

# House Calendar

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Tuesday, March 08, 2011

63rd DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Third Reading**

**H. 120**

An act relating to commemorative Boy Scout motor vehicle plates

**Favorable with amendment**

**H. 38**

An act relating to adopting the interstate compact on educational opportunity for military children

**Rep. Lewis of Berlin**, for the Committee on **Education**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 217 is added to read:

§ 217. CHILDREN OF MILITARY FAMILIES

(a) The commissioner shall work with school districts and supervisory unions to support the educational continuity and success of children of military families, whose lives can be disrupted by frequent relocation and parental deployment, by, among other things, facilitating the timely enrollment of a child of a military family, the transfer of education records, and the educational placement process.

(b) When a student who is the child of a military family moves to a new school district, the student's parents or guardian shall provide the school district with proof of residency, official or unofficial school records if available, immunization records, and information by which the school district can contact officials in the school in which the student was previously enrolled.

(1) Within two business days of receiving the information, the school district shall:

(A) enroll and temporarily place the student within a school maintained by the district or to which the district pays tuition; and

(B) request official records from the school in which the student was previously enrolled.

(2) Within the first 30 days after the student's enrollment, the nurse employed by the school shall review the student's immunization records and notify the student's parents or guardian of unsatisfied state requirements

regarding immunization and of the exemptions to those requirements, including 18 V.S.A. § 1122(a)(1), which allow a student to remain in school if he or she is in the process of being immunized.

(3) Regardless of the student's age, the school district shall initially place a student in a grade level based upon the student's placement in his or her previous school.

(4) The school district shall initially place the student in educational courses available to other students residing in the district based on the student's enrollment in the courses in the previous school or on assessments conducted at the previous school or both; provided, however, the student may be evaluated after initial placement to ensure appropriate placement and confirm continued enrollment in the educational courses. In this subdivision, "educational courses" include honors, advanced placement, technical, gifted and talented, and English language learner (ELL) courses.

(5) The school district or the governing body of the independent school in which the student is enrolled may waive course and program prerequisites or other preconditions for placement in courses and programs offered by the school in order to meet the student's educational and developmental needs. If the student enrolls in the school at the beginning of or during the 12th grade, then the school district or governing body shall waive local requirements that would delay the student's graduation from secondary school if the student would have satisfactorily completed graduation requirements at the previous school.

(6) If the student is a child with a disability as defined in section 2942 of this title, then the supervisory union of which the school district is a member shall initially provide services to the student that are comparable with those in the individualized education plan or program that was in place in the school in which the student was previously enrolled. This subdivision does not preclude subsequent evaluations to ensure that appropriate services are being provided to the student.

(7) The school in which the student is enrolled may grant excused absences in excess of the number permitted by school policy to allow the student to be with his or her parent or guardian if the parent or guardian has been called to duty for, is on leave from, or has returned from deployment to a combat zone or combat support posting.

(c) For purposes of this section, "child of a military family" means a school-age child whose parent or guardian is a member of the uniformed service of the United States, including the national guard and reserve components, and who has moved into a new school district as a direct result of

the activation or deployment of the parent or guardian on military orders.

and that after passage, the title of the bill be amended to read: “An act relating to ensuring educational continuity for children of military families”

( **Committee Vote: 9-0-2**)

**Favorable**

**H. 240**

An act relating to continuing to provide for the receivership of long-term care facilities

**Rep. Haas of Rochester**, for the Committee on **Human Services**, recommends the bill ought to pass.

( **Committee Vote: 11-0-0**)

**Action Under Rule 52**

**J.R.H. 13**

Joint resolution urging the United States Department of Agriculture to authorize each state to create its own list of foods eligible for purchase with federal Supplemental Nutrition Assistance Program funds or alternatively to authorize a demonstration project allowing the state of Vermont to develop its own list

(For text see House Journal 2/25/11 )

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 13**

An act relating to deer doing damage to forest resources

**Rep. Lewis of Derby**, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares:

(1) The forests of Vermont are integral to the economy, culture, beauty, and appeal of the state.

(2) Each 1,000 acres of forestland in Vermont supports 1.4 forest-based manufacturing, forestry, and logging jobs and 1.4 forest-related tourism and recreation jobs.

(3) Vermont landowners received estimated stumpage revenue in 2005 of \$31.5 million.

(4) The sale of Christmas trees, wreaths, and maple syrup contributed approximately \$22 million in 2005.

1) (5) White-tailed deer in Vermont are also important socially, culturally, ecologically, and economically.

2) (6) Under 10 V.S.A. § 4081, an abundant, healthy deer herd is a primary goal of fish and wildlife management in Vermont.

3) (7) Activities related to white-tailed deer such as hunting, photographing, and viewing generate in excess of \$157 million annually in Vermont, and the revenue generated from deer hunting is dispersed throughout the state's rural communities in the form of food, gasoline, and lodging expenditures.

(8) In parts of Vermont, however, the state's distinct interests in forestland and the deer herd are in conflict where deer populations have damaged existing wood lots and destroyed efforts to reseed or regenerate saplings.

(9) The existing authority to take deer doing damage to crops has been interpreted by the department of fish and wildlife as applying to trees or plantations cultivated for an annual or perennial crop and not to land managed for the production of other marketable forest products.

(10) The general assembly should clarify the authority of a land owner to take deer doing damage to land managed for the production of marketable forest products in order to mitigate the existing conflicts between management of forestland and the management of the deer herd.

Sec. 2. 10 V.S.A. § 4826 is amended to read:

§ 4826. TAKING DEER DAMAGING CROPS OR FORESTLAND

(a) A person, including an authorized member of the person's family, an authorized regular on-premises employee, or an agent who holds a valid Vermont hunting license and who is designated by the person, may take, with the approval of a game warden, on land owned or ~~occupied~~ leased by the person, up to four deer per calendar year which the person can prove were doing damage to the following:

(1) a tree which is being grown in a plantation or being cultivated for the purpose of harvesting an annual or perennial crop or producing any marketable item; or

(2) a crop-bearing plant; or

(3) a crop, except grass.

(b)(1) The commissioner may issue in writing an approval for a person, including an authorized member of the person's family, an on-premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, to take on land owned or leased by the person up to four deer per calendar year that are doing damage to land managed for the production of marketable forest products, provided that:

(A) The land owned by the person is not posted against hunting;

(B) The person possesses for the land in question a forest management plan that is current and in effect;

(C) The person has notified a game warden of the alleged damage to land managed for the production of marketable forest products;

(D) A county forester has:

(i) inspected the land at issue;

(ii) determined that deer overbrowsing jeopardizes the regeneration of timber species on the land; and

(iii) submitted a summary of inspection to the commissioner of fish and wildlife.

(2) Within 60 days of submission of an inspection summary under subdivision (1) of this subsection, the commissioner shall:

(A) issue a written approval to take up to four antlerless deer on the land at issue, provided that the commissioner shall approve only the taking of an appropriate number of deer in a calendar year on the land at issue as determined by a review of the size of the parcel and all other pertinent factors; or

(B) issue a written decision denying approval to take deer on the land at issue, including a summary of the basis for the denial.

(c) A person by whom, or under whose direction, a deer is wounded or killed, shall report in writing signed by him or her within 12 hours all the facts relative to the act to a game warden. The report shall state the time and place of the wounding or killing.

(d) A person who kills a deer shall immediately properly dress the carcass and care for the meat.

(e) The game warden shall immediately investigate the case and if, upon request of a warden, the person owning or leasing the land or his or her agent shall direct the warden to the site on which the deer was killed. If satisfied that the deer was taken as provided in this section, the warden shall

give the person a certificate of the finding in the matter. The certificate shall entitle the person to the ownership of the carcass, but the person shall not sell or give away the same. However, ~~the head and~~ the antlers, if any, shall be turned over to a warden. In addition, any carcass not needed for home consumption in the household of the certificate-holder shall be turned over to a game warden.

~~(e)~~(f) When a game warden finds that a deer has been wounded or killed contrary to the provisions of this section, he or she shall dispose of the deer under the direction of the commissioner, and any monies received therefor shall be paid to the commissioner.

~~(f)~~(g)(1) "Person" includes all people who jointly own or ~~occupy~~ lease the land. ~~Therefore, if two or more people jointly own or occupy land, they may jointly take or authorize the taking of only up to four deer.~~

(2) "Post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title.

~~(g)~~(h) The commissioner may issue a permit to a person to take more than four deer under this section if:

- (1) the land owned by the person is not posted against hunting;
- (2) the person ~~can prove~~ proves that the property is sustaining additional and ongoing damage; and
- (3) the person has taken reasonable measures to prevent the deer from continuing to damage the crop or to damage trees, saplings, or seedlings on land managed for the production of marketable forest products.

~~(h)~~(i) The commissioner is authorized to issue an order requiring any person to remove food or bait which has the effect of luring deer into the vicinity of the property sustaining damage. In this subsection, food does not include a crop or crop-bearing plant.

Sec. 3. 10 V.S.A. § 4081(c) and (d) are amended to read:

(c) An abundant, healthy deer herd, managed in balance with other forest species, forest uses, and forest health, is a primary goal of fish and wildlife management. The use of a limited unit open season on antlerless deer shall be implemented only after a scientific game management study by the fish and wildlife department supports such a season.

(d) Annually, the department shall update a scientific management study of the state deer herd. The study shall consider data provided by department of fish and wildlife biologists; the department of forests, parks and recreation

regarding the impact of deer populations on forest health; and citizen testimony taken under subsection (f) of this section.

Sec. 4. DEPARTMENT OF FISH AND WILDLIFE WORKING GROUP ON  
DEER DOING DAMAGE TO LAND MANAGED FOR THE  
PRODUCTION OF MARKETABLE FOREST PRODUCTS

(a) The commissioner of fish and wildlife shall convene a working group to review and recommend methods for addressing or limiting damage by deer to trees, saplings, and seedlings on land managed for the production of marketable forest products. The working group shall consist of the commissioner or his or her designee and the following members to be appointed by the commissioner:

(1) two qualified foresters;

(2) two owners of land managed for the production of marketable forest products;

(3) two wildlife biologists with knowledge of the state deer herd or of the impact of deer on forestland; and

(4) two persons who hold a valid Vermont hunting license.

(b) On or before January 15, 2012, the commissioner shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources with the recommendations of the working group. The report shall include an analysis of how and if prohibiting the posting of land as a condition of taking deer doing damage to land managed for the production of marketable forest products will achieve the goal of reducing or mitigating distinct occurrences of damage from deer populations.

Sec. 5. EDUCATION AND OUTREACH REGARDING FORESTRY  
PRACTICES TO PREVENT DEER DOING DAMAGE

On or before September 1, 2011, the commissioner of fish and wildlife, in consultation with the commissioner of forests, parks and recreation, shall conduct education and outreach activities regarding forestry practices to address deer doing damage to land managed for the production of marketable forest products. Such outreach should include methods by which owners of land managed for the production of marketable forest products can contact Vermont licensed hunters in order to invite hunting on land being damaged by deer. The commissioner shall publish recommended forestry practices and other methods for addressing deer damage to land managed for the production of marketable forest products in the department of fish and wildlife's landowner habitat management guidelines, in the Vermont guide to hunting,



fishing, and trapping laws, and on the website of the department of fish and wildlife.

Sec. 6. 10 V.S.A. § 4826 is amended to read:

§ 4826. ~~TAKING DEER DAMAGING CROPS OR FORESTLAND~~

(a) A person, including an authorized member of the person's family, an authorized regular on-premises employee, or an agent who holds a valid Vermont hunting license and who is designated by the person, may take, with the approval of a game warden, on land owned or leased by the person, up to four deer per calendar year which the person can prove were doing damage to the following:

- (1) a tree which is being grown in a plantation or being cultivated for the purpose of harvesting an annual or perennial crop or producing any marketable item; or
- (2) a crop-bearing plant; or
- (3) a crop, except grass.

~~(b)(1) The commissioner may issue in writing an approval for a person, including an authorized member of the person's family, an on-premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, to take, on land owned or leased by the person up to four deer per calendar year that are doing damage to land managed for the production of marketable forest products, provided that:~~

- ~~(A) The land owned by the person is not posted against hunting;~~
- ~~(B) The person possesses for the land in question a forest management plan that is current and in effect;~~
- ~~(C) The person has notified a game warden of the alleged damage to land managed for the production of marketable forest products;~~
- ~~(D) A county forester has:~~
  - ~~(i) inspected the land at issue;~~
  - ~~(ii) determined that deer overbrowsing jeopardizes the regeneration of timber species on the land; and~~
  - ~~(iii) submitted a summary of inspection to the commissioner of fish and wildlife.~~

~~(2) Within 60 days of submission of an inspection summary under subdivision (1) of this subsection, the commissioner shall:~~

- ~~(A) issue a written approval to take up to four antlerless deer on the~~

~~land at issue, provided that the commissioner shall approve only the taking of an appropriate number of deer in a calendar year on the land at issue as determined by a review of the size of the parcel and all other pertinent factors; and~~

~~(B) issue a written decision denying approval to take deer on the land at issue, including a summary of the basis for the denial.~~

(c) A person by whom, or under whose direction, a deer is wounded or killed, shall report in writing signed by him or her within 12 hours all the facts relative to the act to a game warden. The report shall state the time and place of the wounding or killing.

(d) A person who kills a deer shall immediately properly dress the carcass and care for the meat.

(e) The game warden shall immediately investigate the case. Upon request of a warden, the person owning or leasing the land or his or her agent shall direct the warden to the site on which the deer was killed. If satisfied that the deer was taken as provided in this section, the warden shall give the person a certificate of the finding in the matter. The certificate shall entitle the person to the ownership of the carcass, but the person shall not sell or give away the same. However, the antlers, if any, shall be turned over to a warden. In addition, any carcass not needed for home consumption in the household of the certificate-holder shall be turned over to a game warden.

(f) When a game warden finds that a deer has been wounded or killed contrary to the provisions of this section, he or she shall dispose of the deer under the direction of the commissioner, and any monies received therefor shall be paid to the commissioner.

(g)(1) "Person" includes all people who jointly own or lease the land.

(2) "Post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title.

(h) The commissioner may issue a permit to a person to take more than four deer under this section if:

(1) the land owned by the person is not posted against hunting;

(2) the person proves that the property is sustaining additional and ongoing damage; and

(3) the person has taken reasonable measures to prevent the deer from continuing to damage the crop ~~or to damage trees, saplings, or seedlings on land managed for the production of marketable forest products.~~

(i) The commissioner is authorized to issue an order requiring any person to remove food or bait which has the effect of luring deer into the vicinity of the property sustaining damage. In this subsection, food does not include a crop or crop-bearing plant.

Sec. 7. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

\* \* \*

(37) “Post” or “posted land”: compliance with the requirements of section 5201 of this title.

Sec. 8. 10 V.S.A. § 4081(g) is amended to read:

(g) If the board finds that an antlerless season is necessary to maintain the health and size of the herd, the department shall administer an antlerless deer program. Annually, the board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, “post” means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title. If the number of landowners who apply exceeds the number of permits for that district, the department shall award all permits in that district to landowners by lottery.

\* \* \*

Sec. 9. 10 V.S.A. § 4253 is amended to read:

§ 4253. LANDOWNER; FAMILY; EXCEPTION

(a) A resident owner of lands, his or her spouse, and their minor children may, without procuring a license under this chapter, take fish from the waters

therein, shoot pickerel, and take wild animals or wild birds therein subject to the provisions of this part.

(b) A nonresident owner of lands, his or her spouse, and their minor children, may without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds thereon subject to the provisions of this part, except if the lands are posted under provisions other than section 4710 of this title.

(c) As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

Sec. 10. 10 V.S.A. § 4829 is amended to read:

#### § 4829. PERSON SUFFERING DAMAGE BY DEER OR BLACK BEAR

A person who suffers damage by deer to the person's crops, fruit trees, or crop-bearing plants on land not posted against the hunting of deer, or a person who suffers damage by black bear to the person's cattle, sheep, swine, poultry, or bees or bee hives on land not posted against hunting or trapping of black bear is entitled to reimbursement for the damage, and may apply to the department of fish and wildlife within 72 hours of the occurrence of the damage for reimbursement for the damage. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

#### Sec. 11. EFFECTIVE DATE

(a) This section and Secs. 1 (findings), 2 (taking deer doing damage), 3 (state deer policy), 4 (working group on deer doing damage), and 5 (outreach and education), 7 (definition of "post"), 8 (antlerless permit; post), 9 (landowner hunt exception; post), and 10 (bear doing damage; post) of this act shall take effect on passage.

(b) Sec. 6 (repeal of authority to take deer doing damage to forestland) of this act shall take effect on January 1, 2013.

( **Committee Vote: 9-0-0**)

### H. 143

An act relating to the taxation of certain Internet sales

**Rep. Wilson of Manchester**, for the Committee on **Ways and Means**, recommends the bill be amended as follows:

In Sec. 2, EFFECTIVE DATE, by striking out "2011" and inserting "2012".

( **Committee Vote: 8-2-1**)

## H. 287

An act relating to job creation and economic development

**Rep. Botzow of Pownal**, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Incentive Grants; VEGI \* \* \*

### Sec. 1. VERMONT BUSINESS PARTNER INCENTIVE

(a) Definitions. In this section:

(1) "Eligible new employer" means a person:

(A) who has been in business for three or more years and is domiciled in a state other than Vermont;

(B) who has an existing supplier or vendor relationship with the recruiting qualified taxpayer;

(C) who establishes a new business location within Vermont and hires five or more new full-time employees; and

(D) who does not control, and who is not controlled by, the recruiting qualified taxpayer. For purposes of this subdivision, "control," including the term "controlled by," means:

(i) having the power, directly or indirectly, to elect or remove a majority of the members of the other governing body of a person through the ownership of voting shares or interests, by contract, or otherwise; or

(ii) being subject to a majority of the risk of loss from the person's activities or entitled to receive a majority of the person's residual returns.

(2) "Full-time employee" means an individual who works at least 35 hours per week at a Vermont business location and is paid a qualified wage.

(3) "Qualified taxpayer" means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers' compensation policy.

(4) "Qualified wage" means compensation that meets or exceeds the prevailing wage and benefit levels for the region and sector, as determined by the commissioner of labor.

(5) "Secretary" means the secretary of commerce and community development.

(b) Amount and availability of incentive.

(1) A qualified taxpayer and an eligible new employer shall each be entitled to an incentive equal to \$500.00 for each full-time Vermont employee of an eligible new employer hired on or before December 31, 2012, as certified by the secretary, not to exceed \$5,000.00 per recipient per year.

(2) A qualified taxpayer and an eligible new employer may claim an incentive by filing with the agency of commerce and community development, on a form created by the secretary for that purpose, one year after the date the eligible new employer established its qualifying Vermont business location, as certified by the secretary.

(3) The secretary may in his or her discretion reduce to three the minimum number of employees required of a relocating eligible new employer if the compensation paid to one or more of the new employees exceeds by at least 20 percent the qualified wage for the position.

Sec. 2. Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006) is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act. Unless extended by act of the General Assembly, as of ~~January~~ July 1, 2012, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to ~~January~~ July 1, 2012 may remain in effect until used.

Sec. 3. 32 V.S.A. § 5930a(c)(1) is amended to read:

(1) The enterprise should create new, full-time jobs to be filled by individuals who are Vermont residents. The new jobs shall not include jobs or employees transferred from an existing business in the state, or replacements for vacant or terminated positions in the applicant's business. The new jobs include those that exceed the applicant's average annual employment level in Vermont during the two preceding ~~five~~ years, unless the council determines that the enterprise will establish a significant new line of business and create new jobs in the new line of business that were not part of the enterprise prior to filing its application for incentives with the council. The enterprise should provide opportunities that increase income, reduce unemployment, and reduce facility vacancy rates. Preference should be given to projects that enhance economic activity in areas of the state with the highest levels of unemployment and the lowest levels of economic activity.

Sec. 4. 32 V.S.A. § 5930b(a)(24) is amended to read:

(24) “Wage threshold” means the minimum annualized Vermont gross wages and salaries paid, as determined by the council, but not less than 60 percent above the Vermont minimum wage at the time of application, in order for a new job to be a qualifying job under this section, unless the council determines that, based on a certification by the secretary of commerce and community development, the enterprise would create new jobs in a county of Vermont with an average unemployment rate that exceeds the average statewide unemployment rate for the most recently reported three month period prior to the date of application.

Sec. 5. 32 V.S.A. § 5930b(e) is amended to read:

(e) Reporting. By May 1, 2008 and by May 1 each year thereafter, the council and the department of taxes shall file a joint report on the employment growth incentives authorized by this section with the chairs of the house committee on ways and means, the house committee on commerce and economic development, the senate committee on finance, the senate committee on economic development, housing and general affairs, the house and senate committees on appropriations, and the joint fiscal committee of the general assembly and provide notice of the report to the members of those committees. The joint report shall contain the total authorized award amount of incentives granted during the preceding year, amounts actually earned and paid from inception of the program to the date of the report, including the date and amount of the award, the expected calendar year or years in which the award will be exercised, whether the award is currently available, the date the award will expire, ~~and~~ the amount and date of all incentives exercised, and any waiver of the wage threshold requirements granted pursuant to subdivision (a)(24) of this section. The joint report shall also include information on recipient performance in the year in which the incentives were applied, including the number of applications for the incentive, the number of approved applicants who complied with all their requirements for the incentive, the aggregate number of new jobs created, the aggregate payroll of those jobs and the identity of businesses whose applications were approved. The council and department shall use measures to protect proprietary financial information, such as reporting information in an aggregate form.

Sec. 6. SCIENCE, TECHNOLOGY, ENGINEERING, AND  
MATHEMATICS (STEM) INCENTIVE PROGRAM

(a) In this section:

(1) “Accredited institution” means an educational institution that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education.

(2) “Qualified new employee” means a person who:

(A) is hired by a qualified employer for a STEM position on or before December 31, 2012;

(B) graduated from an accredited institution with an associate’s degree or higher not more than 18 months before the date of hire; and

(C) is paid annual compensation of not less than \$50,000.00, including the value of benefits.

(3) “Qualified employer” means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers’ compensation policy.

(4) “Secretary” means the secretary of commerce and community development.

(5) “STEM position” means an employment position in the field of science, technology, engineering, or mathematics that requires, as determined by the secretary in his or her discretion, a high level of scientific or mathematical knowledge and skill. The term shall not include a position of academic instruction with a college or university.

(6) “Student loan” means debt incurred for the purpose of paying tuition and expenses at an accredited institution, excluding any debt or other financial assistance provided by a family member, relative, or other private person.

(b)(1) A qualified new employee who is hired by and remains in a STEM position with one or more qualified employers for a period of not less than five years shall be eligible for an incentive to pay a qualified student loan in the amount of \$1,500.00 per year for five years.

(2) A qualified new employee shall notify the secretary of his or her initial employment in a STEM position within 30 days of the date of hire, and shall provide the secretary an annual notice of employment in a STEM position in each of the five years thereafter.

(3) Following receipt of an annual notice of employment in a STEM position and verification of employment with one or more qualified employers, the secretary shall deliver an incentive to the qualified new employee pursuant to subdivision (1) of this subsection.

(4) The secretary shall award up to a maximum of \$75,000.00 per year for incentives in accordance with this section.

(c) The secretary shall design and make available on the agency of commerce and community development website:



(1) any forms necessary for a new employee to apply for an incentive available under this section; and

(2) a list of STEM positions for which a new employee may be eligible for an incentive under this section.

Sec. 7. LONG-TERM UNEMPLOYED HIRING INCENTIVE

(a) In this section:

(1) “New full-time employment” means employment by a qualified employer in a permanent position at least 35 hours each week in the year for which an incentive is claimed at a compensation of not less than the average wage for the corresponding economic sector in the county of the state as determined by the Vermont department of labor.

(2) “Qualified employer” means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers’ compensation policy.

(3) “Qualified long-term unemployed Vermonter” means a legal resident of Vermont who collected unemployment insurance benefits in the state of Vermont for five months or more, or whose collection of unemployment insurance benefits has expired, within 30 days of the date of new employment with a qualified employer, hired through a referral from the Vermont department of labor.

(b) A qualified employer who hires a qualified long-term unemployed Vermonter on or before December 31, 2012 shall be eligible to receive a hiring incentive one year after the employee’s date of hire in the amount of \$500.00, not to exceed \$5,000.00 per year per employer.

(c) The commissioner of labor shall administer payment of incentives consistent with this section, and shall develop:

(1) an application form for qualified employers; and

(2) a process for verifying compliance with the eligibility requirements of the program.

Sec. 8. [RESERVED]

Sec. 9. [RESERVED]

\* \* \* Labor; Workforce Training \* \* \*

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

§ 531. ~~EMPLOYMENT TRAINING~~ VERMONT TRAINING PROGRAM

(a) The secretary of commerce and community development may issue performance-based grants to any employer, consortium of employers, or ~~contract with~~ providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances:

\* \* \*

(b) The secretary of commerce and community development shall find in the grant ~~or contract~~ that:

(1) the employer's new or expanded facility will enhance employment opportunities for Vermont residents;

(2) the existing labor force within the state will probably be unable to provide the employer with sufficient numbers of employees with suitable training and experience; ~~and~~

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

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

(B) dental assistance;

(C) paid vacation and holidays;

(D) child care;

(E) other extraordinary employee benefits; ~~and~~

(F) retirement benefits; and

(4) the training is directly related to the employment responsibilities of the trainee.

(c) The employer promises as a condition of the grant to:

(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of ~~30~~ 35 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of ~~20~~ 25 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the secretary of commerce and community development in which the secretary finds that the rate of unemployment is ~~50 percent~~ greater than the average for the state, the wage rate under this subsection may be set by the secretary at a rate no less than one and one-half times the federal or state

minimum wage, whichever is greater;

\* \* \*

(4) survey a reasonable sample of employees, on a form prepared by the secretary of commerce and community development for that purpose, upon completion of training in a manner described in the grant agreement; and

(5) submit a customer satisfaction report to the secretary of commerce and community development, on a form prepared by the secretary for that purpose, no more than 30 days from the last day of the training program.

(d) In issuing a grant ~~or entering a contract~~ for the conduct of training under this section, the secretary of commerce and community development shall:

(1) first consult with: the commissioner of education regarding vocational-technical education; the commissioner of labor regarding apprenticeship programs, on-the-job training programs, and recruiting through Vermont Job Service and available federal training funds; the commissioner for children and families regarding welfare to work priorities; and the University of Vermont and the Vermont state colleges;

(2) disburse grant funds only for training hours that have been successfully completed by employees; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

\* \* \*

(h) The secretary may designate the commissioner of economic, housing and community development to carry out his or her powers and duties under this chapter.

~~(i)(1) Program Outcomes. The joint fiscal office shall prepare a training program performance report based on the following information submitted to it by the Vermont training program, which is to be collected from each participating employer and then aggregated:~~

~~(A) The number of full-time employees six months prior to the training and six months after its completion.~~

~~(B) For all existing employees, the median hourly wages prior to and after the training.~~

~~(C) The number of "new hires," "upgrades," and "crossovers" deemed eligible for the waivers authorized by statute and the median wages paid to employees in each category upon completion.~~

~~(D) A list and description of the benefits required under subdivision (c)(3) of this section for all affected employees, including the number of employees that receive each type of benefit.~~

~~(E) The number of employers allowed to pay reduced wages in high unemployment areas of the state, along with the number of affected workers and their median wage.~~

~~(2) Upon request by the secretary of commerce and community development, participating employers shall provide the information necessary to conduct the performance report required by this subsection. The secretary, in turn, shall provide such information to the joint fiscal office in a manner agreed upon by the secretary and the joint fiscal office. The secretary and the joint fiscal office shall take measures to ensure that company specific data and information remain confidential and are not publicly disclosed except in aggregate form. The secretary shall submit to the joint fiscal office any program outcomes, measurement standards, or other evaluative approaches in use by the training program.~~

~~(3) The joint fiscal office shall review the information collected pursuant to subdivisions (1) and (2) of this subsection and prepare a training program performance report with recommendations relative to the program. The joint fiscal office shall submit its first training program performance report on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development. A second performance report shall be submitted on or before January 15, 2016 2014. In addition to the information evaluated pursuant to subdivision (1) of this subsection, the second report shall include recommendations as to the following:~~

~~(A) whether the outcomes achieved by the program are sufficient to warrant its continued existence.~~

~~(B) whether training program outcomes can be improved by legislative or administrative changes.~~

~~(C) whether continued program performance reports are warranted and, if so, at what frequency and at what level of review.~~

~~(4) The joint fiscal office may contract with a consultant to conduct the performance reports required by this subsection. Costs incurred in preparing each report shall be reimbursed from the training program fund up to \$15,000.00.~~

(i) Program Outcomes.

(1) On or before January 15, 2012, the agency of commerce and

community development, in coordination with the workforce development council and the department of labor, and in periodic consultation with the joint fiscal office, shall develop a common set of benchmarks and performance measures for the training program established in this section and the workforce education and training fund established in section 543 of this title.

(2) On or before January 15, 2014, the joint fiscal office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The fiscal office shall submit its report to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

(3) The secretary shall use information gathered pursuant to this subsection and the survey results and customer satisfaction reports submitted pursuant to subdivision (c)(4) of this section to evaluate the program and make necessary changes that fall within the secretary's authority, or if beyond the scope of the secretary's authority, to recommend necessary changes to the appropriate committees of the general assembly.

\* \* \*

(k) Annually, on or before January 15, the secretary shall submit a report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs summarizing all active and completed contracts and grants, the types of training activities provided, the number of employees served, the average wage by employer, and addressing any waivers granted.

Sec. 11. 10 V.S.A. § 544 is added to read:

§ 544. VERMONT INTERNSHIP PROGRAM

(a)(1) The department of labor shall develop and implement a statewide Vermont internship program for Vermonters who are in high school, in college, and those who are recent graduates of 18 months or less.

(2) The program shall serve as a single portal for coordinating and providing funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, and colleges.

(3) Funding awarded through the Vermont internship program may be used to administer an internship program and to provide students with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate secondary and postsecondary students through work-based learning opportunities with Vermont employers that are likely to lead to real employment;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;

(F) involve Vermont employers or interns who are Vermont residents; and

(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) For the purposes of this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded post-secondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont internship program;

(2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont internship program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the state in the internship program to expand internship opportunities with state government and with entities awarded state contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the state.

Sec. 12. IMPLEMENTATION OF THE VERMONT INTERNSHIP PROGRAM; WORKERS' COMPENSATION

(a)(1) Program costs in fiscal year 2012 for the Vermont Internship Program created in 10 V.S.A. § 544 shall be funded through an appropriation from the next generation initiative fund established in 16 V.S.A. § 2887.

(2) Funding in subsequent years shall be recommended by the department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded post-secondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies.

(b)(1) The state shall make available workers' compensation coverage to an intern participating in the Vermont Internship Program if coverage is required by federal or state law and the participant would not otherwise be covered by an employer's workers' compensation policy.

(2) The state shall be considered a single entity solely for purposes of purchasing a single workers' compensation insurance policy providing coverage to intern participants.

(3) This subsection is intended strictly to permit the state to provide workers' compensation coverage, and the state shall not be considered the employer of an intern participant for any other purpose.

Sec. 13. 10 V.S.A. § 543(f) is amended to read:

(f) Awards. Based on guidelines set by the council, the commissioners of labor and of education shall jointly make awards to the following:

\* \* \*

~~(2) Vermont Internship Program. Public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, and colleges. For the purposes of this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily receive academic credit, financial remuneration, a stipend, or any combination of these. Awards under this subdivision may be used to fund the cost of administering an internship program and to provide students with a stipend during the internship, based on need. Awards may be made only to programs or projects that do all the following:~~

~~(A) do not replace or supplant existing positions;~~

~~(B) create real workplace expectations and consequences;~~

~~(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;~~

~~(D) are designed to motivate and educate secondary and postsecondary students through work-based learning opportunities with Vermont employers that are likely to lead to real employment;~~

~~(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;~~

~~(F) involve Vermont employers or interns who are Vermont residents;~~  
and

~~(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont. Funding for eligible internship programs and activities under the Vermont internship program established in section 544 of this section.~~

Sec. 14. [RESERVED]

\* \* \* Entrepreneurship; Creative Economy \* \* \*

Sec. 15. 3 V.S.A. § 2471c is added read:

§ 2471c. OFFICE OF CREATIVE ECONOMY

(a) The office of creative economy is created within the agency of commerce and community development in order to build upon the years of work and energy around creative economy initiatives in Vermont. The office shall provide business, networking and technical support to enterprises involved with the creative economy, primarily focused on, but not limited to, such areas as film, new media, software development, and innovative commercial goods. The office shall work in collaboration with Vermont's private and public sectors to raise the profile and economic productivity of these activities.

(b) The office shall be administered by a director appointed by the secretary pursuant to section 2454 of this title and shall be supervised by the commissioner of the department of economic, housing and community development.

Sec. 16. REPEAL

10 V.S.A. chapter 26 (Vermont film corporation; Vermont film production incentive program) is repealed.



Sec. 17. RESERVED

Sec. 18. 11A V.S.A. § 8.20 is amended to read:

§ 8.20. MEETINGS

(a) The board of directors may hold regular or special meetings, as defined in subdivision 1.40(26) of this title, in or outside this state.

(b) The board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 19. 11B V.S.A. § 8.20 is amended to read:

§ 8.20. REGULAR AND SPECIAL MEETINGS

(a) If the time and place of a directors' meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

(b) A board of directors may hold regular or special meetings in or out of this state.

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

\* \* \* Finance; Access to Capital \* \* \*

Sec. 20. 8 V.S.A. § 12603 is amended to read:

§ 12603. MERCHANT BANKS

\* \* \*

(f) The minimum amount of initial capital for a merchant bank is ~~\$10,000,000.00~~ \$1,000,000.00, all of which ~~at least \$5,000,000.00~~ shall be common stock or equity interest in the merchant bank. ~~The balance may be composed of qualifying subordinated or similar debt~~ A merchant bank may use qualified subordinated debt or senior debt as part of its capital structure above

\$1,000,000.00, provided that the amount of subordinated debt or senior debt used as capital above \$1,000,000.00 is not greater than the amount of common stock or equity interest used as capital above \$1,000,000.00. The commissioner, in his or her discretion, may increase the minimum capital required for a merchant bank.

\* \* \*

(m) Any acquisition or change in control of ~~five~~ ten percent or more of the common stock or equity interests in a merchant bank shall be subject to the prior approval by the commissioner. The acquiring person shall file an application with the commissioner for approval. The application shall be subject to the provisions of subchapter 7 of chapter 201 of this title.

(n) The commissioner ~~may~~ shall examine the merchant bank and any person who controls it to the extent necessary to determine the soundness and viability of the merchant bank in the same manner required by subchapter 5 of chapter 201 of this title.

(o) A merchant bank shall include on all its advertising a prominent disclosure that deposits are not accepted by a merchant bank.

(p) For purposes of this section, "control" means that a person:

(1) directly, indirectly, or acting through another person owns, controls, or has power to vote ten percent or more of any class of equity interest of the merchant bank;

(2) controls in any manner the election of a majority of the directors of the merchant bank; or

(3) directly or indirectly exercises a controlling influence over the management or policies of the merchant bank.

Sec. 21. 10 V.S.A. chapter 3 is added to read:

### CHAPTER 3. EB-5 INVESTMENT

#### § 21. EB-5 ENTERPRISE FUND

(a) An EB-5 enterprise fund is created for the operation of the State of Vermont EB-5 visa regional development center. The fund shall consist of revenues derived from fees charged by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional development center and its operations.

(b) The receipt and expenditure of moneys from the enterprise fund shall be under the supervision of the secretary of commerce and community

development. The secretary shall maintain accurate and complete records of all receipts and expenditures by and from the fund, and shall make an annual report on the condition of the fund to the secretary of administration, the house committees on commerce and on ways and means, and the senate committees on finance and on economic development, housing and general affairs.

(c) Notwithstanding 32 V.S.A. chapter 7, subchapter 6, the secretary of commerce and community development is authorized to impose an administrative fee for services provided by the agency to investors in administering the State of Vermont EB-5 visa regional development center.

Sec. 22. [RESERVED]

Sec. 23. [RESERVED]

\* \* \* Housing and Development \* \* \*

Sec. 24. 24 V.S.A. § 2793d is amended to read:

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

(a) A The Vermont downtown development board may designate a Vermont neighborhood in a municipality that has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title, has adopted zoning bylaws and subdivision regulations in accordance with section 4442 of this title, and has a designated downtown district, a designated village center, a designated new town center, or a designated growth center served by municipal sewer infrastructure or a community or alternative wastewater system approved by the agency of natural resources, is authorized to apply for designation of a Vermont neighborhood. An application for designation may be made by a municipality or by a landowner who meets the criteria under subsection (f) of this section. A municipal decision to apply for designation shall be made by the municipal legislative body after at least one duly warned public hearing. An application by a municipality or a landowner shall be made after at least one duly warned public hearing by the legislative body. If the application is submitted by a landowner, the public hearing shall be a joint public hearing of the municipal legislative body and the appropriate municipal panel, and shall be held concurrently with the local permitting process. Designation is possible in two different situations:

(1) Per se approval. If a municipality or landowner submits an application in compliance with this subsection for a designated Vermont neighborhood that would have boundaries that are entirely within the boundaries of a designated downtown district, designated village center, designated new town center, or designated growth center, the downtown board

shall issue the designation.

(2) Designation by downtown board in towns without growth centers. If an application is submitted in compliance with this subsection by a municipality or a landowner in a municipality that does not have a designated growth center and proposes to create a Vermont neighborhood that has boundaries that include land that is not within its designated downtown, village center, or new town center, the downtown board shall consider the application. This application may be for approval of one or more Vermont neighborhoods that are outside but contiguous to a designated downtown district, village center, or new town center. The application for designation shall include a map of the boundaries of the proposed Vermont neighborhood, including the property outside but contiguous to a designated downtown district, village center, or new town center and verification that the municipality or landowner has notified the regional planning commission and the regional development corporation of its application for this designation.

\* \* \*

(f) If a municipality has not adopted either the minimum density requirements or design standards set out in subdivision (c)(5) of this section in its zoning bylaw, a landowner within a proposed Vermont neighborhood may apply to the downtown board for designation of a Vermont neighborhood that meets the standards set out in subdivision (c)(5) of this section by submitting:

(1) a copy of the plans and necessary municipal permits obtained for a project; and

(2) a letter of support for the project issued to the landowner from the municipality within 30 days of the effective date of a final municipal permit.

Sec. 25. 27A V.S.A. § 1-209 is amended to read:

§ 1-209. SMALL CONDOMINIUMS; EXCEPTION

~~A condominium that will contain no more than 12 units and is not subject to any development rights, unless the declaration provides that the entire act is applicable, shall not be subject to subsection~~ Subsection 2-101(b), subdivisions 2-109(b)(2) and (11), subsection 2-109(g), section 2-115, and Article 4 of this title shall not apply to a condominium if the declaration:

(1) creates fewer than ten units; and

(2) restricts ownership of a unit to entities that are controlled, affiliated with, or managed by the declarant.

Sec. 26. REPEAL

Sec. 12 of No. 155 of the Acts of the 2009 Adj. Sess. (2010) (repeal of

27A V.S.A. § 1-209, effective January 1, 2012) is repealed.

Sec. 27. [RESERVED]

Sec. 28. [RESERVED]

\* \* \* Economic Development Planning \* \* \*

Sec. 29. 3 V.S.A. § 2293 is amended to read:

§ 2293. DEVELOPMENT CABINET

(a) Legislative purpose. The general assembly deems it prudent to establish a permanent and formal mechanism to assure collaboration and consultation among state agencies and departments, in order to support and encourage Vermont's economic development, while at the same time conserving and promoting Vermont's traditional settlement patterns, its working and rural landscape, its strong communities, and its healthy environment, all in a manner set forth in this section.

(b) Development cabinet. A development cabinet is created, to consist of the secretaries of the agencies of administration, natural resources, commerce and community affairs, and transportation, and the secretary of the agency of agriculture, food and markets. The governor or the governor's designee shall chair the development cabinet. The development cabinet shall advise the governor on how best to implement the purposes of this section, and shall recommend changes as appropriate to improve implementation of those purposes. The development cabinet may establish interagency work groups to support its mission, drawing membership from any agency or department of state government.

(c) All state agencies that have programs or take actions affecting land use, including those identified under 3 V.S.A. chapter 67, shall, through or in conjunction with the members of the development cabinet:

(1) Support conservation of working lands and open spaces.

(2) Strengthen agricultural and forest product economies, and encourage the diversification of these industries.

(3) Develop and implement plans to educate the public by encouraging discussion at the local level about the impacts of poorly designed growth, and support local efforts to enhance and encourage development and economic growth in the state's existing towns and villages.

(4) Administer tax credits, loans, and grants for water, sewer, housing, schools, transportation, and other community or industrial infrastructure, in a manner consistent with the purposes of this section.

(5) To the extent possible, endeavor to make the expenditure of state appropriations consistent with the purposes of this section.

(6) Encourage development in, and work to revitalize, land and buildings in existing village and urban centers, including "brownfields," housing stock, and vacant or underutilized development zones. Each agency is to set meaningful and quantifiable benchmarks.

(7) Encourage communities to approve settlement patterns based on maintaining the state's compact villages, open spaces, working landscapes, and rural countryside.

(8) Encourage relatively intensive residential development close to resources such as schools, shops, and community centers and make infrastructure investments to support this pattern.

(9) Support recreational opportunities that build on Vermont's outstanding natural resources, and encourage public access for activities such as boating, hiking, fishing, skiing, hunting, and snowmobiling. Support and work collaboratively to make possible sound development and well-planned growth in existing recreational infrastructure.

(10) Provide means and opportunity for downtown housing for mixed social and income groups in each community.

~~(11) Report annually to the governor and the legislature, through the chair of the development cabinet and the secretary of administration, on the effectiveness and impact of this section on the state's economic growth and land use development and the activities of the council of regional commissions~~  
Repealed.

(12) Encourage timely and efficient processing of permit applications affecting land use, including 10 V.S.A. chapter 151 and the subdivision regulations adopted under 18 V.S.A. § 1218, in order to encourage the development of affordable housing and small business expansion, while protecting Vermont's natural resources.

(13) Participate in creating a long-term economic development plan, including making available the members of any agency or department of state government as necessary and appropriate to support the mission of an interagency work group established under subsection (b) of this section.

(d)(1) Pursuant to the recommendations of the oversight panel on economic development created in Section G6 of No. 146 of the Acts of the 2009 Adj. Sess. (2010), the development cabinet shall create an interagency work group as provided in subsection (b) of this section with the secretary of commerce and community development serving as its chair.

(2) The mission of the work group shall be to develop a long-term economic development plan for the state, which shall identify goals and recommend actions to be taken over ten years, and which shall be consistent with the four goals of economic development identified in 10 V.S.A. § 3 and the outcomes for economic development identified in Sec. 8 of No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(e)(1) On or before January 15, 2014, and every two years thereafter, the development cabinet or workgroup thereof shall complete a long-term economic development plan as required under subsection (d) of this section and recommend it to the governor.

(2) Commencing with the plan due on or before January 15, 2016, the development cabinet or workgroup thereof may elect only to prepare and recommend to the governor an update of the long-term economic development plan.

(3) Administrative support for the economic development planning efforts of the development cabinet or workgroup thereof shall be provided by the agency of commerce and community development.

~~(d)~~(f) Limitations. This cabinet is strictly an information gathering and coordinating cabinet and confers no additional enforcement powers.

4) Sec. 30. 24 V.S.A. chapter 117 is amended to read:

5) CHAPTER 117. MUNICIPAL AND REGIONAL PLANNING

6) AND DEVELOPMENT

7) \* \* \*

8) § 4345A. DUTIES OF REGIONAL PLANNING COMMISSIONS

9) A regional planning commission created under this chapter shall:

10) \* \* \*

11) (9) At least once every ~~eight~~ five years, review the compatibility of municipal plans, and if the regional planning commission finds that growth in a municipality without an approved plan is adversely affecting an adjoining municipality, it shall notify the legislative body of both municipalities of that fact and shall urge that the municipal planning be undertaken to mitigate those adverse effects. If, within six months of receipt of this notice, the municipality creating the adverse effects does not have an approved municipal plan, the regional commission shall adopt appropriate amendments to the regional plan as it may deem appropriate to mitigate those adverse effects.

12) \* \* \*

§ 4348A. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include but need not be limited to the following:

\* \* \*

(10) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

\* \* \*

13) § 4348b. READOPTON OF REGIONAL PLANS

14) (a) Unless they are readopted, all regional plans, including all prior amendments, shall expire every ~~eight~~ five years.

15) (b)(1) A regional plan that has expired or is about to expire may be readopted as provided under section 4348 of this title for the adoption of a regional plan or amendment. Prior to any readoption, the regional planning commission shall ~~review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the regional plan~~ prepare an assessment report which shall be a part of the readopted regional plan and shall detail the continuing applicability of the regional plan. The assessment report shall include:

16) (A) the extent to which the plan has been implemented since adoption or readoption;

17) (B) an evaluation of the goals and policies and any amendments necessary due to changing conditions of the region;

18) (C) an evaluation of the land use element and any amendments necessary to reflect changes in land use within the region or changes to regional goals and policies;

19) (D) priorities for implementation in the next five years; and

20) (E) updates to information and data necessary to support goals and policies.

21) (2) The readopted plan shall remain in effect for the ensuing ~~eight~~ five years unless earlier readopted.

22) (c) Upon the expiration of a regional plan under this section, the regional plan shall be of no further effect in any other proceeding.

23) \* \* \*



24) § 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL

25) PLANNING EFFORT

26) (a) ~~A~~ As provided in section 4345a(8) and (9) of this chapter, a regional planning commission shall consult with its municipalities with respect to the municipalities' planning efforts, ascertaining the municipalities' needs as individual municipalities and as neighbors in a region and the compatibility of municipal plans, and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during a eight-year period, or more frequently on request of the municipality, and shall so confirm when a municipality:

27) (1) is engaged in a continuing planning process that, within a reasonable time, will result in a plan which is consistent with the goals contained in section 4302 of this title; and

28) (2) is maintaining its efforts to provide local funds for municipal and regional planning purposes.

29) (b)(1) ~~(4)~~ As part of the consultation process, the commission shall consider whether a municipality has adopted a plan. In order to obtain or retain confirmation of the planning process ~~after January 1, 1996,~~ a municipality must have an approved plan. A regional planning commission shall review and approve plans and plan amendments of its member municipalities, when approval is requested and warranted. Each review shall include a public hearing which is noticed at least 15 days in advance by posting in the office of the municipal clerk and at least one public place within the municipality and by publication in a newspaper or newspapers of general publication in the region affected. The commission shall approve a plan if it finds that the plan:

30) ~~(A)~~(1) is consistent with the goals established in section 4302 of this title;

31) ~~(B)~~(2) is compatible with its regional plan;

32) ~~(C)~~(3) is compatible with approved plans of other municipalities in the region; and

33) ~~(D)~~(4) contains all the elements included in subdivisions 4382(a)(1)-(10) of this title.

~~34) (2) Prior to January 1, 1996, if a plan contains all the elements required by subdivisions 4382(a)(1)-(10) and is submitted to the regional~~

~~planning commission for approval but is not approved, it shall be conditionally approved.~~

35) (c) A commission shall give approval or disapproval to a municipal plan or amendment within two months of its receipt following a final hearing held pursuant to section 4385 of this title. The fact that the plan is approved after the deadline shall not invalidate the plan. If the commission disapproves the plan or amendment, it shall state its reasons in writing and, if appropriate, suggest acceptable modifications. Submissions for approval that follow a disapproval shall receive approval or disapproval within 45 days.

36) (d) The commission shall file any adopted plan or amendment with the department of economic, housing and community development within two weeks of receipt from the municipality. Failure on the part of the commission to file the plan shall not invalidate the plan.

37) (e) During the period of time when a municipal planning process is confirmed:

38) (1) The municipality's plan will not be subject to review by the commissioner of department of economic, housing and community development under section 4351 of this title.

39) (2) State agency plans adopted under chapter 67 of Title 3 shall be compatible with the municipality's approved plan. ~~This provision shall not apply to plans that are conditionally approved under this chapter.~~

40) (3) The municipality may levy impact fees on new development within its borders, according to the provisions of chapter 131 of this title.

41) (4) The municipality shall be eligible to receive additional funds from the municipal and regional planning fund.

42) (f) Confirmation and approval decisions under this section shall be made by majority vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission.

43) \* \* \*

#### § 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

\* \* \*

(11) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

\* \* \*

44) § 4387. READOPTION OF PLANS

45) (a) All plans, including all prior amendments, shall expire every five years unless they are readopted according to the procedures in ~~section~~ sections 4384 and 4385 of this title.

46) (b)(1) A municipality may readopt any plan that has expired or is about to expire. Prior to any readoption, the planning commission shall review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the plan prepare an assessment report which shall be a part of the readopted municipal plan and shall detail the continuing applicability of the municipal plan. The assessment report shall include:

47) (A) the extent to which the plan has been implemented since adoption or readoption;

48) (B) an evaluation of the goals and policies and any amendments necessary due to changing conditions of the municipality;

49) (C) an evaluation of the land use element and any amendments necessary to reflect changes in land use within the municipality or changes to municipal goals and policies;

50) (D) priorities for implementation in the next five years; and

51) (E) updates to information and data necessary to support goals and policies.

52) (2) The readopted plan shall remain in effect for the ensuing five years unless earlier readopted. A municipality may amend any section of a plan at any time within five years prior to expiration in light of new developments and changed conditions affecting the municipality.

53) (c) Upon the expiration of a plan, all bylaws and capital budgets and programs then in effect shall remain in effect, but shall not be amended until a plan is in effect.

54) (d) The fact that a plan has not been approved shall not make it inapplicable, except as specifically provided by this chapter. Bylaws, capital budgets and programs shall remain in effect, even if the plan has not been approved.

\* \* \*

Sec. 31. REGIONAL DEVELOPMENT CABINETS

(a) The regional planning commission, and any regional development corporation providing services within the regional planning commission region, shall convene regular meetings of a “regional development cabinet,” which shall include representation from the leadership of state and local providers of services within the region in the areas of planning, economic development, workforce training, utilities and physical infrastructure, transportation, and any other service areas as appropriate.

(b) Each regional development cabinet, in coordination with the agency of commerce and community development and municipal leaders as necessary, shall develop regional priorities to coordinate streamlined and efficient delivery of services, and to enable local, regional, and state agencies to better focus resources.

Secs. 32-34. [RESERVED]

\* \* \* Agriculture; Vermont Sustainable Jobs Fund \* \* \*

Sec. 35. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

\* \* \*

~~(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the authority may contribute not more than \$1,000,000.00 to the capital of the corporation formed under this section, and the board of directors of the corporation formed under this section shall consist of three members of the authority designated by the authority, the secretary of commerce and community development, and seven members who are not officials or employees of a governmental agency appointed by the governor, with the advice and consent of the senate, for terms of five years, except that the governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year;~~

(A) the secretary of commerce and community development, or his or her designee;

(B) the secretary of agriculture, food and markets, or his or her designee;

(C) a director appointed by the governor; and

(D) eight independent directors, no more than two of whom shall be state government employees or officials, and who shall be selected as

vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the governor shall serve for more than three terms.

(C) The director appointed by the governor shall serve at the pleasure of the governor and may be removed at any time with or without cause.

(3) A director of the board who is, or is appointed by, a state government official or employee shall not be eligible to hold the positions of chair, vice-chair, secretary, or treasurer of the board.

\* \* \*

#### Sec. 36. VSJF BOARD OF DIRECTORS; TRANSITION

Notwithstanding any other provision of law to the contrary, and notwithstanding any provision of the articles of incorporation or the bylaws of the corporation:

(1) The chair, vice-chair, and secretary of the Vermont sustainable jobs fund board of directors as of January 1, 2011, shall constitute an initial nominating committee charged with appointing eight independent directors who shall take office on July 1, 2011.

(2) The initial nominating committee shall appoint each independent director to serve a term of one, two, or three years. Independent director terms shall be staggered so that the terms of no more than three members expire during a calendar year.

(3) The terms of the directors in office on the date of passage of this act shall expire July 1, 2011.

#### Sec. 37. REPEAL

Secs. G18 and G19 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) are repealed.

Sec. 38. Sec. G28 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

#### Sec. G28. EFFECTIVE DATES

Secs. G1 through G28 of this act (economic development) shall take effect upon passage, ~~except that Secs. G18 and G19 (Vermont sustainable jobs~~

~~(A) Secs. G18 and G19 (Vermont sustainable job fund program) shall~~

~~take effect upon the cessation of state funding to the program from the general fund.~~

Sec. 39. 6 V.S.A. § 20 is amended to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL  
LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians ~~throughout in regions of the state as determined by the secretary.~~ The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

\* \* \*

Sec. 40. 6 V.S.A. chapter 207 is amended to read:

~~CHAPTER 207. STATE AGENCIES AND STATE FUNDED  
INSTITUTIONS TO PURCHASE VERMONT PRODUCTS PROMOTION  
AND MARKETING OF VERMONT FOODS AND PRODUCTS~~

\* \* \*

§ 4602. GOOD AGRICULTURAL PRACTICES GRANT PROGRAM

(a) A good agricultural practices grant program (GAP) is established in the agency of agriculture, food and markets for the purpose of providing matching grant funds to agricultural producers whose markets require them to obtain or maintain GAP certification.

(b) The secretary may award matching grants for capital upgrades that will support Vermont agricultural producers in obtaining GAP certification. The amount of matching funds required by an applicant for a GAP certification grant shall be determined by the secretary.

(c) An applicant may receive no more than 10 percent of the total funds appropriated for the program in a fiscal year.

Sec. 41. 6 V.S.A. § 3319 is added to read:

§ 3319. SKILLED MEAT CUTTER APPRENTICESHIP PROGRAM

(a) A skilled meat cutter apprenticeship program is established in the agency of agriculture, food and markets for the purpose of issuing a competitively awarded grant to develop, in consultation with slaughterhouse operators, meat processors, chefs, livestock farmers, and others, an

apprenticeship or certificate program, or both, for the occupation of skilled meat cutter.

(b) The secretary shall make a single grant to the successful applicant for the creation and administration of an employment-based learning program with classroom and on-the-job training components.

Sec. 42. 6 V.S.A. § 4724 is added to chapter 211 to read:

§ 4724. LOCAL FOODS COORDINATOR

(a) The position of local food coordinator is established in the agency of agriculture, food and markets for the purpose of assisting Vermont producers to increase their access to commercial markets and institutions, including schools, state and municipal governments, and hospitals.

(b) The duties of the local foods coordinator shall include:

(1) working with institutions, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the agency of agriculture, food and markets, and coordinating with interested parties to create matchmaking opportunities that increase participation in those programs;

(3) working with the department of buildings and general services to encourage the enrollment of state employees in a local community supported agriculture (CSA) organization; and

(4) providing technical support to local communities with their food security efforts.

(c) For purposes of this section, and notwithstanding 29 V.S.A. § 5, the commissioner of buildings and general services and the agency of agriculture, food and markets may authorize the advertisement or solicitation on state property of one or more local CSA organizations, subject to reasonable restrictions collaboratively adopted by the commissioner and secretary on the time, manner, and location of such advertisements or solicitations, in order to encourage and enable state employees to enroll in a CSA.

Sec. 43. FARM-TO-PLATE INVESTMENT PROGRAM

IMPLEMENTATION

(a)(1) The agency of agriculture, food and markets shall coordinate with the Vermont sustainable jobs fund program established under 10 V.S.A. § 328, stakeholders, and other interested parties, including the agriculture development board, to implement actions necessary to fulfill the goals of the

farm-to-plate investment program as established under 10 V.S.A. § 330.

(2) The actions shall be guided by, but not limited to, the strategies outlined in the farm-to-plate strategic plan.

(3) The agency shall develop and maintain a report of the actions undertaken to achieve the goals of the farm-to-plate investment program and the farm-to-plate strategic plan.

(b) The secretary of agriculture, food and markets may contract with a third party to assist the agency with implementation of the program, to track those activities over time, and to develop a report on the progress of the program.

Secs. 44-49. [RESERVED]

#### Sec. 50. REPORTING

On or before January 15, 2012, the agency of commerce and community development shall coordinate with each agency, department, or outside entity charged with oversight or implementation of a program or policy change in this act and submit in its annual report to the house committees on commerce and economic development and on agriculture, and to the senate committees on economic development, housing, and general affairs and on agriculture:

(1) a performance analysis of each program or policy change following passage of this act; and

(2) recommendations for future actions in light of performance relative to the intended outcomes for each program or policy change.

#### Sec. 51. EFFECTIVE DATES

This act shall take effect on passage.

**( Committee Vote: 9-1-1)**

#### **Public Hearings**

March 9, 2011, 5:30 - 7:30 p.m. - Room 11 - Gubernatorial appointment of the Secretary of Education and the structure of the State Board of Education