



STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

MEMORANDUM

From: David P. Hall, Legislative Counsel
Date: May 16, 2015
Subject: Section-by-section summary of S.138 as
passed by Conference Committee

Overview

Senate:

Includes all subjects in Senate bill, except: gun suppressors.

→ conference changes to Senate language identified below

House:

Includes all subjects in House Proposal of Amendment, except:

- gun suppressors;
- youth employment study committee;
- VEGI enhanced incentive for value-added businesses.

→ conference changes to House language identified below

A. General Commerce

Sec. A.1 – Business Rapid Response to Declared State Disasters

This section provides that in the event of officially declared state disaster or emergency, out of state employees of a company registered to do business in Vermont or employees of an out of state business that has a mutual assistance agreement with a Vermont electric utility may, for a 60 day period of time, do work in Vermont repairing “critical infrastructure” (communications networks and electric utility infrastructure) without being considered to have established a level of presence that would require the business to register, file, or remit State or local taxes or that would require the business or its out of state employees to be subject to any State licensing or registration requirements

→ As passed the House; no change in conference
(no Senate provision)

Secs. [A.2, A.2A.2.A, A.2.B, A.2.C – Gun Suppressors]

→ Substitute language passed House and Senate in H.5

Sec. A. 3. – Study and Report; Blockchain Technology

Directs the Attorney General, Department of Financial Regulation, and Secretary of State to report to the General Assembly on opportunities and risks of creating a presumption of validity for electronic facts and records that employ blockchain technology

→ As passed the House; no change in conference
(no Senate provision)

Secs. A.4-A.15 – Fortified Wines

These sections amend Title 7 to do three things:

1. Create a fortified wine permit that will permit a licensed retailer of wine and beer (a second-class licensee) to also sell fortified wines containing between 16% and 23% alcohol.
 - a. The number of fortified wine permits is limited to 150 and permit holders will be required to purchase the fortified wines they sell through the Department of Liquor Control.
 2. Increases the number of special events permits that a manufacturer or rectifier of alcoholic beverages can obtain from 36 per year to 104 per year.
 - a. A special events permit allows a manufacturer to conduct a tasting and sell its products to the public for a limited period of time.
 3. Permits a manufacturer or rectifier of spirits or fortified wines with a licensed tasting room (fourth-class license) on its premises to serve samples of the manufacturer's product either by itself or as part of a mixed drink.
 - a. Currently, a manufacturer cannot serve a sample of its product in a mixed drink.
- As passed House and Senate; no change in conference

A.4. Public Library or Museum Permit

- creates permit; \$20.00; allows library or museum to serve malt beverages or vinous beverages by the glass, period of six hours, charitable or education purpose, approved by local licensing authority, inventory purchased directly from licensed retailer, request to DLC five days before event

→ As passed House; no change in conference

(no Senate provision)

A.16. Vermont Liquor Control System Modernization Study Committee

- Study committee to evaluate Vermont's liquor control system and the DLC and determine whether and how the system and Department can be made more efficient, effective, and profitable while protecting public health and safety

- 7 members (2H, 2S, DLCB chair, Auditor, Tax Comm)

- Report 12/15/15

- Reimbursement for six meetings

→ As passed House; conference change to include "warehousing"

and to replace Auditor with Governor appointee

(no Senate provision)

B. Uniform Commercial Code

Sec. B.1 – Update to Article 4A

Adopts the most recent update from NCCUSL on UCC Article 4A, to clarify that the UCC applies to certain electronic funds transfers not covered by federal law.

→ As passed the House; no change in conference

(no Senate provision)

Secs. B.2 – B.9 – Update to Article 7

Adopts the most recent update from NCCUSL on UCC Article 7 and complementary changes to other Articles, which governs documents of title, including bills of lading and warehouse receipts. The primary purpose of the update is to account for the increased use of electronic documents of title.

→ As passed the House; no change in conference
(no Senate provision)

C. Workforce Education, Training, and Development

C.1-C.2 – Vermont Strong Scholars Program and Internship Initiative

Within the loan forgiveness program, changes “economic sectors” to “occupations” to be designated as qualifying for loan forgiveness; adds the Association of Vermont Independent Colleges to group that designates occupations; specifies that qualifying employment must be full time, and clarifies timing for enrollment and graduation. Within the internship program, eliminates duties of the “Program Intermediary,” which will be performed within DOL. On funding, specifies that availability and payment of loan forgiveness is subject to State funding available for awards.

→ C.1 (findings) as passed the House; no change in conference
- House and Senate provisions identical, except last phrase: “that does not diminish resources for other State workforce education and training programs”

→ C.2 – Conference position
- House and Senate provisions identical in loan forgiveness program

- Conference change to strike internship framework in Title 16 and rename current Vermont Career Internship Program in Title 10 as “Vermont Strong Internship Program”

C.3 – Amendments to WET Fund Provisions; 10 V.S.A. §§ 543-544

Modifies language to clarify eligible activities for funding through from the Workforce Education and Training Fund and eligible participation in the Vermont Career Internship Program.

- As passed the House; no change in conference
(no Senate provision)

[C.4 – Youth Employment Working Group - DELETED]

- Conference position;
- was included in as passed the House;
- no Senate provision

C.5 – Vermont Governor’s Committee on Employment of People with Disabilities

Adds to the Committee two members: one from the Division for the Blind and Visually Impaired within DAIL, and one from the State of Vermont Office of Veterans Affairs.

- As passed the House; no change in conference
- House and Senate identical on additional DAIL appointee
- House also added member from State Office of Veterans Affairs

C.6 – C.8 – Vermont ABLE Savings Program

Adopts enabling legislation authorizing the Treasurer or designee to establish a Program consistent with current federal law and anticipated regulations and creates an ABLE Task Force within the Office of the Treasurer to advise on the design and implementation of the Program.

→ As passed the House; no change in conference
(no Senate provision)

C.9 – Medicaid for Working People with Disabilities

Directs the Agency of Human Services to request appropriate permissions from the CMS and to adopt rules to address income and eligibility requirements for participants in this program who work and may have income from other program sources.

→ As passed the House; no change in conference
(no Senate provision)

C.10 – Vermont Career Technical Education; Study and Report

Directs the Agency of Education, Department of Labor, Agency of Commerce and Community Development, and the Vermont State Colleges to collaborate on how to better utilize Vermont's centers for career technical education to provide training aligned with high-wage, high-skill, high-demand employment opportunities.

→ As passed the House; no change in conference
(no Senate provision)

D. Tourism and Economic Development Marketing

D.1 – Findings and Purpose

One-time funding for an initiative to target out-of-State businesses and employees.

→ As passed the House; no change in conference
(no Senate provision)

D.2 – Makes technical changes to name of DHCD; Expands Department of Tourism and Marketing mission to emphasize economic development marketing;

→ As passed the House; no change in conference
(no Senate provision)

D.3- Directs Department of Tourism and Marketing to deliver a legislative proposal and report to identify the goals, targets, performance measures, and results of its economic development marketing programs.

→ As passed the House; no change in conference
(no Senate provision)

D.4 – \$500,000.00 appropriation for economic development marketing

→ Conference position

- included in As Passed House; no Senate position

- removed in conference—appropriation reduced to \$200,000.00 and included in Sec. G.10 below (transfers from Vermont Enterprise Fund)

D.5-D.6. Domestic Export Program

Codifies program and directs AAFM to pursue internal and external funding to support continued operation of program.

→ As passed the House; no change in conference
- identical in House and Senate with minor language change on implementation in D.6 (“shall pursue grants, funding, and other resources, and shall continue to”)

E. Access to Capital

E.1-E.2 – Vermont Entrepreneurial Lending Program; VEDA Lending

Expands eligible projects for VEDA lending to certain advanced manufacturers.

→ As passed the House; no change in conference
(no Senate provision)

E.3 – Treasurer’s Credit Facility for Local Investments; Extension of Sunset

Extends program for one year.

→ As passed the House and Senate; no change in conference

E.4 – Exemption from Lender License Requirements for Commercial Loans

Raises exemption from licensure for loans, other than residential mortgage loans, from \$75,000 to \$250,000.00.

→ As passed the House; no change in conference
(no Senate provision)

E.5 – Peer-to-Peer Lending Study; Report

- Directs Department of Financial Regulation, with ACCD, to conduct a study and analysis of models for peer-to-peer lending and investment that will enable established entrepreneurs to connect with emerging entrepreneurs and increased lending, equity investment, and business mentoring while preserving adequate regulatory oversight and business consumer protection

→ As passed the Senate; no change in conference
(no House provision)

E.6 – Media Production Database

- Directs Agency of Commerce and Community Development to create and maintain a searchable directory of media production professionals, including location scouts, lighting resources, animation, studios, equipment rental, sites, editing equipment, independent contractors who work in production, acting, and photographers

→ Conference position

- As passed the Senate, with conference addition that implementation of section is contingent upon ACCD partnership with a college, university, or internship program

- no House provision

F. Natural Resources, Land Use, and Planning

F.1 – Economic Development Strategy; Deference to Regional Plans

Directs executive branch to defer to adopted regional plan or CEDS when allocating resources for adverse local impacts from major employer activity.

→ As passed the House; no change in conference
(no Senate provision)

F.2-F.4 – Southern Vermont Economic Development Zone

F.2 - Findings and purpose;

→ Conference position;
- conference change to include intent statement that Zone not intended for General Fund appropriations in current or future years
- no Senate provision

F.3 - establishes Southern Vermont Economic Development Zone in statute; no further language regarding Zone

→ As passed the House; no change in conference
(no Senate provision)

F.4 – establishes Southern Vermont Economic Development Zone Study Committee and requires report on design and implementation of the Zone

→ As passed the House; no change in conference
(no Senate provision)

F.5 – Act 250; Implementation of Criterion 9(L)

This section directs the Natural Resources Board to engage in a public process leading to revisions to its procedures for implementing the settlement patterns criterion (9L) added last year to Act 250.

The section also directs the Agency of Commerce and Community Development, in conjunction with the Natural Resources Board and the Agency of Natural Resources, to develop outreach materials for Criterion 9L and a training plan for developers, local officials, and others.

→ As passed the House and Senate; no change in conference

F.6-F.7 – Municipal Land Use; Vermont Neighborhood Development Area; Act 250; Primary Agricultural Soils

These sections are housekeeping. They revise statutes to conform to prior acts. Sec. F.6 corrects a statute to reflect the creation in 2013 of a designation for neighborhood development areas. Sec. F.7 corrects a different statute to reflect the expansion in 2014 of Act 250's 1:1 ratio for mitigating primary agricultural soils from designated growth centers only to other designated areas such as designated downtowns.

→ As passed the House and Senate; no change in conference

F.8 – Acquisition of Land by Public Agencies; Conservation Easements

This section provides that if an organization, such as a land trust, acquires property subject to a conservation easement that it owns, then the easement stays in effect.

→ As passed the House and Senate; no change in conference

F.9 – Certificate of Public Good; Methane Digesters

This clarifies the scope of the Public Service Board’s jurisdiction over stand-alone electric generation facilities that are methane digesters using feedstock from off-site farms and states that this jurisdiction shall not include the farms contributing the feedstock.

→ As passed the House; no change in conference
(no Senate provision)

G. Tax Credits and Business Incentives

G.1-G.4 – Vermont Employment Growth Incentive Provisions

G.1 – makes necessary technical change to 32 V.S.A. § 5930a

→ As passed the House and Senate; no change in conference

G.2 – Qualifying Job

- (a)(20) – amends definition of “qualifying job” to require that an employer provide three or more benefits from same list as Vermont Training Program

→ As passed the House; no change in conference
(no Senate provision)

G.2 – Wage Threshold

- (a)(24)(B) - changes wage threshold to include jobs that pay 40% above minimum wage if located in a labor market area where average annual unemployment rate is higher than State average, but not less than \$13/hour

→ Conference position;

- as passed the House had limited the 40% minimum wage/\$13 to a labor market area where unemployment 0.5% > State;
- as passed the Senate did not include \$13/hour minimum

G.2 – “Net negative” award cap

(b)(5)(A)-(B) – codifies existing \$1 million cap for “net negative” awards in labor market areas; authorizes E-Board to raise \$1 m cap for “net negative” awards

→ As passed the House and Senate; no change in conference

G.2 – Extension of Grace Period

(c)(6)(A)-(B) - authorizes extension of award period for business who don’t meet targets due to circumstances beyond its control;

→ As passed the Senate;

- House and Senate identical in (B)(i)-(ii)
- as passed House had limited (B)(iii) such that if the Council grants an extension, Council must recalculate the amount of the award to account for extension of the period and using the wage threshold applicable at the time of the extension

G.2 – Enhanced training incentive

new subsection (h) - creates enhanced training incentive

→ As passed the House ;

- House position substantively the same as Senate position but includes technical language changes to better reflect operation of program

G.2 – Codifying program caps

(j) – codifies existing \$10 million aggregate program cap and existing E-Board authority to raise cap

→ As passed the House and Senate; no conference change

G.3 – repeals session law relating to program caps, codified in G.2(j)

→ As passed the House and Senate; no conference change

G.4 – makes conforming technical change to 10 VSA § 531 (Vermont Training Program)

→ As passed the House and Senate; no conference change

G.5 – Employee Relocation Tax Credit Study

Creates study committee to study and report on a credit for out-of-state employee for relocation expenses for a qualifying Vermont job.

→ Conference position

- As passed the House, but conference change adds Secretary of ACCD
- no Senate provision

G.6-G.7 – Downpayment Assistance Program

Authorizes VHFA to make downpayment assistance loans to qualifying first-time homebuyers.

→ Conference position;

- as passed the House, but limited to three fiscal years instead of five
- no Senate provision

G.8 – Prewritten Software Accessed Remotely

“Cloud tax” - charges for the right to access remotely prewritten software shall not be considered charges for tangible personal property under 32 V.S.A. § 9701(7).

→ Conference position;

- as passed the House did not include cloud tax language
- as passed the Senate included slightly different language
- conference language as originally as passed House Commerce

G.9 – Wood Products Manufacturer Incentive – extends for one additional year

→ As passed the House; no change in conference
(no Senate provision)

G.10 – Vermont Enterprise Fund; Funds Transfer

- Transfers \$425,000.00 from Vermont Enterprise Fund as follows:

- (1) \$125,000.00 to the General Fund for the Down Payment Assistance

Program established in Sec. G.7 of this act.

- (2) \$100,000.00 to the Agency of Commerce and Community

Development to implement a targeted marketing and business expansion initiative for Quebec-based businesses, including conducting business outreach activities, promoting partnerships with Vermont businesses

throughout the State, and facilitating site selection and collocation at sites throughout the State.

(3) \$200,000.00 to the Agency of Commerce and Community Development for the purpose of implementing economic development marketing pursuant to Secs. D.1–D.3 of this act.

- Conference position;
- as passed the House transferred \$725,000.00 from Enterprise Fund to General Fund for downpayment assistance (\$125k), VEGI costs (\$100k), and economic development marketing (\$500k);
- as passed Senate did not include revenue or appropriations

H. Effective Dates

- Conference position; amended to conform to conference proposal