer at the time the new customer requests service from the carrier.

* * *

(7) If the carrier responds to an exogenous event with a price increase that exceeds the maximum prices defined in subdivision (5) of this subsection, the carrier shall provide notice of such change to the Public Utility Commission and to the Department of Public Service. The Commission, upon its own motion or upon the recommendation of the Department, may initiate an investigation. If the Commission does not initiate an investigation within a 30-day period, the price increase shall take effect. If the Commission determines to initiate an investigation, it shall give notice of that decision to the carrier and to the Department and may suspend the portion of the price that exceeds the cap. The Commission shall conclude its investigation within 120 days ~~of~~ following issuance of its notice of investigation or within such shorter period as it deems appropriate. If the Commission fails to issue a decision within that 120-day period, the price increase shall become effective upon the 121st day without retroactive rate adjustments.

* * *

Sec. 379. 30 V.S.A. § 229 is amended to read:

§ 229. REBATES; EXCEPTIONS

A public service company shall not directly or indirectly or by any special rate, rebate, drawback, or other device or method make any deviation from the rates, fares, charges, or prices for any service rendered by it or in services rendered or to be rendered in connection therewith, as specified in its schedules of charges in effect at the time such service was rendered. No public service company may enter into any contract, agreement, or arrangement relating to the furnishing or rendering of any special product or special service not provided for or covered in the schedule without the prior approval of the Commission. However, nothing ~~herein~~ in this section shall prohibit the giving by any ~~such~~ public service company of free or reduced rate service to its employees, or in case of public emergency, or to the classes defined and provided for in the act of Congress entitled "An act to regulate commerce," ~~and acts amendatory thereof~~ as codified in 49 U.S.C. § 10101 et seq., as amended. Subject to the approval of the Commission, it shall be lawful for any public utility to make a contract for a definite term for its product or service.

Sec. 380. 30 V.S.A. § 230 is amended to read:

§ 230. SPECIAL RATE OR REBATE; PENALTY

Except as provided in section 229 of this ~~title~~ subchapter, an officer or employee of ~~such~~ a public service company who grants a special rate or rebate or knowingly consents ~~thereto~~ to one shall be subject to a civil penalty imposed

by the Commission, after notice and an opportunity for hearing, of not less than $100.00 nor more than $1,000.00. In addition, ~~such~~ a company granting a special rate or rebate shall be subject to a civil penalty imposed by the Commission, after notice and opportunity for hearing, of not more than the larger of $10,000.00 or five times the amount of the benefit or rebate.

Sec. 381. 30 V.S.A. § 231(a) is amended to read:

(a) A person, partnership, unincorporated association, or previously incorporated association that desires to own or operate a business over which the Public Utility Commission has jurisdiction under the provisions of this chapter shall first petition the Commission to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this ~~title~~ subchapter. ~~Such~~ The recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Commission deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition. At least 12 days before this hearing, notice of the hearing shall be published on the Commission's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website

notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed. The Director for Public Advocacy shall represent the public at the hearing. If the Commission finds that the operation of ~~such~~ the business will promote the general good of the State, it shall give ~~such~~ the person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Commission may amend or revoke any certificate awarded under the provisions of this section. If any ~~such~~ certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Commission whether or not regulation ~~thereunder~~ has been reduced or suspended, under section 226a or 227a of this ~~title~~ subchapter.

Sec. 382. [Deleted.]

Sec. 383. 30 V.S.A. § 246(c) is amended to read:

(c) In developing rules or orders, the Commission:

(1) Shall develop a simple application form and shall require that the applicant first file the application with the Commission and that, within two business days ~~of~~ following notification from the Commission that the application is complete, the applicant serve copies of the complete application on the Department of Public Service, the Agency of Natural Resources, the

Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days ~~of~~ following the date of service of the complete application under subdivision (1) of this subsection, and the Commission determines that the applicant has met all of the requirements of section 248 of this ~~title~~ subchapter, the certificate of public good shall be issued for a period that the Commission finds reasonable, but in no event for more than five years. Upon request of an applicant, the Commission may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

* * *

Sec. 384. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this ~~title~~ subchapter, may:

* * *

(4)(A) With respect to a facility located in the State, in response to a request from one or more members of the public or a party, the Public Utility Commission shall hold a nonevidentiary public hearing on a petition for such finding and certificate. The public hearing shall either be remotely accessible

or held in at least one county in which any portion of the construction of the facility is proposed to be located, or both. The Commission in its discretion may hold a nonevidentiary public hearing in the absence of any request from a member of the public or a party. From the comments made at a public hearing, the Commission shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Commission shall direct the parties to provide evidence on the area. This subdivision does not require the Commission to respond to each individual comment.

* * *

(C) Within two business days ~~of~~ following notification from the Commission that the petition is complete, the petitioner shall serve copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health; Agency of Natural Resources; Historic Preservation Division; Agency of Transportation; Agency of Agriculture, Food and Markets; and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

* * *

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) The municipal or regional planning commission may take one or more of the following actions:

* * *

(C) Make recommendations to the petitioner within 40 days ~~of~~ following the petitioner's submittal to the planning commission under this subsection.

* * *

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days ~~of~~ following the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * *

(i)(1) No company, as defined in sections 201 and 203 of this ~~title~~ chapter, without approval by the Commission, after giving notice of such investment or filing a copy of that contract with the Commission and the Department at least 30 days prior to the proposed effective date of that contract or investment:

* * *

(3) The Commission, upon its own motion or upon the recommendation of the Department, may determine to initiate an investigation. If the Commission does not initiate an investigation within such 30-day period, the contract or investment shall be deemed to be approved. If the Commission determines to initiate an investigation, it shall give notice of that decision to the company proposing the investment or contract, the Department, and such other persons as the Commission determines are appropriate. The Commission shall conclude its investigation within 120 days ~~of~~ following issuance of its notice of investigation, or within such shorter period as it deems appropriate, unless the company consents to waive the 120-day requirement. Except when the company consents to waive the 120-day requirement, if the Commission fails to issue a decision within that 120-day period, the contract or investment shall be deemed to be approved. The Commission may hold informal, public, or evidentiary hearings on the proposed investment or contract.

* * *

(j)(1) The Commission may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings otherwise required by this chapter if the Commission finds that:

* * *

(2) Any party seeking to proceed under the procedures authorized by

this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. Within two business days ~~of~~ following notification by the Commission that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the party shall give written notice of the proposed certificate and of the Commission's determination that the filing is complete to those parties, to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Commission to have a substantial interest in the matter. The notice shall request comment within 30 days ~~of~~ following the date of service of the complete filing on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Commission finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Commission shall hear evidence on any such issue.

* * *

(n)(1) No company as defined in section 201 of this ~~title~~ chapter and no person as defined in 10 V.S.A. § 6001(14) may place or allow the placement of wireless communications facilities on an electric transmission or generation facility located in this State, including a net metering system, without receiving a certificate of public good from the Public Utility Commission pursuant to this subsection. The Public Utility Commission may issue a certificate of public good for the placement of wireless communications facilities on electric

transmission and generation facilities if such placement is in compliance with the criteria of this section and Commission rules or orders implementing this section. In developing such rules and orders, the Commission:

* * *

(2) Notwithstanding subdivision (1)(B) of this subsection, if the Commission finds that a petition filed pursuant to this subsection does not raise a significant issue with respect to the criteria enumerated in subdivisions (b)(1), (3), (4), (5), and (8) of this section, the Commission shall issue a certificate of public good without a hearing. If the Commission fails to issue a final decision or identify a significant issue with regard to a completed petition made under this section within 60 days ~~of~~ following its filing with the Clerk of the Commission and service to the Director of Public Advocacy for the Department of Public Service, the petition is deemed approved by operation of law. The rules required by this subsection shall be adopted within six months of the effective date of this section, and rules under this section may be adopted on an emergency basis to comply with the dates required by this section. As used in this subsection, "wireless communication facilities" include antennae, related equipment, and equipment shelter, but do not include equipment used by utilities exclusively for intra- and inter-utility communications.

* * *

Sec. 385. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Commission pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. The notices to the legislative body and planning commission of the municipality shall attach a statement that itemizes the rights and opportunities available to those bodies under subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n), and (o) of this section and informs them of the guide published under subsection (p) of this section and how to obtain a copy of that guide.

* * *

(3) With the notice required under this subsection, the applicant shall include a written assessment of the colocation requirements of subdivision (c)(3) of this section, as they pertain to the applicant's proposed telecommunications facility. On the request of the municipal legislative body or the planning commission, the Department of Public Service, pursuant to its authority under subsection (o) of this section, shall retain an expert to review the applicant's colocation assessment and to conduct further independent analysis, as necessary. Within 45 days ~~of~~ following receiving the applicant's notice and colocation assessment, the Department shall report its own preliminary findings and recommendations regarding colocation to the applicant and to all persons required to receive notice of an application for a certificate of public good under this subsection (e).

(f) Review period. If the Public Utility Commission determines that an application does not raise a significant issue, the Commission shall issue a final determination on an application filed pursuant to this section within 60 days ~~of~~ following its filing or, if the original filing did not substantially comply with the Public Utility Commission's rules, within 60 days ~~of~~ following the date on which the Clerk of the Commission notifies the applicant that the filing is complete. If the Commission rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this section within 180 days ~~of~~ following its filing or, if the original filing did not

substantially comply with the Public Utility Commission's rules, within 180 days ~~of~~ following the date on which the Clerk of the Commission notifies the applicant that the filing is complete.

* * *

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application. Within two business days ~~of~~ following notification from the Commission that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. Within two business days ~~of~~ following notification from the Commission that the filing is complete, the applicant also shall serve written notice of the proposed certificate on the landowners of record of property adjoining the project site or sites unless the Commission has previously determined on

request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Commission within 30 days ~~of~~ following the date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Commission finds that an application raises a significant issue with respect to the substantive criteria of this section, the Commission shall hear evidence on any such issue.

(B) An applicant seeking a waiver or modification of notice to adjoining landowners under this subsection shall file a request for such a waiver or modification with the Public Utility Commission not later than 30 days prior to serving written notice under subsection (e) of this section, together with a description of the project and its location, the applicant's reasons for seeking a waiver or modification, and the applicant's demonstration that the standard for granting a waiver or modification is met. Any granting of such a waiver or modification shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public benefit. The Commission shall rule on a waiver or modification request under this subsection within 21 days ~~of~~ following the filing of the request.

(C) If the Commission accepts a request to consider an application under the procedures of this subsection, then unless the Public Utility Commission

subsequently determines that an application raises a significant issue, the Commission shall issue a final determination on an application within 60 days ~~of~~ following the date on which the Clerk of the Commission notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Commission rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection within 90 days ~~of~~ following the date on which the Clerk of the Commission notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Commission within 30 days ~~of~~ following this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this

subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Commission, the Commission may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

Sec. 386. 30 V.S.A. § 248d is amended to read:

§ 248d. FEE REFUND

If an applicant withdraws an application and seeks a fee refund, then a written request for an application fee refund shall be submitted to the Public Utility Commission (Commission) within 90 days ~~of~~ following the withdrawal of the application.

* * *

Sec. 387. 30 V.S.A. § 509 is amended to read:

§ 509. AMENDMENT AND REVOCATION; FINES; ASSURANCE OF DISCONTINUANCE

* * *

(c) In any case in which the Commission may revoke a certificate, in lieu thereof, the Commission may accept an assurance of discontinuance of any method, act, or practice from any company. ~~Such~~ The assurance may include a stipulation for affirmative action by such company, payment of the costs of investigation, or of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved consumers, or any combination of ~~the~~

~~above~~ those options. Any ~~such~~ assurance of discontinuance shall be in writing and may be sought and negotiated by the Department of Public Service, subject to the approval of the Commission. Proof of a violation of ~~such~~ an assurance shall be prima facie evidence of violation of this chapter, or of the terms and conditions of a certificate granted under this chapter.

Sec. 388. 30 V.S.A. § 515(b) is amended to read:

(b) For the purposes of this section, voting security means any stock or security presently entitling the owner or holder ~~thereof~~ to vote in the direction or management of the affairs of a company or any security issued under or pursuant to any trust, agreement, or arrangement ~~whereby~~ where a trustee or trustees or agent or agents for the owner or holder of such a security are presently entitled to vote in the direction or management of the affairs of a company.

Sec. 389. 30 V.S.A. § 601(b)(1) is amended to read:

(b)(1) "New England power pool agreement," a contractual agreement between electric utilities that is open to all electric utilities, whether private or governmental, operating in New England, that provides for cooperation and joint participation in developing and implementing a regional bulk power supply of electricity, that constitutes the central dispatching and primary pooling arrangement for electric utilities in the New England states, and that has been permitted to become effective under the Federal Power Act by the Federal Power Commission or the Federal Energy Regulatory Commission.

Sec. 390. 30 V.S.A. § 604 is amended to read:

§ 604. ADDITIONAL AUTHORITY

(a) Notwithstanding any contrary provision of any general or special law relating to the powers and authorities of electric utilities or any limitation imposed by their charters, the City of Burlington, the Village of Lyndonville acting through its board of trustees, and all other Vermont municipal electric utilities shall each have the following additional powers:

(1) jointly or separately to plan, finance, construct, purchase, operate, maintain, use, share costs of, own, mortgage, lease, sell, dispose of, or otherwise participate in electric power generating and transmission facilities or portions ~~thereof~~ of it within or outside the State or the product or service ~~therefrom~~ of it or securities issued in connection with the financing of such facilities or portions ~~thereof~~ of it;

(2) to enter into and perform contracts for such joint or separate planning, financing, construction, purchase, operation, maintenance, use, sharing costs of, ownership, mortgaging, leasing, sale, disposal of, or other participation in electric power generating and transmission facilities, or portions ~~thereof~~ of it, within or outside the State of the product or service ~~therefrom~~ of it, or securities issued in connection with the financing of electric power facilities or portions ~~thereof~~ of it, including, contracts for the payment of obligations imposed without regard to the operational status of a facility or facilities and contracts for the sale or purchase of electricity from an electric

power facility or facilities for long or short periods of time or for the life of a specific electric generating unit or units.

* * *

Sec. 391. 30 V.S.A. § 605 is amended to read:

§ 605. CONTRACTS

Contracts under section 604 of this ~~title~~ chapter may be for a term or for an indefinite period; may provide for the sale or other disposition of byproducts of electric power facilities; and may contain provisions for arbitration, delegation, and other matters deemed necessary or desirable to carry out their purposes. Any party, public or private, desiring to purchase or use byproducts of electric power facilities financed, constructed, or operated under this chapter may enter into contracts ~~therefor~~ for short or long terms. The obligation of the city, village, and town under contracts referred to in this section shall not be included in the debt of the city, village, and town for the purpose of ascertaining its borrowing capacity.

Sec. 392. 30 V.S.A. § 608 is amended to read:

§ 608. BONDING AUTHORITY—CITY OF BURLINGTON

(a) The City of Burlington, when authorized by a two-thirds vote of all voters present and voting at a meeting called for that purpose, may pledge its credit by issuing the negotiable orders, warrants, notes, or bonds for project costs, or its share of project costs, of electric power facilities authorized pursuant to section 604 of this ~~title~~ chapter. Such project costs may include all

costs, whether incurred prior to or after the issue of bonds or notes ~~hereunder~~, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, nuclear fuel, demolition or removal of existing buildings or structures, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during the carrying out of any project and for a reasonable period thereafter, planning, engineering, financial advisory and legal services, administrative expenses, prepayments under contracts made pursuant to section 604 of this ~~title~~ chapter, the funding of notes issued for project costs as ~~hereinafter~~ provided, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

(b) The obligations shall be issued in accordance with the charter of the City of Burlington ~~relating thereto~~. The amount of obligations issued for such purpose shall not be considered in computing any debt limit applicable to the City.

(c) The March 6, 1973 vote of the voters of the City of Burlington authorizing and empowering the Burlington City Council to pledge the credit of the City by issuing general obligation bonds or notes in an amount not to exceed $6,000,000.00 for the purpose of acquiring joint ownership interests in four nuclear power plants presently designated as the Connecticut 1979 Nuclear Unit, Pilgrim No. 2, and Seabrook Units No. 1 and No. 2, to be

constructed and located in the states of Connecticut, Massachusetts, and New Hampshire is hereby ratified, adopted, and validated in all respects. In addition, any authorized action ~~authorized hereunder~~ taken during the calendar year that commenced January 1, 1974 shall be valid and effective as if this chapter were in effect on January 1, 1974.

Sec. 393. 30 V.S.A. § 609 is amended to read:

§ 609. VILLAGE OF LYNDONVILLE

(a) The Village of Lyndonville, when authorized as provided in 24 V.S.A. chapter 53, may pledge its credit by issuing its negotiable orders, warrants, notes, or bonds for project costs, or its share of project costs, of electric power facilities authorized pursuant to section 604 of this title. ~~Such~~ The project costs may include all costs, whether incurred prior to or after the issue of bonds or notes ~~hereunder~~, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, nuclear fuel, demolition or removal of existing buildings or structures, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during the carrying out of any project and for a reasonable period thereafter, planning, engineering, financial advisory and legal services, administrative expenses, prepayments under contracts made pursuant to section 604 of this title, the funding of notes issued for project costs as ~~hereinafter~~ provided in this section,

and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

* * *

(c) The May 3, 1977 vote of the voters of the Village of Lyndonville authorizing and empowering the Village of Lyndonville Board of Trustees to pledge the credit of the Village by issuing general obligation bonds or notes in an amount not to exceed $3,800,000.00 for the purpose of acquiring joint ownership interests in four power plants presently designated as the Connecticut 1979 Nuclear Unit, Pilgrim No. 2, and Wyman Unit No. 4 and MMWEC Phase I Intermediate Units and located in the states of Connecticut, Maine, and Massachusetts is hereby ratified, adopted, and validated in all respects. In addition, any action authorized ~~hereunder~~ and taken during the calendar year that commenced January 1, 1977 shall be valid and effective as if this chapter were in effect on January 1, 1977.

Sec. 394. 30 V.S.A. § 2512 is amended to read:

§ 2512. APPEAL; PROCEEDINGS

When either party is dissatisfied with such appraisal of damages, ~~he or she~~ the party may apply to the Superior Court by petition in the same manner as is provided for a person dissatisfied with the compensation for damages for the laying out or altering of highway, and ~~thereupon~~ similar proceedings shall be had. The line shall not be erected until such cause is finally decided, unless the party erecting the same files with the clerk of the court to which such

application is made, before the line is erected, a bond to the other party, with sureties approved by such clerk, conditioned for the payment of such damages and costs as may finally be awarded.

Sec. 395. 30 V.S.A. § 2529 is amended to read:

§ 2529. LOITERING UPON TELEPHONE PROPERTY; PENALTY

A person who without right loiters or remains in a telephone central office, a public telephone pay station, or the approaches ~~thereto~~ to it, after being requested to leave by a railroad police officer, sheriff, deputy sheriff, constable, or police officer shall be fined not more than $20.00 nor less than $2.00.

Sec. 396. 30 V.S.A. § 2530 is amended to read:

§ 2530. TELEPHONES IN PUBLIC AREAS

The selectboard of a town ~~(~~, or the Agency of Transportation in the case of State highways~~)~~, may, upon written application and after notice to adjacent landowners, permit the construction, erection, and maintenance of public telephones, telephone booths, and appurtenances ~~thereto~~ to them within the limits of public highways, sidewalks, parks, and parking areas when consistent with the public interest under ~~such~~ reasonable rules, regulations, and arrangements as it may prescribe.

Sec. 397. 30 V.S.A. § 2701 is amended to read:

§ 2701. TRANSFER OF MESSAGES AND INTERCHANGE OF SERVICE

Whenever the Commission, after a hearing had upon its own motion or upon complaint, finds that a physical connection can reasonably be made between the lines of two or more telephone companies or two or more telegraph companies whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections, for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or finds that two or more telegraph or telephone companies have failed to establish joint rates, tolls, or charges for service by or over their lines, and that joint rates, tolls, or charges ought to be established, the Commission may, by its order, (a) require that the connection be made, except where the purpose of the connection is primarily to secure the transmission of local messages or conversations between points within the same city or town, and that conversations be transmitted and messages transferred over the connection under ~~such~~ the rules ~~and regulations~~ as the Commission may establish, and (b) may prescribe through lines and joint rates, tolls, and charges to be made and to be used, observed, and enforced in the future. If the telephone or telegraph companies do not agree upon the division of the joint rates, tolls, or charges established by the Commission over the through lines, the Commission may, after further hearing, establish the division by supplemental order.

Sec. 398. 30 V.S.A. § 2703 is amended to read:

§ 2703. TELEPHONE SERVICE

On application of a telegraph or telephone company and upon reasonable terms, a person or corporation owning, controlling, or operating a telephone exchange or service in this State shall furnish such applicant with the use of a telephone or telephones, and telephonic service and connection with the respective exchanges and the subscribers ~~thereto~~, without discriminating between telegraph or telephone companies as to the connection, service, or use of instruments furnished or charges made.

Sec. 399. 30 V.S.A. § 2704 is amended to read:

§ 2704. DISCRIMINATION PROHIBITED

On application of a person or corporation and tender of the charges or rental sum usual or customary for the class of service required, without discrimination for the same class of service rendered, a person or corporation owning, controlling, or operating a telephone exchange or service in this State shall furnish the applicant with the use of a telephone and telephonic service and connection with their respective exchanges and subscribers ~~thereto~~.

Sec. 400. 30 V.S.A. § 2802 is amended to read:

§ 2802. SALE AND DISTRIBUTION; REGULATION

A person, association, company, or corporation, its successors, grantees, lessees, trustees, or receivers by whatever court appointed, that generates electric energy within the State by means of water power, or transmits in this

State electric energy generated from outside the State, and which, in the location, construction, or maintenance of its generating plant, including the acquiring of water rights, flowing or ponding rights, within the State or rights-of-way, or in the establishment or maintenance of its lines for transmission of electric energy, confiscates by the exercise of the right of eminent domain, either under the general law, or if a corporation, under the provisions of its charter or general law, or has by the provisions of its charter or general law power so to do, the property of any person or any right, title, interest, easement, or estate ~~therein~~, or uses a public highway for carrying its transmission lines over or along the same or beneath the surface thereof, at all reasonable times when requested so to do, shall sell and furnish at a reasonable price so much or such an amount of such electric energy as the public convenience or necessity may require to any and all persons, companies, cooperatives, and corporations, municipal, public or private, in this State, desiring to use the same in the State for heating, lighting, or power purposes or for any other public use or purpose. Such sale and distribution shall be subject to such reasonable conditions and limitations in each case as the Public Utility Commission may prescribe upon petition brought and after due notice to all parties.

Sec. 401. 30 V.S.A. § 2804 is amended to read:

§ 2804. CITATION; SERVICE; HEARING

The petition, with a citation attached, signed by the Chair or one of the other members of the Commission, or its clerk, shall require the petitionee to appear at a certain time and place within not less than 10 days after the date of ~~such~~ the citation. The citation, with the petition, shall be served on the petitionee like a summons, not less than six days before the date ~~he or she~~ the petitionee is required to appear. At the required time and place, the Commission shall hear the parties and their witnesses and ~~such~~ any other evidence as they may offer~~,~~ and determine the facts and ~~thereupon~~ make ~~such~~ an order and decree as the law and justice require, which ~~order~~ shall be final unless appealed from. The Commission may adjourn ~~such~~ the hearing from time to time and to another place in the county~~,~~ and may adjourn it elsewhere if the parties consent.

Sec. 402. 30 V.S.A. § 2805 is amended to read:

§ 2805. APPEAL; COMMISSIONERS; HEARING ON REPORT

A party to the cause who feels ~~himself or herself~~ aggrieved by the final order or decree of the Commission shall have the right to take the cause to the Supreme Court. Such appeal shall be taken and the cause entered in the Supreme Court ~~for the county where the petition and citation were returnable~~, in the manner and under the law and rules of procedure that govern such appeals from the Superior Court, and the Supreme Court shall have the same

power ~~therein~~ that it has over appeals from ~~such~~ the Superior Court. The Supreme Court, if cause is not shown to the contrary, on motion of either party, shall appoint three disinterested freeholders, residents of the county where the appeal is taken, unless otherwise agreed upon by the parties, to be commissioners, who shall appoint a time and place of hearing the matter set forth in the petition and give at least six days' notice ~~thereof~~ to the parties; and, after hearing the parties, the commissioners shall report in writing the facts found by them and such other findings as the Court may direct. Upon the return of the report, either party may object to its acceptance for good cause shown and the Court may set aside the report and order a rehearing; but if the Court accepts and establishes the same, the Court may reverse or affirm the orders or decrees made by the Public Utility Commission, and may remand the cause to the Commission with such mandate as law and equity require; and the Commission shall enter an order or decree in accordance with such mandate.

Sec. 403. 30 V.S.A. § 2902(a) is amended to read:

(a) In accordance with this chapter, a municipality may buy and sell electric current for domestic use and for commercial purposes and construct, purchase or lease, and maintain and operate one or more plants for the manufacture, distribution, purchase, and sale of gas or electricity for the use of ~~such~~ the municipality and for the use of the residents of ~~such~~ the municipality and for ~~such~~ the other customers outside ~~such~~ the municipality as the Commission may approve unless otherwise provided for in this chapter. For ~~such~~ those purposes

a municipality may purchase and hold in fee simple or otherwise any real or personal estate and any rights therein, including water rights and may do all other things necessary for carrying into effect the purposes of this chapter and may excavate and dig conduits and ditches in any highway or other land or place, and erect poles, place wires, and lay pipes for the transmission and distribution of electricity and gas, in such places as may be deemed necessary and proper and in all ~~such~~ respects such municipality shall have the same privileges and be subject to the same restrictions as are provided for public service corporations in chapters 71, 73, and 75 of this title. ~~Such~~ The municipality may change, enlarge, and extend the same from time to time and maintain the same, having due regard for the safety and welfare of its citizens and security of the public travel.

Sec. 404. 30 V.S.A. § 2905 is amended to read:

§ 2905. INDEBTEDNESS

A municipality that has voted according to the provisions of this chapter to acquire or construct a municipal plant may incur debt for the purpose of establishing, purchasing, constructing, extending, or enlarging it, but subject to the provisions of law limiting municipal indebtedness. Nothing ~~herein~~ in this section shall be construed to affect the rights of any municipality now or ~~hereafter~~ later incurring debt under 24 V.S.A. § 1822.

Sec. 405. 30 V.S.A. § 2906 is amended to read:

§ 2906. EXISTING PLANTS

Within 30 days after the passage of the ratifying vote provided for in section 2903 of this ~~title~~ chapter or the vote provided for in section 2904 of this ~~title~~ chapter, the mayor of the city, the selectboard of the town, or the trustees of the village shall notify in writing any utility engaged, at the time of the vote required by such sections, in generating or distributing gas or electricity for sale in ~~such~~ the municipality, of ~~such~~ the vote and request ~~such~~ the utility whether it elects to sell and at what price, in the manner ~~hereinafter~~ provided, that portion of its plant and property located within ~~such~~ the municipality ~~which~~ that is suitable for and used in connection with the business of ~~such~~ the utility, and that portion, if any, lying outside such municipality, which ~~such~~ the municipality proposes to purchase.

Sec. 406. 30 V.S.A. § 2907 is amended to read:

§ 2907. UTILITY TO ACCEPT OR REJECT OFFER TO PURCHASE

The utility shall reply to such request by delivering its answer in writing to the mayor of the city, the selectboard of the town, or the trustees of the village, within 90 days ~~of~~ following the receipt of ~~such~~ the request. If the reply is in the negative or if the reply is not made within ~~such~~ a period of 90 days ~~as aforesaid~~, the utility ~~thereby~~ waives any right it may have had to require the purchase of its plant and property by the municipality. If the reply is in the affirmative, it shall, within 90 days, submit the price and terms ~~which~~ that it is

willing to accept for all such plant and property, together with a detailed schedule of all the plant and property it proposes to sell to ~~such~~ the municipality. ~~Such~~ Any plant and property shall at all reasonable times ~~thereafter~~ be open to the examination of the authorities and experts of the municipality or any other persons or boards charged with the duty of determining the fair value of ~~such~~ the property.

Sec. 407. 30 V.S.A. § 2910 is amended to read:

§ 2910. TAKING UTILITY PROPERTY BY EMINENT DOMAIN

If the utility shall have replied in the negative or if it shall have failed to reply within the time prescribed in section 2907 of this ~~title~~ chapter, the municipality, in the event that it shall have passed the votes required in sections 2903 and 2904 of this ~~title~~ chapter, may take such private plant and property by the exercise of the right of eminent domain, paying ~~therefor~~ just compensation determined in the manner provided in section 2909 of this ~~title~~ chapter, or, after the Commission upon proper notice and hearing has determined that it will promote the general good of the State ~~so~~ to do so, may construct a municipal plant.

Sec. 408. 30 V.S.A. § 2911 is amended to read:

§ 2911. EFFECT OF NEGATIVE VOTE FOR ACQUISITION OF UTILITY PROPERTY

Within 90 days ~~of~~ following the final determination of the price to be paid for the plant and property, as well as the amount of the plant and property to be

taken or acquired under the provisions of section 2909 or 2910 of this ~~title~~ chapter, the municipality shall decide whether or not to take the plant or property at that price by a vote taken pursuant to procedures similar to those used in obtaining a ratifying vote as provided in section 2908 of this ~~title~~ chapter. If that vote is in the negative, no other action under this chapter shall be had during the ensuing period of one year.

Sec. 409. 30 V.S.A. § 2912 is amended to read:

§ 2912. OPERATION IN OTHER MUNICIPALITIES

A municipality, which has acquired the plant, property, or facilities of a utility in any other municipality in accordance with the provisions of sections 2906–2911 of this ~~title~~ chapter, may ~~thereafter~~ operate ~~therein~~ as a public utility with the same rights and franchises that the owners of such outlying plant had prior to acquisition under the terms of this chapter. ~~Such~~ The operation shall be subject to the same jurisdiction, control, and regulation by the Commission as would any other public utility so operating. If the outlying municipality shall itself vote to establish a municipal plant, all the provisions of this chapter shall be applicable.

Sec. 410. 30 V.S.A. § 2913 is amended to read:

§ 2913. EXTENSION INTO OTHER MUNICIPALITIES

After notice and public hearing, the Commission may authorize a municipality that has acquired or constructed and is operating a municipal plant to extend its mains or lines into an adjoining municipality in order to

distribute and sell gas or electricity ~~therein~~, provided that ~~such~~ the outlying municipality is not then being supplied with gas or electricity by a municipal plant or by a utility or provided that the Commission finds that it will promote the general good of the State so to do. Such authorization shall be upon ~~such~~ the terms and conditions and with ~~such~~ the limitations and restrictions as the Commission finds will promote the general good of the State.

Sec. 411. 30 V.S.A. § 2922 is amended to read:

§ 2922. OTHER MUNICIPALITIES

Notwithstanding any other provisions of this chapter, after any part of this chapter takes effect, no municipality operating an electric plant or distribution system, whether under authorization of this chapter or any other general law or special act, shall extend its service lines into any area outside its borders where electric service is otherwise then available, except with the consent of the municipality in which such outside area is located. Such consent shall be given only after application ~~therefor~~ to the legislative body of the town or city in which it is sought to extend the lines. Such body shall fix a time and place for hearing on such application and post a notice thereof in the office of the clerk of the town or city, as the case may be, at least 30 days before ~~such~~ the time fixed for hearing. At such hearing or some adjourned session ~~thereof~~ ~~such~~ of the legislative body shall determine whether ~~such~~ consent is in the public interest, and shall issue or withhold its certificate accordingly. However, ~~such~~ the legislative body shall not act with reference to the issuance

of ~~such~~ the certificate contrary to the action, if any, of the legal voters of ~~such~~ the municipality, taken at any annual or special meeting ~~thereof~~ duly warned.

Sec. 412. 30 V.S.A. § 2923(a) is amended to read:

(a) In determining rates charged by a municipal plant, the Public Utility Commission shall allow, in addition to all other factors, a reasonable rate of return on capital investments. The return shall be commensurate with that permitted private utilities having corresponding risks and equivalent to that necessary for private utilities to ~~assure~~ ensure confidence in the financial integrity of the enterprise so as to maintain its credit and attract new capital.

Sec. 413. 30 V.S.A. § 3001(3) is amended to read:

(3) "Cooperative" means a corporation organized under this chapter or ~~which~~ that becomes subject to this chapter in the manner ~~hereinafter~~ provided for in this chapter.

Sec. 414. 30 V.S.A. § 3002 is amended to read:

§ 3002. POWERS

A cooperative shall have power:

* * *

(4) To generate, manufacture, purchase, acquire, accumulate, and transmit electric energy; and to distribute, sell, supply, and dispose of energy, cable television, telecommunications, interactive media, and ~~Internet~~ internet access to its members, to governmental agencies and political subdivisions; provided, however, that in the generation of electric energy by water power, a

cooperative shall comply with the provisions of 10 V.S.A. §§ 1081–1099, relating to the construction and maintenance of dams and, provided further, that a cooperative doing any activity governed by this title shall be regulated ~~hereunder~~ for that activity.

* * *

(15) For purposes of providing electric power, to condemn property within the State, or easements or other limited rights ~~therein~~, in the manner provided for public service corporations by sections 111–124 of this title, when it is necessary in order that it may render adequate electric service.

Sec. 415. 30 V.S.A. § 3003 is amended to read:

§ 3003. NAME

The name of a cooperative governed by this chapter shall include the words "energy" or a word designating any specific form of energy such as "electric," "propane," or "natural gas" and "cooperative" and the abbreviation "inc." unless, in an affidavit made by its president or vice president and filed with the Secretary of State, or in an affidavit made by a person signing articles of incorporation, consolidation, merger, or conversion, which relate to ~~such~~ the cooperative and filed, together with ~~such~~ the articles, with the Secretary of State, it shall appear that the cooperative desires to do business in another state and is or would be precluded ~~therefrom~~ by reason of the inclusion of ~~such~~ the words ~~or either thereof~~ in its name. The name of a cooperative shall be distinct

from the name of any other cooperative or corporation organized under the laws of, or authorized to do business in, this State.

Sec. 416. 30 V.S.A. § 3004 is amended to read:

§ 3004. ORGANIZATION~~,~~; MEMBERS

Five or more natural persons, a majority of whom are residents of this State, or two or more cooperatives, may organize a cooperative in the manner ~~hereinafter~~ provided in this chapter.

Sec. 417. 30 V.S.A. § 3012 is amended to read:

§ 3012. NOTICE~~,~~; WAIVER

A person entitled to notice of a meeting may waive ~~such~~ the notice in writing either before or after ~~such~~ the meeting. If ~~such~~ the person shall attend ~~such~~ the meeting, ~~such~~ attendance shall constitute a waiver of notice of ~~such~~ the meeting, unless ~~such~~ the person participates ~~therein~~ solely to object to the transaction of any business because the meeting has not been legally called or convened.

Sec. 418. 30 V.S.A. § 3018 is amended to read:

§ 3018. AMENDMENT OF ARTICLES

A cooperative may amend its articles of incorporation by complying with the following requirements: The proposed amendment shall be presented to a meeting of the members, the notice of which shall set forth or have attached ~~thereto~~ to it the proposed amendment. If the proposed amendment, with changes, is approved by the affirmative vote of not less than two-thirds of

those members voting ~~thereon~~ at ~~such~~ the meeting, a certificate of amendment shall be executed and acknowledged on behalf of the cooperative by its president or vice president and its seal shall be affixed ~~thereto~~ to it and attested by its secretary. The certificate of amendment shall recite that it is executed pursuant to this chapter and shall state: (1) the name of the cooperative; (2) the address of its principal office; and (3) the amendment to its articles of incorporation. The president or vice president executing ~~such~~ the certificate of amendment shall make and ~~annex thereto~~ attach to it an affidavit stating that the provisions of this section in respect of the amendment set forth in ~~such~~ the articles were duly complied with.

Sec. 419. 30 V.S.A. § 3020 is amended to read:

§ 3020. CONSOLIDATION

Two or more cooperatives licensed in this State under this law, each of which is ~~hereinafter~~ designated a "consolidating cooperative," may consolidate into a new cooperative, ~~hereinafter~~ designated the "new cooperative," by complying with the following requirements:

(1) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and proposed articles of consolidation to effect the same shall be submitted to a meeting of the members of each consolidating cooperative, the notice of which shall have been attached ~~thereto~~ to a copy of the proposed articles of consolidation.

(2) If the proposed consolidation and the proposed articles of consolidation, with amendments, are approved by the affirmative vote of not less than two-thirds of the members of each consolidating cooperative voting ~~thereon~~ at each ~~such~~ meeting, articles of consolidation in the form approved shall be executed and acknowledged on behalf of each consolidating cooperative by its president or vice president and its seal shall be affixed ~~thereto~~ and attested by its secretary. The articles of consolidation shall recite that they are executed pursuant to this chapter and shall state: (A) the name of each consolidating cooperative and the address of its principal office; (B) the name of the new cooperative and the address of its principal office; (C) a statement that each consolidating cooperative agrees to the consolidation; (D) the names and addresses of the directors of the new cooperative; and (E) the terms and conditions of the consolidation and the mode of carrying the same into effect, including the manner in which members of the consolidating cooperative may or shall become members of the new cooperative; and may contain provisions not inconsistent with law or this chapter deemed necessary or advisable for the conduct of the business of the new cooperative. The president or vice president of each consolidating cooperative executing ~~such~~ articles of consolidation shall make and ~~annex thereto~~ attach an affidavit stating that the provisions of this section in respect of such articles were duly complied with by ~~such~~ the cooperative.

Sec. 420. 30 V.S.A. § 3021 is amended to read:

§ 3021. MERGER~~,~~; REQUIREMENTS

One or more cooperatives, each of which is ~~hereinafter~~ designated a "merging cooperative," may merge into another cooperative, ~~hereinafter~~ designated the "surviving cooperative," by complying with the following requirements:

(1) The proposition for the merger of the merging cooperatives into the surviving cooperative and proposed articles of merger to give effect ~~thereto~~ to shall be submitted to a meeting of the members of each merging cooperative and of the surviving cooperative, the notice of which shall have attached ~~thereto~~ to it a copy of the proposed articles of merger.

(2) If the proposed merger and the proposed articles of merger, with amendments, are approved by the affirmative vote of not less than two-thirds of those members of each cooperative voting ~~thereon~~ at each ~~such~~ meeting, articles of merger in the form approved shall be executed and acknowledged on behalf of each ~~such~~ cooperative by its president or vice president and its seal shall be affixed ~~thereto~~ to it and attested by its secretary. The articles of merger shall recite that they are executed pursuant to this chapter and shall state: (A) the name of each merging cooperative and the address of its principal office; (B) the name of the surviving cooperative and the address of its principal office; (C) a statement that each merging cooperative and the surviving cooperative agree to the merger; (D) the names and addresses of the

directors of the surviving cooperative; and (E) the terms and conditions of the merger and the mode of carrying the same into effect, including the manner in which members of the merging cooperatives may become members of the surviving cooperative. ~~Such~~ The articles may contain provisions not inconsistent with law or this chapter deemed necessary or advisable for the conduct of the business of the surviving cooperative. The president or vice president of each cooperative executing ~~such~~ articles of merger shall make and ~~annex thereto~~ attach to an affidavit stating that the provisions of this section in respect to ~~such~~ the articles were duly complied with by ~~such~~ the cooperative.

Sec. 421. 30 V.S.A. § 3022 is amended to read:

§ 3022. EFFECT

In the case of a consolidation, the separate existence of the consolidating cooperatives shall cease and the articles of consolidation shall be deemed to be the articles of incorporation of the new cooperative. In the case of a merger, the separate existence of the merging cooperatives shall cease and the articles of incorporation of the surviving cooperative shall be deemed to be amended to the extent that changes ~~therein~~ are provided for in the articles of the merger.

Sec. 422. 30 V.S.A. § 3026 is amended to read:

§ 3026. PRIVATE CORPORATION~~,~~; CHANGE

A corporation organized under the laws of this State and supplying or authorized to supply energy may be converted into a cooperative by complying

with the following requirements and shall ~~thereupon~~ become subject to this chapter with the same effect as if originally organized under this chapter:

(1) The proposition for the conversion of ~~such~~ a corporation into a cooperative and proposed articles of conversion to give effect ~~thereto~~ to shall be submitted to a meeting of the members or stockholders of ~~such~~ a corporation, the notice of which shall have attached ~~thereto~~ a copy of the proposed articles of conversion.

(2) If the proposition for the conversion of ~~such~~ a corporation into a cooperative and the proposed articles of conversion, with amendments, are approved by the affirmative vote of not less than two-thirds of those members of such corporation voting ~~thereon~~ at ~~such~~ the meeting, or, if such corporation is a stock corporation, by the affirmative vote of the holders of not less than two-thirds of the shares of the capital stock of ~~such~~ the corporation represented at ~~such~~ the meeting and voting ~~thereon~~, articles of conversion in the form approved shall be executed and acknowledged on behalf of ~~such~~ the corporation by its president or vice president and its seal shall be affixed ~~thereto~~ to it and attested by its secretary.

(3) The articles of conversion shall recite that they are executed pursuant to this chapter and shall state: (A) the name of the corporation and the address of its principal office prior to its conversion into a cooperative; (B) the statute or statutes under which it was organized; (C) a statement that ~~such~~ the corporation elects to become a cooperative subject to this chapter; (D) its name

as a cooperative; (E) the address of the principal office of the cooperative; (F) the names and addresses of the directors of the cooperative; and (G) the manner in which members or stockholders of ~~such~~ the corporation may become members of the cooperative; and may contain any provisions not inconsistent with law or this chapter deemed necessary or advisable for the conduct of the business of the cooperative. The president or vice president executing ~~such~~ articles of conversion shall make and ~~annex thereto~~ attach to an affidavit stating that the provisions of this section were duly complied with in respect of such articles. The articles of conversion shall be deemed to be the articles of incorporation of the cooperative.

Sec. 423. 30 V.S.A. § 3027(4) is amended to read:

(4) that any sums received by the cooperative, less any part thereof disbursed for expenses of the cooperative, have been returned or paid to those entitled ~~thereto~~ to them;

Sec. 424. 30 V.S.A. § 3028 is amended to read:

§ 3028. DISSOLUTION OF COOPERATIVES

A cooperative that has commenced business may be dissolved in the following manner: The members at a meeting shall approve, by the affirmative vote of not less than two-thirds of the members voting ~~thereon~~ at ~~such~~ a meeting, a proposal that the cooperative be dissolved. Upon ~~such~~ approval, a certificate of election to dissolve, ~~hereinafter~~ designated the "certificate," executed under oath and acknowledged on behalf of the cooperative by its

president or vice president under its seal, attested by its secretary, and stating: (1) the name of the cooperative; (2) the address of its principal office; and (3) that the members of the cooperative have duly voted that the cooperative be dissolved, shall be filed with the Secretary of State. Upon filing of ~~such~~ a certificate by the Secretary of State, the cooperative shall cease to carry on its business except to the extent necessary for the winding up ~~thereof~~, but its corporate existence shall continue until a certificate of dissolution has been filed by the Secretary of State. The board of directors shall immediately cause notice of the dissolution proceedings to be mailed to each known creditor of and claimant against the cooperative and to be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the cooperative is located. The board of directors shall wind up and settle the affairs of the cooperative~~,~~; collect sums owing to it~~,~~; liquidate its property and assets~~,~~; pay and discharge its debts, obligations, and liabilities~~,~~; and do all other things required to wind up its business. After paying or discharging or adequately providing for the payment or discharge of all its debts, obligations, and liabilities, the board shall distribute any remaining sums among its members and former members in proportion to the patronage of the respective members or former members during the seven years next preceding the date of the filing of the certificate by the Secretary of State, or if the cooperative has not been in existence for such period, then during the period of its existence prior to ~~such~~ the filing. The board of

directors shall ~~thereupon~~ authorize the execution of a certificate of dissolution, which shall be executed and acknowledged on behalf of the cooperative by its president or vice president, and its seal shall be affixed ~~thereto~~ to it and attested by its secretary. The certificate of dissolution shall recite that it is executed pursuant to this chapter and shall state: (1) the name of the cooperative; (2) the address of its principal office; (3) the date on which the certificate of election to dissolve was filed by the Secretary of State; (4) that there are no actions or suits pending against the cooperative; (5) that all debts, obligations, and liabilities of the cooperative have been paid and discharged or that adequate provision has been made ~~therefor~~; and (6) that the provisions of this chapter relative to dissolution have been duly complied with. The president or vice president executing the certificate of dissolution shall make and ~~annex thereto~~ attach to an affidavit stating that the statements made ~~therein~~ in it are true.

Sec. 425. 30 V.S.A. § 3029 is amended to read:

§ 3029. PAPERS FILED

Articles of incorporation, amendment, consolidation, merger, conversion, or dissolution, when executed and acknowledged and accompanied by ~~such~~ affidavits as may be required by applicable provisions of this chapter, shall be filed with the Secretary of State. If the Secretary of State ~~shall find~~ finds that the articles presented conform to the requirements of this chapter, ~~he or she~~ the Secretary shall, upon the payment of the fees as in this chapter provided, record ~~such~~ the articles and upon ~~such~~ the recording the incorporation,

amendment, consolidation, merger, conversion, or dissolution provided for ~~therein~~ shall be in effect. The provisions of this section shall also apply to certificates of election to dissolve pursuant to section 3028 of this ~~title~~ chapter.

Sec. 426. 30 V.S.A. § 3030 is amended to read:

§ 3030. REVENUES~~,~~; USE OF

Revenues of a cooperative for a fiscal year in excess of the amount thereof necessary:

* * *

(6) To provide a fund, ~~hereinafter~~ designated as the "cooperative education fund," for education in cooperation and for the dissemination of information concerning the effective use of energy and other services, goods, or products made available by the cooperative, shall, unless otherwise determined by a vote of the members, be distributed by the cooperative to its members and to other persons to whom the cooperative supplies energy or other services, goods, or products made available through its electric distribution facilities, as patronage refunds prorated in accordance with the patronage of the cooperative by the respective members and ~~such~~ other persons, paid for during such fiscal year; provided, however, ~~such~~ a distribution shall not be made to ~~such other~~ a person until ~~he or she has become~~ that person becomes a member of the cooperative. If ~~such other~~ that person does not become a member of the cooperative within one year after the amount of ~~his or her~~ that person's distributive share or accumulated distributive shares

equals the membership fee required by the bylaws of the cooperative, or, if no membership fee is required, within two years after the declaration of ~~such~~ the patronage refund, ~~he or she~~ that person shall cease to be entitled to ~~such~~ a share or shares, which shall, in such case, be paid into the cooperative education fund. The cooperative shall make such additional provision, in the bylaws or otherwise, relative to the disposition of the revenues of the cooperative as may be necessary and appropriate to establish and maintain the nonprofit character of the cooperative. Nothing ~~herein~~ contained in this section shall be construed to prohibit the payment by a cooperative of all or any part of its indebtedness prior to the date when the same shall become due.

Sec. 427. 30 V.S.A. § 3031 is amended to read:

§ 3031. MORTGAGE AND INVESTMENT

(a) The board of directors of a cooperative shall have full power and authority, without authorization by the members ~~thereof~~, to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust of, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises, and permits of the cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income ~~therefrom~~, all upon such terms and conditions as the board of directors shall determine, to secure indebtedness of the cooperative in the ordinary course of the cooperative's electric business.

(b) The board of directors of a cooperative shall have full power and authority, with the approval of two-thirds of the members of the cooperative voting on such authorization, to authorize the execution and delivery of a mortgage or mortgages or a deed of trust of, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises, and permits of the cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income ~~therefrom~~, upon ~~such~~ terms and conditions as the board of directors shall determine, to secure indebtedness of the cooperative for purposes authorized by statute other than operation of the cooperative's electric business.

* * *

Sec. 428. 30 V.S.A. § 3033 is amended to read:

§ 3033. PERSONAL LIABILITY

A member shall not be liable or responsible for debts of the cooperative and the property of the members shall not be subject to attachment or execution ~~therefor~~.

Sec. 429. 30 V.S.A. § 3034 is amended to read:

§ 3034. MORTGAGES~~,~~; FILING

A mortgage, deed of trust, or other instrument executed by a cooperative or foreign corporation doing business in this State pursuant to this chapter, which affects real and personal property and which is recorded in the town in which such property is located or is to be located, shall have the same force and effect

as if the mortgage, deed of trust, or other instrument were also recorded, filed, or indexed as provided by law in the proper office in such town as a mortgage of personal property. All after-acquired property of such cooperative or foreign corporation described or referred to as being mortgaged or pledged in such mortgage, deed of trust, or other instrument, shall become subject to the lien thereof immediately upon the acquisition of such property by such cooperative or foreign corporation, whether or not such property was in existence at the time of the execution of such mortgage, deed of trust, or other instrument. Recordation of ~~such~~ the mortgage, deed of trust, or other instrument shall constitute notice and otherwise have the same effect with respect to ~~such~~ the after-acquired property as it has under the laws relating to recordation, with respect to property owned by ~~such~~ the cooperative or foreign corporation at the time of the execution of ~~such~~ the mortgage, deed of trust, or other instrument and ~~therein~~ described or referred to as being mortgaged or pledged ~~thereby~~.

Sec. 430. 30 V.S.A. § 3037 is amended to read:

§ 3037. FOREIGN COMPANIES~~,~~; SERVICE OF PROCESS

A foreign nonprofit or cooperative corporation supplying or authorized to supply electric energy and owning or operating electric transmission or distribution lines in an adjacent state, prior to March 26, 1943, may construct or acquire extensions of ~~such~~ lines in this State within an area no point of which is more than 25 miles from the boundary line of this State and may

operate ~~such~~ those extensions without qualifying as a foreign corporation to do business in this State. Before constructing or operating such extensions, by an instrument executed and acknowledged on its behalf by its president or vice president, under its seal attested by its clerk or secretary, and filed with the Secretary of State, ~~which instrument shall be in form and substance like that prescribed by 11 V.S.A. § 692, such~~ a corporation shall designate the Secretary of State its agent to accept service of process on its behalf. Thereafter, ~~such~~ the corporation shall have all the rights, powers, privileges, and immunities of a cooperative. Service of process shall be made upon the Secretary of State in accordance with the provisions of 12 V.S.A. §§ 851 and 852 and ~~he or she~~ shall ~~forthwith~~ forward one copy of the same by registered mail to such corporation at the address of its principal office.

Sec. 431. 30 V.S.A. § 3043(b) is amended to read:

(b) Members of a cooperative organized pursuant to subsection (a) of this section shall be the cooperative or cooperatives organizing it and may include any individual, partnership, association, corporation, municipality, or cooperative engaged in the generation, transmission, or distribution of energy within or ~~without~~ outside the State of Vermont. The bylaws of a cooperative organized pursuant to subsection (a) of this section may provide for more than one class of membership, including a class or classes with no rights or with limited rights to vote on matters requiring the vote of members under this

chapter, and including a class or classes with no rights or limited rights to receive distributions of patronage refunds.

Sec. 432. 30 V.S.A. § 3051(d)(1) is amended to read:

(1) "Communications plant" means any and all parts of any communications system owned by the district, whether using wires, cables, fiber optics, wireless, other technologies, or a combination ~~thereof~~ of, and used for the purpose of transporting or storing information, in whatever forms, directions, and media, together with any improvements ~~thereto hereafter~~ constructed or acquired later, and all other facilities, equipment, and appurtenances necessary or appropriate to such system. However, the term "communications plant" and any regulatory implications or any restrictions under this chapter regarding a "communications plant" shall not apply to facilities or portions of any communications facilities intended for use by, and solely used by, a district member and its own officers and employees in the operation of municipal departments or systems of which such communications are merely an ancillary component.

Sec. 433. 30 V.S.A. § 3053(c) is amended to read:

(c) An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality of the formation, or the existence as a body corporate and politic of any communications union district created under this chapter after six months from the date of the recording in the office of the Secretary of State of the certificate required by subsection (a) of

this section. An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality or validity of any bonds issued to defray costs of communications plant improvements approved by the board, after six months from the date upon which the board voted affirmatively to issue such bonds. This section shall be liberally construed to ~~effect~~ affect the legislative purpose to validate and make certain the legal existence of all communications union districts in this State and the validity of bonds issued or authorized for communications plant improvements, and to bar every remedy ~~therefor~~ notwithstanding any defects or irregularities, jurisdictional or otherwise, after expiration of the six-month period. The provisions of this subsection shall also pertain to financial contracts directly related to the district's bonding authority.

Sec. 434. 30 V.S.A. § 3054 is amended to read:

§ 3054. DISTRICT POWERS

(a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject to the limitations and restrictions set forth in section 3056 of this chapter, a district created under this chapter shall have the power to:

(1) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of a communications plant for the delivery of communications services, as provided in 24 V.S.A. chapter 54~~, and all enactments supplementary and amendatory thereto~~;

* * *

(8) provide communications services for its district members, including the residential and business locations located therein; and also provide communications services for such other residential and business locations as its facilities and obligations may allow, provided such other locations are in a municipality that is contiguous with the town limits of a district member, and further provided such other locations do not have access to ~~Internet~~ internet service capable of speeds that meet or exceed the current speed requirements for funding eligibility under the Connectivity Initiative, section 7515b of this title.

* * *

(18) establish capital reserve funds and make appropriations ~~thereto~~ for communications plant improvements and the financing ~~thereof~~;

* * *

Sec. 435. 30 V.S.A. § 3059 is amended to read:

§ 3059. APPOINTMENT

Annually on or before the last Monday in April, the legislative body of each member shall appoint a representative and one or more alternates to the governing board for one-year terms. Appointments of representatives and alternates shall be in writing, signed by the chair of the legislative body of the appointing member, and presented to the clerk of the district. The legislative body of a member, by majority vote, may replace its appointed representative or alternate at any time and shall promptly notify the district clerk of ~~such~~ the

replacement. Initial appointments shall be made within 60 days ~~of~~ following the vote to form a district under subsection 3051(b) of this ~~title~~ chapter and initial terms may be for less than one year.

Sec. 436. 30 V.S.A. § 3060 is amended to read:

§ 3060. ORGANIZATIONAL MEETING

Annually, on the second Tuesday in May following the appointments contemplated in section 3059 of this chapter, the board shall hold its organizational meeting. At ~~such~~ the meeting, the board shall elect from among its appointed representatives a chair and a vice chair, each of whom shall hold office for one year and until ~~his or her~~ a successor is duly elected. The board's initial organizational meeting shall be held within 90 days ~~of~~ following the vote to form a district under subsection 3051(b) of this title.

Sec. 437. 30 V.S.A. § 3067(e) is amended to read:

(e) Upon the death, disability, resignation, or removal of the chair or vice chair, the board shall ~~forthwith~~ immediately elect a successor to ~~such~~ the vacant office until the next annual meeting.

Sec. 438. 30 V.S.A. § 3068 is amended to read:

§ 3068. CLERK

The clerk of the district shall be appointed by the board~~,~~ and shall serve at its pleasure. The clerk is not required to be a member of the governing board. The clerk shall have the exclusive charge and custody of the records of the district and the seal of the district. The clerk shall record all votes and

proceedings of the district, including district and board meetings, and shall prepare and cause to be posted and published all warnings of meetings ~~of such meetings~~. Following approval by the board, the clerk shall cause the annual report to be distributed to the legislative bodies of the district members. The clerk shall prepare and distribute any other reports required by State law and resolutions or ~~regulations~~ rules of the board. The clerk shall perform all duties and functions incident to the office of secretary or clerk of a body corporate.

Sec. 439. 30 V.S.A. § 3069 is amended to read:

§ 3069. TREASURER

The treasurer of the district shall be appointed by the board~~,~~ and shall serve at its pleasure. The treasurer shall not be a member of the governing board. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt ~~therefor~~. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment thereon. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as shall be required of the treasurer. The treasurer shall prepare the

annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. The treasurer shall do and perform all of the duties appertaining to the office of treasurer of a body politic and corporate. Upon removal or the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to the successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

Sec. 440. 30 V.S.A. § 3073 is amended to read:

§ 3073. RECALL OF OFFICERS

An officer may be removed by a two-thirds~~'~~ vote of the board whenever, in its judgment, the best ~~interest~~ interests of the district shall be served.

Sec. 441. 30 V.S.A. § 3075 is amended to read:

§ 3075. BUDGET

* * *

(d) Actions or resolutions of the board for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted. Appropriations made by the board for the various estimates of the budget shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates. Any balance left or unencumbered in any ~~such~~ budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in

the next fiscal year. All ~~such~~ budget amendments shall be reported by the district treasurer to the legislative bodies of each district member within 14 days ~~of~~ following the end of the fiscal year.

(e) Financial statements and audit results shall be delivered to the legislative bodies of each district member within 10 days ~~of~~ following delivery to the board.

Sec. 442. 30 V.S.A. § 3080(i) is amended to read:

(i) At all special meetings, the provisions of 17 V.S.A. chapter 51 regarding election officials, voting machines, polling places, absentee voting, process of voting, count and return of votes, validation, recounts and contest of elections, reconsideration or rescission of vote, and jurisdiction of courts shall apply except where clearly inapplicable. The clerk shall perform the functions assigned to the Secretary of State under that chapter. The Washington Superior Court shall have jurisdiction over petitions for recounts. Election expenses shall be borne by the district, unless within 30 days ~~of~~ following the date of such resolution there is filed with the clerk of the district a request to call a special district meeting under this section to consider a proposition to rescind such resolution.

Sec. 443. 30 V.S.A. § 3081 is amended to read:

§ 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

A district member may withdraw from the district upon the terms and conditions ~~herein~~ specified in this section:

(1) Prior to the district pledging communications plant net revenues, or entering into a long-term contract, or contract subject to annual appropriation, a district member may vote to withdraw in the same manner as the vote for admission to the district. If a majority of the voters of a district member present and voting at a meeting duly warned for ~~such~~ this purpose votes to withdraw from the district, the vote shall be certified by the clerk of that municipality and presented to the board. Thereafter, the board shall give notice to the remaining district members of the vote to withdraw and shall hold a meeting to determine if it is in the best ~~interest~~ interests of the district to continue to exist. Representatives of the district members shall be given an opportunity to be heard at such meeting together with any other interested persons. After ~~such a~~ the meeting, the board may declare the district dissolved or it may declare that the district shall continue to exist despite the withdrawal of such member. The membership of the withdrawing municipality shall terminate after the vote to withdraw.

* * *

Sec. 444. 30 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

~~In~~ As used in this chapter, unless the context otherwise requires~~, the following words shall have the following meanings~~:

* * *

(4) "Utility~~,~~" ~~except as otherwise required by the context in which used herein,~~ is intended to refer to cooperatives, municipal utilities, as ~~herein~~ defined, and private electric utilities.

Sec. 445. 30 V.S.A. § 4002a is amended to read:

§ 4002a. ALL REQUIREMENTS CONTRACTS

* * *

(b) Prior to entering into such a contract, the municipal or cooperative utility must obtain:

(1) Approval, upon petition of the utility or of the Authority, by the Public Utility Commission of the proposed arrangement, which shall be given upon findings that the proposed arrangement will promote the general good of the ratepayers of the utility or utilities~~,~~ and is consistent with least-cost integrated planning principles. The proposed contract reflecting the arrangement shall be filed with the Commission and the Department at least 45 days prior to its intended execution, and the Department shall make its recommendation as to whether it accepts or does not accept the contract within 30 days ~~of~~ following the date on which the proposed contract was filed. Should the Department oppose the contract, or the Commission on its own motion determine that investigation into the contract is appropriate, the Commission shall hear evidence on the matter and shall determine, within seven months of the intended execution date, whether the contract promotes the general good as described in this subdivision. Failure of the Commission

to act within seven months shall be deemed to constitute approval of the contract.

(2) Approval of the arrangement, within 90 days ~~of~~ following approval or failure to act by the Public Utility Commission under subdivision (1) of this subsection, by a majority of persons voting in a duly warned election called by the cooperative or municipality for the purpose of considering such arrangement.

* * *

(d) Any contract under this section shall contain provisions allowing for its termination upon appropriate prior notice, with due consideration for the equitable allocation of obligations incurred pursuant to subdivision 5012(6) of this title during the period of delegated authority. Where a petition signed by not less than five percent of the qualified voters of a municipality or members of a cooperative, requesting termination of the participation of the municipality or cooperative in an all requirements contract, is filed with the clerk of the municipality or the board of directors of the cooperative, the legislative body of the municipality or the board of directors of the cooperative shall provide for a binding vote of the municipality or cooperative in accordance with this subsection within 60 days ~~of~~ following filing, at an annual or special meeting duly warned for that purpose.

* * *

Sec. 446. 30 V.S.A. § 4003 is amended to read:

§ 4003. IMPLEMENTING POWERS

Without limiting the general scope and application of section 4002 of this chapter, each participating utility shall have the right and power:

* * *

(3) To acquire, for the use and benefit of all participating utilities, by purchase or through the exercise of the power of eminent domain, lands, easements, and properties for the purpose of jointly owned electric facilities, and transfer or convey ~~such~~ lands, easements, and properties or interests ~~therein~~, or otherwise to cause ~~such~~ those lands, easements, and properties, or interests ~~therein~~, to be vested in other participating utilities to the extent and in the manner agreed between the participating utilities. In all cases in which a participating utility exercises the right and power of eminent domain conferred by statute, it shall be controlled by the law governing condemnation by corporate public utilities in this State, and the right and power of eminent domain ~~hereby~~ conferred shall include the right and power to take fee title in land so condemned, except that no participating utility has the right or power to take by the exercise of the power of eminent domain any electric facilities, or interests ~~therein~~, belonging to any other municipal electric utility, electric cooperative, or private utility, except as provided by chapter 79 of this title.

* * *

Sec. 447. 30 V.S.A. § 4006 is amended to read:

§ 4006. CONSTRUCTION OF CHAPTER

Notwithstanding any other provision of this chapter, nothing ~~herein~~ in this chapter shall have the effect of, or be construed as, altering, amending, or repealing the statutory purposes provided for by any statute enacted by the ~~Legislature~~ General Assembly of Vermont pertaining to the creation, establishment, or operation of municipal electric utilities or electric cooperatives.

Sec. 448. 30 V.S.A. § 5011 is amended to read:

§ 5011. CREATION OF VERMONT PUBLIC POWER SUPPLY AUTHORITY

* * *

(b) The Authority shall consist of those municipalities and cooperatives ~~which~~ that by January 31, 1979 elected to become a member of Vermont Public Power Supply System, Inc., in accordance with the terms of its bylaws, and those Vermont municipalities and cooperatives that shall ~~thereafter~~ later elect to become members of the Authority in accordance with the rules and regulations of the Authority established by it. These rules ~~and regulations~~ shall be calculated to permit membership without an undue burden on new members, but with regard to the benefits contributed to the Authority by its original members.

(c) The powers of the Authority shall be exercised by a board of directors. The Board of Directors shall consist of one director from each member municipality or member cooperative, who shall be elected by the legislative body of each member municipality or the board of trustees of each member cooperative. Each municipality or cooperative may also elect an alternate director to serve in the absence or disability of its director. The term of office of a director shall be for one year coincident with the fiscal year of the Authority or until a successor director has been duly elected and qualified. Any director may be removed at the pleasure of the legislative body of the municipality or cooperative ~~which~~ that elected that director, upon notice to the authority and the election of a successor director. The Board of Directors of the Authority shall adopt bylaws or other rules ~~and regulations~~ for the management of the affairs of the Authority and carrying out the purpose of this chapter. The Board of Directors shall also elect one of its member directors as chair of the Authority and shall also elect a treasurer and secretary who may be~~, but need not be,~~ directors. It may elect other officers and agents as necessary to perform those acts commonly delegated to the officers and agents of a business corporation and shall set their compensation.

(d) ~~Despite~~ Notwithstanding any law or charter provision to the contrary, a director or officer of the Authority who is also an officer, employee, or member of a legislative body of a municipality or other public body or the State shall not ~~thereby~~ be precluded from voting or acting on behalf of the

Authority on a matter involving the municipality or public body or the State. Neither shall service as a director or officer of the Authority constitute a conflict of interest for an officer, employee, or member of a municipality or public body or the State.

* * *

Sec. 449. 30 V.S.A. § 5012 is amended to read:

§ 5012. GENERAL POWERS AND DUTIES

The Authority shall have all of the powers necessary and convenient to carry out this chapter, including those general powers provided a business corporation by ~~11 V.S.A. § 1852~~ 11A V.S.A. § 3.02, and including the power:

* * *

Sec. 450. 30 V.S.A. § 5015 is amended to read:

§ 5015. TAX EXEMPTION

* * *

(c) Real and personal property, situated within the State and owned by the Authority shall be exempt from property taxation. The Authority shall, in lieu of property taxes, pay to any governmental body authorized to levy local property taxes the amount ~~which~~ that would be assessable as local property taxes on the real and tangible personal property if that property were the property of a utility. These payments shall be due, and bear interest if unpaid, as in the case of taxes on the property of a utility. For purposes of these payments in lieu of taxes, the assessors of the taxing authority shall make a

valuation and assessment of the property and determine the tax that would be assessable if the property were owned by a utility. Payments in lieu of taxes made under this chapter shall be treated in the same manner as taxes for the purposes of all procedural and substantive provisions of law, including appeals, ~~now and hereinafter in effect~~ applicable to assessment and taxation of real and personal property, collection, and abatement of these taxes and the raising of public revenues.

Sec. 451. 30 V.S.A. § 5016 is amended to read:

§ 5016. RULES AND RATES

(a) The Authority may make and enforce rules ~~and regulations which~~ that it deems necessary or desirable. It may establish, levy, and collect or may authorize by contract, franchise, lease, or otherwise, the establishment, levying, and collection of rents, rates, and other charges:

* * *

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 determination shall become final if not so appealed within 60 days ~~of~~ following its issuance.

Sec. 455. 30 V.S.A. § 8005a(k) is amended to read:

(k) Executed standard offer contracts; transferability; allocation of benefits and costs. With respect to executed contracts for standard offers under this section:

(1) A contract shall be transferable. The contract transferee shall notify the Standard Offer Facilitator of the contract transfer within 30 days ~~of~~ following transfer.

* * *

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 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.

Sec. 457. 30 V.S.A. § 8010(f) is amended to read:

(f) Except for net metering systems for which the Commission has established a registration process, the Commission shall issue a final determination as to an uncontested application within 90 days ~~of~~ following the date of the last substantive filing by a party.

Sec. 458. 30 V.S.A. § 8091(b) is amended to read:

(b) When constructing or substantially reconstructing lines or structures used for electric or gas transmission or electric distribution, a company shall allow for the construction and maintenance of communications facilities ~~thereupon~~ if requested by a communications service provider.

Sec. 459. 30 V.S.A. § 8101(b)(6) is amended to read:

(6) The Vermont village green renewable project will comply with all applicable national ambient air quality standards and air pollution control ~~regulations~~ rules of the Agency of Natural Resources. If, during 2009, the U.S. Environmental Protection Agency proposes updated emissions standards

applicable to wood-fueled boilers to be used in connection with the project, the project shall comply with ~~such~~ the proposed standards.

* * * Title 31 * * *

Sec. 460. 31 V.S.A. chapter 5 is amended to read:

CHAPTER 5. MUNICIPAL RECREATION

§ 201. AUTHORITY TO APPROPRIATE FOR RECREATION

A city by its council or an incorporated village, at an annual meeting, may appropriate such sums of money as it deems best, not exceeding four percent of its grand list, for the purchase of public playgrounds and lands, and for the construction and maintenance of buildings and equipment ~~thereon~~ on public playgrounds or lands, for public recreational purposes. This section shall not apply to a city or incorporated village whose charter or bylaws authorize ~~such~~ the appropriation.

§ 202. AUTHORITY TO ESTABLISH AND FINANCE RECREATION SYSTEM

Municipalities, singly or jointly, may establish, maintain, and conduct a system of public recreation, including playgrounds; may set apart for ~~such~~ that use any land or buildings owned or leased by it; may acquire land, buildings, and other recreational facilities by gift or purchase, and may issue bonds ~~therefor~~ for these purposes as provided in 24 V.S.A. §§ 1751–1788 and equip and conduct the same; may employ a director of recreation and assistant; and may expend funds for the ~~aforesaid~~ these purposes.

§ 203. CONTROL AND SUPERVISION OF SYSTEM

The legislative body may conduct the same through a department or bureau of recreation or may delegate the conduct ~~thereof~~ of the system to a recreational board created by them, or to a school board or to any other appropriate existing board or commission. The members of ~~such~~ the body first appointed shall be appointed for such terms that the term of one member shall expire annually ~~thereafter~~.

§ 204. FREE MUSICAL ENTERTAINMENTS

A municipality may appropriate ~~such~~ sums of money not exceeding five percent of its grand list, when the grand list of ~~such~~ the municipality does not exceed $20,000.00, and a sum not to exceed three percent of the grand list of ~~such~~ the municipality, when the grand list exceeds $20,000.00, to pay the expenses of free musical entertainments, to be held within its limits, at such times and places as is directed by ~~such~~ the vote.

Sec. 461. 31 V.S.A. chapter 9 is amended to read:

CHAPTER 9. MUNICIPAL REGULATION OF ENTERTAINMENT

* * *

§ 401. PERMITS AND FEES

A selectboard may permit the exhibition in its town of any show mentioned in 32 V.S.A. §§ 9905 and 9906, on payment by the owners or operators thereof, for the use of the town, of not more than $100.00 nor less than $10.00 for every day on which exhibitions are given in ~~such~~ the town.

§ 402. REVOCATION OF PERMIT

If, during the exhibition of a show under ~~such~~ the license, the selectboard is satisfied that ~~such~~ the exhibition disturbs the public peace, it may give notice in writing to the owner or operator ~~thereof~~ of the exhibition that the license is revoked. If, after ~~such~~ notice, ~~such~~ the exhibition is not immediately suspended, the owner or operator shall be subject to the same penalty as if ~~he or she~~ the owner had exhibited without a license.

* * *

§ 404. EXHIBITING WITHOUT STATE AND TOWN LICENSES

A person who gives or attempts to give an exhibition in a town of a show mentioned in 32 V.S.A. §§ 9901–9910 without first having obtained permission of the selectboard of ~~such~~ the town ~~therefor~~ and without having received from the Secretary of State the license as provided in 32 V.S.A. §§ 9901–9910, shall be fined not more than $3,000.00 nor less than $1,000.00.

§ 405. PERMITS TO EXHIBIT NATURAL CURIOSITIES

A selectboard may permit a person to exhibit living animals and other natural curiosities for not more than two days at one time on payment of not more than $50.00 nor less than $10.00 by ~~such~~ the person to the selectboard for the use of the town.

§ 406. EXHIBITION WITHOUT LICENSE

A person who for reward or gain or under color of a gratuity suffers premises under ~~his or her~~ the person's control to be used for the exhibition of a

circus, living animals, and natural curiosities or exhibits a living animal or natural curiosity without having previously obtained ~~such~~ permission shall be fined not more than $200.00.

* * *

§ 441. REGULATION OF SHOWS AND GAMES OF CHANCE

The officers of a town fair association may regulate and prevent theatrical, circus, or mountebank exhibitions and shows, or traffic in fruits, goods, wares, and merchandise of whatever description, the trading of horses, and games of chance, on fair days, within a distance of 200 yards ~~in~~ of any highway leading to or passing a fairground, if in the opinion of ~~such~~ the officers the same would obstruct or interfere with the free and uninterrupted use of ~~such~~ the highways. The police employed by ~~such~~ the association shall have the same power in respect to ~~such~~ matters on ~~such~~ the highways as they have within ~~such~~ the grounds.

§ 442. LICENSES FOR THEATRES AND SIMILAR ENTERTAINMENT

The selectboard of a town, trustees of an incorporated village, and the aldermen of a city may grant licenses and fix a license fee ~~therefor~~, for theatres, shows, moving picture shows, or concert halls operated and maintained for profit, may revoke the same, and may also, after hearing, refuse to grant ~~such~~ a license when, in their judgment, the public good requires.

§ 443. OPERATING WITHOUT LICENSE

A person who installs, operates, or maintains a theatre, show, moving picture show, or concert hall without first obtaining a license ~~therefor~~, if required by the selectboard of a town, the trustees of an incorporated village, or the aldermen of a city, as provided in section 442 of this ~~title~~ chapter, shall be fined not more than $100.00 for each day on which ~~he or she so~~ the person operates or maintains the ~~same~~ theatre, show, moving picture show, or concert hall. ~~Such~~ The fine shall be paid to the town treasurer for the benefit of the town.

* * *

Sec. 462. 31 V.S.A. chapter 11 is amended to read:

CHAPTER 11. MUNICIPAL REGULATION OF DANCE HALLS, BOWLING ALLEYS, POOL HALLS, AND COASTING

§ 501. DANCE HALL DEFINED

A room, hall, eating place, building, structure, or place shall be deemed to be a dance hall for the purposes of this chapter at all times and occasions when dancing, for which admission is charged and which is open to the general public, is conducted or permitted ~~therein~~.

§ 502. SUPERVISION

A person, partnership, association, or corporation shall not operate a dance hall unless, at the hours when dancing is conducted or permitted ~~therein~~, there is in attendance one or more police or other officers empowered to make

arrests. With the approval of the selectboard, city council, or trustees of the town, city, or incorporated village where the dance hall is operated, licensed security guards may be employed in place of officers. The officers or security guards shall be paid for their services by the operator of the dance hall. The number of officers or security guards and the individuals so acting shall be approved by the selectboard, mayor, or trustees of the town, city, or incorporated village.

§ 503. LICENSE REQUIRED

A person, partnership, association, or corporation shall not operate a dance hall, bowling alley, or pool hall unless a license ~~so~~ to do so has been obtained from the selectboard, city council, or trustees of the town, city, or incorporated village in which it is proposed to operate ~~such~~ the dance hall, bowling alley, or pool hall. Any ~~such~~ dance hall, bowling alley, or pool hall license may, after hearing and for cause, be revoked by the municipal officers granting the same when in their judgment the public good requires.

* * *

Sec. 463. 31 V.S.A chapter 15 is amended to read:

CHAPTER 15. SKI TRAMWAYS

* * *

§ 704. RULES

The Board may, in accordance with 3 V.S.A. chapter 25, adopt reasonable rules relating to public safety in the construction, operation, maintenance, and

inspection of passenger tramways. The rules authorized ~~hereunder~~ under this section shall conform as nearly as practicable to established standards, if any, and shall not be discriminatory in their application to operators of passenger tramways. Rules adopted by the Board shall in no way reduce or diminish the standard of care imposed upon passenger tramway operators under existing law.

* * *

§ 707. REGISTRATION AND FEES

(a) A passenger tramway shall not be operated in this State unless the operator ~~thereof~~ of the passenger tramway has been registered by the Department. On or before the first day of November in each year, every operator of a passenger tramway shall apply to the Department on forms prepared by ~~it~~ the Department for registration ~~hereunder~~ under this chapter. The application shall contain ~~such~~ information ~~as~~ that the Department may require and shall be accompanied by a registration fee, according to the formula stated in this section, unless an alternate payment plan is approved by the Commissioner pursuant to subsection (f) of this section. The Department shall assess total registration fees in the sum of the amount approved in the appropriations process for the program for that fiscal year, adjusted by any balance in the Passenger Tramway Special Fund from the prior fiscal year.

* * *

(f) The Commissioner has discretion to authorize a tramway operator to enter a payment plan to pay some or all of the ~~fee due State~~ fee due to the State after November 1 upon a showing of financial need. The authorization and terms of any payment plan shall be in writing and set a date or dates for payment, provided that the total amount of the ~~fee due State~~ fee due to the State shall be paid ~~no~~ not later than January 15. Failure to pay on November 1 or pursuant to an authorized plan may subject the operator to the penalties established in section 712 of this ~~title~~ chapter.

§ 708. ORDERS

If, after investigation, the Department finds that a violation of any of the rules exists, or that there is a condition in passenger tramway construction, operation, or maintenance endangering the safety of the public, it shall ~~forthwith~~ immediately issue its written order setting forth its findings, the corrective action to be taken, and fixing a reasonable time for compliance ~~therewith~~ with the written order. The order shall be served upon the operator involved by registered mail and shall become final unless the operator applies to the Board for a hearing in the manner provided in section 709 of this ~~title~~ chapter.

* * *

Sec. 464. 31 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

~~For the purpose of~~ As used in this chapter:

* * *

(2) "Passport" means a "Green Mountain Passport" as provided by section 1002 of this ~~title~~ chapter.

(3) "State-sponsored public event" means all events, exhibits, concerts, or museums fully supported by State funds to which the public is invited and all State parks, historical sites, and State lands normally open to the public. Overnight camping is excluded subject to ~~regulations granted~~ rules adopted by the Department of Forests, Parks and Recreation.

* * *

* * * Title 32 * * *

Sec. 465. 32 V.S.A. § 701a(a)(2) is amended to read:

(2) recommendations for capital projects that may be paid for from the Cash Fund for Capital ~~Infrastructure~~ and ~~Other~~ Essential Investments, established in section 1001b of this title.

Sec. 466. 32 V.S.A. § 3752(1)(A) is amended to read:

(A) it is owned by a farmer and is part of the overall farm unit; ~~or~~

Sec. 467. 32 V.S.A. § 5811(18)(A)(i)(I) and (II) are amended to read:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; ~~and~~

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and

after January 1, 1986 as interest income from state and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations; and

Sec. 468. 32 V.S.A. § 5811(21)(C)(ii)(II) is amended to read:

(II) for taxpayers whose filing status under section 5822 of this chapter is head of household, $9,000.00; and

Sec. 469. 32 V.S.A. § 5822(c)(1)(B) is amended to read:

(B) recapture of the federal investment tax credit attributable to the Vermont portion of the investment; and

Sec. 470. 32 V.S.A. § 5859(b)(2) is amended to read:

(2)(A) The period of the underpayment for which interest and penalties shall apply shall commence on the date the installment was required to be paid and shall terminate on the earlier of the following dates:

~~(A)~~(i) the date a U.S. income tax return is required to be filed for that year by that corporation under the laws of the United States; or

~~(B)~~(ii) with respect to any portion of the underpayment, the date on which such portion is paid.

(B) For purposes of this subdivision (2), a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the

installment determined under subdivision (1)(A) of this subsection (b) for such installment date.

* * * Title 33 * * *

Sec. 471. 33 V.S.A. § 1901(d)(3) is amended to read:

(3) The Agency of Human Services and Department of Vermont Health Access shall report to the Health ~~Care~~ Reform Oversight Committee about implementation of Global Commitment in a manner and at a frequency to be determined by the Committee. Reporting shall, at a minimum, enable the tracking of expenditures by eligibility category, the type of care received, and to the extent possible allow historical comparison with expenditures under the previous Medicaid appropriation model ~~(~~by department and program~~)~~ and, if appropriate, with the amounts transferred by another department to the Department of Vermont Health Access. Reporting shall include spending in comparison to any applicable budget neutrality standards.

Sec. 472. 33 V.S.A. § 3512(a)(2) is amended to read

(2) The subsidy authorized by this subsection and the corresponding family contribution shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. The Commissioner may adjust the subsidy and family contribution by rule to account for increasing child care costs not to exceed 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. Families shall be found eligible using an income eligibility scale based on the current federal

poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to 175 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including 575 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by ~~the~~ this subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

Sec. 473. 33 V.S.A. § 3518(a) is amended to read:

(a) Definitions. As used in this section:

* * *

Sec. 474. 33 V.S.A. § 6902(1)(C) is amended to read:

(C) Confinement, seclusion, restraint, or interference with the freedom of movement of a vulnerable adult, unless necessary to ensure the health and safety of the vulnerable adults or others.

Sec. 475. 33 V.S.A. § 6902(13)(F) is amended to read:

(F) knowingly failing to use a vulnerable adult's income and assets for the necessities required for that vulnerable adult's support and maintenance; or

Sec. 476. 33 V.S.A. § 6907(b)(2)(B) is amended to read:

(B) In the event that the vulnerable adult's agent under power of attorney is the person responsible for the abuse, neglect, or exploitation, and the agent refuses to consent to the investigation or the alleged victim's protective services, the investigator may seek review of the agent's refusal by filing a petition in Superior Court pursuant to 14 V.S.A. § ~~3510(b)~~ 4016.

Sec. 477. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

* * *

(c) Registry. The Department shall maintain a registry of substantiated caregivers that shall contain the following information:

* * *

(e) Disclosure of Registry records. An employer providing transportation services to children or vulnerable adults may disclose Registry records obtained pursuant to subdivision (d)(1)(C) of this section to the Agency of Human Services or its designee for the sole purpose of auditing the records to ensure compliance with this chapter. An employer shall provide such records at the request of the Agency or its designee. Only Registry records regarding individuals who provide direct transportation services or otherwise have direct contact with children or vulnerable adults may be disclosed.

(f) Application for relief. A person may, at any time, apply to the Human Services Board for relief if the person has reasonable cause to believe that the contents of the Registry or investigative records are being misused.

(g) Expungement. A person may at any time apply to the Department for expungement of the person's name from the Registry. The person shall have the burden of showing why the person's name should be expunged from the Registry. The Department shall consider the person's completion of reparation and rehabilitation in determining whether the person's name should be expunged from the Registry.

Sec. 478. 33 V.S.A. § 6915(e) is amended to read:

(e) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial information, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § ~~3510(b)~~ 4016 to compel the agent to consent to the release of the alleged victim's financial information.

* * * Interpretation; Effective Dates * * *

Sec. 479. INTERPRETATION

It is the intent of the General Assembly that the technical amendments in this act shall not supersede substantive changes contained in other bills enacted by the General Assembly during the current biennium. Where possible, the amendments in this act shall be interpreted to be supplemental to other amendments to the same sections of statute; to the extent the provisions

conflict, the substantive changes in other acts shall take precedence over the technical changes in this act.

Sec. 480. EFFECTIVE DATES

(a) Sec. 472 (33 V.S.A. § 3512(a)(2)) shall take effect on October 1, 2024.

(b) All other sections shall take effect on July 1, 2024.

Date Governor signed bill: March 4, 2024