H.313

Introduced by Committee on Commerce and Economic Development

Date:

Subject: Economic development

Statement of purpose: This bill proposes to promote near-term and long-term economic development by establishing a statewide policy to guide economic development based on the four principal goals adopted by the commission on the future of economic development (CFED), by promoting collaboration and unified proposals by government and the private sector to ensure that Vermont gets the maximum available benefits from federal stimulus legislation, by creating new programs and enhancing those existing programs that will most effectively promote the four principal CFED goals and will have the most significant measurable near-term and long-term economic development impacts in Vermont.

An act relating to near-term and long-term economic development

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

Sec. 1. FINDINGS

The general assembly finds that:

(1) During the 2007 legislative session, the legislature, in No. 182 of the Acts of the 2007 Adj. Sess. (2008), instructed the commission on the future of

economic development to complete a public engagement process, develop specific goals and, with input and validation by the economists of the executive and legislative branches, benchmarks.

(2) The commission on the future of economic development sought expert testimony, reviewed numerous studies, and conducted a rigorous public engagement process to identify the elements needed for successful economic development in Vermont.

(3) The legislature, administration, and myriad economic and community partners must now work together with unerring discipline to focus policies, regulations, programs, and incentives on the critical interconnection between Vermont's assets, our collective values, our capabilities, and the opportunities which will increase state revenues and the prosperity of all Vermonters.

(4) The commission on the future of economic development distilled four principal goals for future economic development in Vermont that are the most critical to our future prosperity and the welfare of our citizens. The goals express what the commission believes can be the outcome of focused, coherent economic development planning and governmental policies and actions.

(5) The four principal goals emerged from two and one-half years of the commission's study of Vermont's economy and the public policies that advance and impede economic development. The goals are interdependent and

interconnected, and they must all be addressed if Vermont is to reach its economic development promise. The commission reviewed many reports on and evaluations of economic development polices and heard many hours of testimony from a broad spectrum of Vermonters who expressed concerns about the economic challenges facing Vermonters, identified what they perceived as impediments to economic development in Vermont, spoke about Vermont's assets and strengths, and offered many good suggestions for public policies and strategies for growing our economy. The commission traveled to 12 regions of the state to hear from local business leaders, community organizations, and the public, and spoke with representatives of the public and private sectors, traditional and emerging business sectors, educators, and financial experts.

(6) The implementation of the goals is the joint task of the legislature, the administration, our local, regional, and state agencies, our nongovernmental organizations, and our citizens. State economists have concluded that the goals cannot be adequately evaluated with a small set of simplistic benchmarks, but rather, must be evaluated through a wide range of indicators using statistical benchmarks accompanied by a narrative that is a contextual interpretation of the data by professionals. Ultimately, consistent monitoring of credible benchmarks will provide information on both the efficacy and cost-effectiveness of our public policies and strategies so that

necessary adjustments can be made to continually improve Vermont's economic prosperity.

(7) The commission heard that businesses are hindered by the lack of a sufficient number of technically skilled workers, and that some educational institutions are reluctant to see themselves as engines of economic development. Existing technical training, apprenticeship opportunities, and workforce development efforts are valued, but insufficient to meet the needs of Vermont businesses in preparing workers for the workplace.

(8) Vermonters' ingenuity, work ethic, and entrepreneurship have long been viewed as competitive assets. Our rapidly evolving economy requires a collaborative partnership of business people, educators, representatives from nongovernmental organizations, and government leaders to provide a skilled workforce to Vermont businesses and career opportunities to all Vermonters.

(9) Vermonters are very concerned about the current and future health of our economy and understand that our government's policies affect our economy in both positive and negative ways. They lack confidence that Vermont's government has a clear vision of the future, and they worry that our government does not appear to have a coherent plan to overcome the challenges we face or to recognize and capitalize on our unique strengths and opportunities. Recent deterioration of state, national, and global economic conditions has given our work a greater sense of urgency.

(10) Vermont is a small rural state, smaller than other states in almost every aspect. Vermont's scale can become an asset in this fast-paced global economy that rewards flexibility and agility. While our government agencies are small, they are not nimble, and our policies often impede economic opportunity at the expense of Vermonters' quality of life. Significant restructuring of agencies and policies can increase efficiency and effectiveness without significant public investment.

(11) Despite its small scale and accessible government, Vermont lacks a shared statewide vision of its economic future. Economic vitality in Vermont is hampered by the lack of coordination among and between state agencies, between regional economic development corporations and regional planning commissions, and between these regional entities and state agencies. As a result of these disconnects, Vermont lacks a single, holistic, integrated state plan for economic development. Additionally, coordinated regional input is imperative for an effective, nimble, and integrated statewide economic development plan. Strong regional development organizations and regional planning commissions are critical partners and resources. Our citizens and business and civic leaders consistently recognize Vermont's small scale and easy access to our government as a potential strength, but observe that we have often failed to take advantage of the opportunities that our "smallness" offered us.

(12) Inefficiencies in our state and local regulatory and permitting programs, including a lack of coordination between state regulatory agencies and redundancies in state and local regulatory programs have hampered or dissuaded economic development and investment in Vermont. Navigating the permitting process can be unnecessarily difficult, time consuming, and expensive, and many potential entrepreneurs and investors simply give up.

(13) An essential role of government is investment in our digital, physical, and human infrastructure as the foundation for all successful economic development. Funding, building, and maintaining our state's infrastructure is one of the highest priorities for the investment of state resources.

(14) The lack of adequate and reliable broadband and cellular infrastructure and access across the state not only impedes the growth of existing and new business in Vermont, but may induce existing businesses to relocate to other states that have better access to broadband and cellular service. Digital infrastructure benefits include government cost savings, increased productivity, and improved quality of life for Vermonters.

(15) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of

cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(16) Small broadband enterprises now offering broadband service in Vermont have limited access to financial capital necessary for expansion of broadband service to unserved areas of the state.

(17) Telecommunications and broadband infrastructure in all areas of the state should continue to be upgraded to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies and services that are needed by persons, businesses, and institutions in the state.

(18) The state should continue to ensure the most efficient use of both public and private resources through state policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

(19) The Vermont telecommunications authority has made significant progress toward, and should continue going forward as the primary vehicle for, achieving the goal of realizing universal availability of adequate mobile telecommunications and broadband services, with a focus on unserved areas in the state.

(20) Vermonters are also very concerned over the deterioration of our physical infrastructure, in particular state transportation systems, and the reliability and cost of energy.

(21) Vermonters are struggling to secure basic needs such as health care, child care, affordable housing, and quality education. These basic needs are prerequisites to, rather than the product of, economic development. Employers recognize that the health and well-being of our workforce are critical to business success. Worker recruitment, retention, and productivity depend on worker quality of life as measured by wages, health care, child care, housing, connected communities, and a healthy environment.

(22) While Vermont's pioneering land use and environmental regulations are frequently perceived as an impediment to economic development, our reputation for environmental stewardship can be turned to our advantage. Vermont businesses, government, and environmental organizations must be partners and leaders in supporting and creating a green economic sector and the use of green business practices throughout our diverse economy.

(23) The strength of our state economy is dependent upon a diversity of business sectors. There are unique and innovative Vermont businesses that are successfully competing in the global marketplace that need to be nurtured. There is broad consensus that Vermont can further leverage its brand,

including its green reputation, into economic gain. Our entrepreneurial people, healthy environment, and connected communities – our quality of life – are genuine economic assets.

(24) Microenterprise plays an important role in our state's economy and within the working lives of low to moderate income families. There are over 70,000 microenterprises in Vermont representing 22 percent of all employment; in other words, one out of every five private sector workers is employed by a microenterprise.

(25) Microenterprises create new jobs and vibrant rural communities; they develop new industries, increase community assets, are important providers of goods and services in local communities, find unique solutions to local problems, and keep profits circulating locally. Microenterprise provides economic opportunity for low income households and is a proven wealth creation strategy for struggling communities.

(26) Microenterprises often require access to training, services, financing, and support that are different from what small businesses require in order to grow and prosper. Microenterprise financing options and business training and technical assistance are equally important and work together to support microenterprise development.

(27) Research by the Center for Rural Studies at the University of Vermont shows that microenterprise ownership, whether full time or part time,

increases income for low income Vermonters, helps people move out of poverty and off public assistance, and helps low income households build assets.

(28) Individual development accounts are a proven strategy for helping low income families move out of poverty and secure an economic foothold through home purchase, business development, and education and training. The Vermont IDA program enables low income Vermonters, over 60 percent of whom have been or are currently TANF recipients, to save a part of their earned income for a first-time home, a small business, or postsecondary education or training. Under the program individual savings are matched two-to-one on $500.00 of savings for up to two years, and participants save between $25.00 and $41.00 monthly to reach their goals. Participants also enroll in 12 hours of financial education as well as homeownership training, career counseling, or business counseling to improve their success in asset ownership. The Vermont IDA program helps participants increase their commitment to their communities and offers stability to their families.

Sec. 2. PURPOSE; POLICY STATEMENTS FOR FEDERAL STIMULUS COLLABORATION AND FUTURE UTILIZATION OF ECONOMIC DEVELOPMENT RESOURCES

(a) The purpose of this act is to promote the economic development of the state and the prosperity of its businesses and citizens through near-term and long-term collaboration and communication among and within industry sectors and government, and through identifying and taking affirmative steps toward achieving the four principal goals established by the commission on the future of economic development.

(b) In the near term, this act seeks to promote the most coordinated and efficient means possible to capitalize on federal stimulus funds. The American Reinvestment and Recovery Act of 2009 provides an opportunity for additional economic development resources that are available to the state, its subdivisions, and its private entities and citizens. In order to realize the full potential of these funds, and in order to most effectively increase the opportunities for Vermonters to benefit from the many programs and funding sources made available by the ARRA, the Director of the Federal Recovery Office shall coordinate efforts to obtain federal stimulus funds under the ARRA and provide oversight of the application of those funds in order to maximize the benefits to Vermont.

(c) It is the expectation and the policy of the general assembly that, to the fullest extent possible, each stakeholder for a particular allocation of state funds and each eligible applicant for a competitive grant will work together to present a unified proposal to secure funding and opportunity in the best interest of the state. It is the expectation of the general assembly that, rather than rely in the first instance on general fund appropriations for economic development proposals in the near term, stakeholders will use best reasonable efforts to structure programs to maximize eligibility for federal funds available under the ARRA. Failure to structure programs to maximize federal eligibility may jeopardize a program's opportunity for state funding under this act.

(d) In addition to direct allocations to federal and state programs in a multitude of areas that will benefit many Vermonters and the overall state economy, the ARRA offers competitive grants, in most cases to public and private entities, that would stimulate economic development in the areas of agriculture and rural development, broadband and telecommunications, energy efficiency and renewable energy, employment and training, educational technical assistance, redevelopment of abandoned and foreclosed homes, homelessness prevention and housing, and energy-saving and green retrofit investments in elderly, low income, and disability housing. To aid both public and private entities in securing competitive grant funding, each agency and department of the state shall designate at least one employee that shall be responsible for identifying competitive grant programs relating to the department's or agency's subject area of jurisdiction. The designated employee shall be responsible for responding to requests for information concerning grant opportunities in the agency's or department's relevant subject areas, for coordinating with the Director of the Federal Recovery Office, and for connecting individuals and entities pursuing grants with appropriate grant-writing resources and services available from both public and private Vermont providers.

(e) In the long term, this act seeks to build a foundation for economic development through collaboration and cooperation among Vermonters for their mutual gain. It is the intent of the general assembly to channel these collaborative efforts for economic development through the principal goals and benchmarks for economic development identified by the commission on the future of economic development, utilizing both new and existing resources from the state and federal levels to increase prosperity for all Vermonters.

Sec. 3. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ~~VERMONT DEVELOPMENT BOARD~~ THE FUTURE OF ECONOMIC DEVELOPMENT

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§ 3. ECONOMIC DEVELOPMENT; LONG-TERM GOALS; REVIEW AND ASSESSMENT

(a) For purposes of the Vermont Statutes Annotated and all state economic development programs and assistance, "economic development" means the process of generating economic wealth and vitality, security, and opportunity for all Vermonters.

(b) There are established four principal interrelated goals for future economic development in Vermont, as follows:

(1) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(2) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(3) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(4) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(c)(1) The four principal goals shall be used to guide the development, design, and implementation of every economic development program, policy, or initiative that is sponsored or financially supported by the state, its subdivisions, agencies, authorities, or private partners, and to serve as the principal benchmarks for measuring the success of each economic development program, policy, initiative, or grant of assistance.

(2) Every act by, or by or through a subsidiary of, the legislative or executive branch that creates or modifies an economic development program, policy, initiative, or grant of assistance shall be designed and implemented to

the fullest extent possible to promote and conform to the principal economic development goals. For each action, the enacting authority shall include a statement of clear and measurable goals for the program and an analysis and demonstration of how the program will promote the principal goals. The enacting authority shall cooperate to the fullest extent possible with other agencies or entities as necessary to promote and conform to the four principal goals set forth in subsection (b) of this section.

(d) Each state department or agency with core economic development activities, including the department of economic development, department of housing and community affairs, department of tourism and marketing, and the administrative division within the agency of commerce and community development; the agency of agriculture, food and markets; the office of economic opportunity within the department for children and families; the department of finance and management and the department of information and innovation within the agency of administration; the department of labor; the department of public service; the department of taxes; the Vermont economic development agency; the Vermont economic progress council; and any additional present or future state agency, authority, or body performing economic development functions, shall:

(1) By January 15, 2010, engage in a process to identify and articulate its own goals, benchmarks, and priorities for promoting economic development that are consistent with and serve to promote the four principal goals.

(2) By January 15 of each year, report to the house committee on commerce and economic development, the senate committee on finance, and the senate committee on economic development, housing and general affairs, on the status of the agency or department's progress in setting and achieving its goals, benchmarks, and priorities and on how the programs, policies, and initiatives undertaken in the previous year have promoted the principal goals. The format for each agency or department report shall be uniform and shall be substantially the same as the model graph presented in the next generation goals and measures report.

(e)(1) The commission on the future of economic development shall work with the economists of the executive and legislative branches and the joint fiscal office to adopt benchmarks for the four principal goals set forth in subsection (b) of this section.

(2) Beginning no later than January 15, 2010, and thereafter at least biannually until January 15, 2012, the commission on the future of economic developmentshall review the principal goals and any benchmarks adopted and shall assess the effectiveness of the goals and benchmarks in promoting economic development. The commission shall also review and assess the

adequacy and success of the specific goals and benchmarks adopted by the agencies and departments required under subsection (d) of this section.

(3) On or before January 15, 2012, the commission on the future of economic development shall have considered and made a recommendation to the senate committee on economic development, housing and general affairs, the senate committee on finance, the house committee on commerce and economic development, the house committee on ways and means, and the governor on whether it would promote the best interests of Vermont for the commission to continue biannual review of the goals and benchmarks, or if a successor to that responsibility should be designated. Notwithstanding any recommendation, the commission shall continue to perform the biannual review unless and until a successor is designated by legislation approved by the legislature and the governor.

* * * Green Economy * * *

Sec. 4. GREEN ECONOMY INITIATIVES

On or before July 1, 2009:

(1) The department of economic development of the agency of commerce and community development shall conduct a market analysis for environmental goods and services.

(2) The workforce development council shall explore the feasibility of hosting an annual job fair for the green economic sector.

(3) The agency of commerce and community development and the department of environmental conservation shall explore the feasibility of hosting a global conference on green economic development, environmental enterprise, and sustainability to take place in 2009–2010.

(4) The agency of commerce and community development and the department of tourism and marketing shall evaluate and report to the house committee on commerce and economic development the following:

(A) Creating a Vermont Life Magazine profile on the green economic sector.

(B) Collaborating with Vermont Public Television to create a program on the green economic sector.

(C) Developing an advertising campaign highlighting the green economic sector for use in on-line video search engines and international broadcast, as well as for a "web-presence" using social networking sites.

(D) Developing a targeted marketing campaign on green economy sector opportunities for media markets with common community characteristics or professional schools and higher education institutions or both.

(5) The agency of commerce and community development shall develop a program for the green economic sector, including attendance at green economic sector events, and direct outreach to the state's largest employers to

seek investment in the development of new environmental value-added products and the creation of new environmental enterprise jobs. Additionally, the agency of commerce and community development shall work cooperatively with the Vermont environmental consortium to develop a virtual enterprise zone and online social networking tool for the green economic sector, and to create a website showcasing green products and services and the Vermont “Green Trail” – publicly accessible examples of green development, LEEDs certification, and renewable energy projects.

(6) The department of buildings and general services shall consider developing environmental design objectives for new buildings and renovations and a policy for showcasing Vermont technologies and products. The department shall also develop a policy for in-state sourcing of clean energy technology and services.

(7) The department of public service shall conduct a feasibility study and examine the potential benefits of purchasing portable energy meters for public libraries and make them available for check-out services.

(8) The agency of natural resources shall work cooperatively with solid waste management districts to improve district operating efficiencies, improve the rate of diversion, and promote waste reduction.

(9) The agency of transportation shall consider providing free air pump service at all rest areas, and promote with appropriate signage the mileage value of proper tire inflation.

* * * Workforce Development * * *

Sec. 5. FINDINGS

(a) The general assembly recognizes that numerous hurdles exist that serve to prevent workforce development generally, and in particular for working families in need of adequate child care, for low income persons, for the disabled, and for the elderly. It is the priority of the general assembly that federal stimulus funds allocated to workforce development, including additional funds for childcare services, will serve to expand opportunity to the unemployed, to dislocated workers, to working families, and to low income, disabled, and elderly Vermonters.

(b) The general assembly recognizes the opportunities available to the next generation of Vermonters to secure well-paying and secure jobs in emerging sectors, such as energy efficiency and health care, including health care information technology. It is the priority of the general assembly that federal stimulus funds allocated to education and workforce development be utilized to promote the development of education and job opportunities in these emerging sectors wherever appropriate.

(c) Prior to expending workforce, training, or education funds for workforce development or for expenditures that will require additional workforce capacity, the government authority seeking funding shall perform a workforce analysis to determine what workforce capacity currently exists and how much capacity will be necessary to implement a program or project, and shall prioritize expenditures: first, for necessary training to maintain current employment; second for hiring or training unemployed and dislocated workers; and finally for promoting new hiring. Furthermore, priority for workforce training funds shall be given to programs or training that will be most likely to result in increased worker compensation or job promotion.

(d) When pursuing competitive grant funds for workforce development under Title VIII of the ARRA, it is the expectation of the general assembly that government departments, nonprofit organizations, private businesses, and individuals will collaborate to the fullest extent possible to secure the maximum amount of resources available to promote workforce and economic development for Vermonters.

Sec. 6. Sec. 6 of No. 46 of the Acts of 2007 is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER~~; LEADERSHIP COMMITTEE; CREATED~~

(a) The commissioner of labor shall be the leader of workforce development strategy and accountability. The commissioner of labor shall consult with ~~and chair a subcommittee of the workforce development council consisting of the secretary of human services, the commissioner of economic development, the commissioner of education, four business members appointed by the governor, and a higher education member appointed by the governor. Membership on the subcommittee shall be coincident with the members' terms on the workforce development council~~ the workforce development council executive committee in developing the strategy, goals, and accountability measures. The workforce development council shall provide administrative support. The ~~subcommittee~~ executive committee shall assist the leader. The duties of the leader include all the following:

(1) developing a limited number of overarching goals and challenging measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding under Act 46 of the Acts of 2007. The reports shall be submitted on a schedule determined by the executive committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the governor and the general assembly on or before December 1, which shall include a systematic evaluation of the accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments, innovations, collaborations, grants received, or new funding sources developed by participating agencies, institutions, and other education and training organizations;

(B) ~~an evaluation~~ identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of next generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; and

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private.

(b) Entities receiving grants through the workforce education and training fund (WETF) and the Vermont training program (VTP) shall provide the Social Security number of each individual who has successfully completed a training program funded through the WETF and the VTP within 30 days. On or before July 1 of each year, the department of labor and the department of economic development shall process the information received within the most recent 12 months and prepare the report required in subdivision (a)(4) of this section. The report shall include a table that sets forth quarterly wage information received pursuant to 21 V.S.A. § 1314a at least 18 months following the date on which the individuals completed the program of study. The table shall include the number of individuals completing the program, the number of those individuals who are employed in Vermont, and the median quarterly income of those individuals.

(c) Other entities, including public and private institutions of higher education, postsecondary and secondary programs, and other training providers who wish to participate in the process under subsection (b) of this section may do so by making a request in writing to the commissioner of labor and the commissioner of economic development who shall make a decision regarding inclusion of such programs and the process for the collection of the necessary data.

(d) Confidentiality. Notwithstanding any other provision of law, the departments of labor and of economic development shall collect the Social Security numbers of students for the purposes of this section. Access to the Social Security numbers provided to the departments of labor and of economic development shall be limited to those department individuals creating the table required in subsection (b) of this section and shall be confidential. The departments shall prepare the table in a way that ensures the confidentiality of all trainee and employer information. A department employee who intentionally communicates or otherwise makes available to the general public a Social Security number collected pursuant to this section or who otherwise disseminates the number for purposes other than those specified in this section shall be subject to the penalties of the Social Security Number Protection Act, subchapter 3 of chapter 62 of Title 9.

Sec. 7. Sec. 7(a)(3) of No. 46 of the Acts of 2007 (career and alternative workforce education) is amended to read:

(3) Career And Alternative Workforce Education. The amount of $900,000 is appropriated to the department of labor. Of this appropriation, $450,000 is from the fiscal year 2007 monies transferred to the next generation initiative fund, and $450,000 is from the fiscal year 2008 monies transferred to the next generation initiative fund. This appropriation shall be to support

out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education ~~as follows:~~

~~(A) Forty-five percent (45%)~~. At least 25 percent of this appropriation shall be for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12~~.~~, and at least 25 percent

~~(B) Fifty-five percent (55%)~~ shall be for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and non-profit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.

Sec. 8. REPEAL

The following are repealed.

(1) Sec. 7(d) of No. 46 of the Acts of 2007 (accountability);

(2) 10 V.S.A. § 543(g) (accountability); and

(3) Sec. 5.801.1 of No. 192 of the Acts of the 2007 Adj. Sess. (2008).

* * * Incentives for New Housing Development * * *

Sec. 9. HOUSING INCENTIVE PROGRAM

The housing division of the department of housing and community affairs shall create and implement a housing incentive program to incent the development of new residential housing construction for the period beginning

May 1, 2009 and ending December 31, 2010. Under the program the first 500 units of residential housing begun and completed within the program period shall be eligible to receive a builder's income tax credit, not to exceed 10 percent of the sales price, and a homebuyer's graduated property tax credit over three years. To be eligible, both the sales price for residential units and the income caps of the buyers must meet VHFA limits at the time of sale. To prove compliance with the requirements of the program, a builder must register with the department of housing and community affairs for each unit by submitting a valid building permit within 30 days of the start date of construction, and must file a certificate of occupancy and energy certification prior to the December 31, 2010 program deadline.

* * * Inventor and Entrepreneur Assistance * * *

Sec. 10. 10 V.S.A. chapter 14B is added to read:

CHAPTER 14B. INVENTOR AND ENTREPRENEUR ASSISTANCE PROGRAM

§ 295. DEFINITIONS

As used in this chapter:

(1) "Commercial state" means the point at which an invention, product, or business venture has been developed beyond the theoretical or prototype stage and is capable of being manufactured, practiced, or implemented commercially.

(2) "Entrepreneur" means a person who has possession of or seeks to form a business enterprise or venture and assumes significant personal accountability for the financial risks and rewards of the business.

(3) "Gross sales revenues" means all revenues or anything of value received by any person from the sale of a proprietary product or from the business activity of a business formed with the support provided under this chapter.

(4) "Intellectual property" means patents, copyrights, or trademarks acquired pursuant to federal or state law or applications for a patent or for copyright or trademark registration.

(5) "Inventor" means any person who conceives a new concept which may result in a proprietary product.

(6) "Product" means any device, technique, process, item of manufacture, composition of matter, or work of authorship.

(7) "Product development plan" means a plan prepared by a service provider for developing a product or business to the commercial state.

(8) "Proposal" means a plan provided by an inventor or entrepreneur which includes technical and descriptive information on a product or business.

(9) "Proprietary product" means a product patented, copyrighted, or trademarked pursuant to federal or state law or for which an application for patent or for copyright or trademark registration is pending.

(10) “Royalties” means all value received by an inventor in connection with the licensing of a proprietary product or the assignment, sale, or licensing of intellectual property.

(11) “Service provider” means an entity selected by the department of economic development to provide investor or entrepreneur assistance under the provisions of this chapter.

§ 296. PROGRAM DESIGN

The department of economic development of the agency of commerce and community development shall establish a request-for-proposal process to solicit and select service providers to provide assistance to inventors and entrepreneurs under this chapter. The inventor and entrepreneur assistance program shall be designed to:

(1) Attract inventors and entrepreneurs from throughout Vermont, the nation, and the world and encourage them to submit their proposals for review and evaluation.

(2) Provide assistance to inventors and entrepreneurs whose proposals are accepted after evaluation and review. To protect both Vermont and an inventor, a disclosure document shall be on file with the U.S. Patent Office before the department or service provider shall review a proposal.

(3) Provide assistance to facilitate the manufacturing, marketing, and distribution of proprietary products and the planning, design, and successful implementation of new business ventures.

(4) Protect the confidentiality of inventor and entrepreneur proposals to the extent permitted by law.

§ 297. POWERS

(a) The department of economic development may:

(1) Enter into contracts on a competitive bid basis with public and private agencies, institutions, organizations, and individuals for the purpose of providing assistance to and services for inventors and entrepreneurs under this chapter.

(2) Solicit the support and contribution of public and private agencies, organizations, institutions, and individuals.

(3) Receive and administer funds for the purpose of operating the program.

(4) Advertise and promote the program.

(5) Adopt policies and procedures to implement the provisions of this chapter.

(6) Acquire security interests in intellectual property and appropriate business assets to the extent necessary to protect the state's interest in the fees charged pursuant to this chapter.

<u>(b) When awarding contracts to service providers, and when devising policies and procedures for implementing the program, the department shall give due consideration and priority to policies that encourage and to applications that promote collaboration by and among service providers to best promote the purposes of this chapter.</u>

<u>§ 298. FILING FEE; DEVELOPMENT PLAN; ROYALTIES</u>

<u>(a) A service provider selected by the department of economic development to provide assistance under this chapter shall charge a filing fee of up to $500.00 for each proposal submitted for review and evaluation, depending upon the cost to research the proposal as determined by the service provider.</u>

<u>(b) After review and evaluation, proposals shall be accepted or rejected for development under the program.</u>

<u>(c) If a proposal is accepted for development, the service provider shall prepare a development plan which shall include a technical plan for developing proprietary products or business ventures, a time schedule, and an estimated cost. The service provider shall create a policy for making decisions to develop products and business ventures utilizing appropriate resources and bringing products and businesses to a commercial state. Services available to inventors and entrepreneurs may include patent searches, applications for patent, copyright registration, market analysis, product research and</u>

development, assistance in obtaining financing, including financing from private resources, and business counseling.

(d) If an inventor or entrepreneur wishes to work with the service provider to develop the product or business according to the development plan but is unable to finance all or part of the development, the service provider may develop the product or business using its own or other available resources. The inventor shall be responsible to pay the fee pursuant to subdivision (e)(2) of this section. The inventor or entrepreneur may finance the development plan in full without additional cost.

(e) Before developing a product or business, the service provider shall enter into a written contract with the inventor or entrepreneur which shall include, in addition to any other provisions consistent with this chapter:

(1) The services to be provided to aid in the development of the product.

(2)(A) Authorization for the service provider to receive a fee not to exceed an amount equal to:

(i) Ten percent of all royalties from a proprietary product for a period not to exceed ten years from the first day after royalties are first received by the inventor;

(ii) One percent of the gross sales revenue for a period not to exceed ten years from the first day after the product or business reaches the commercial state; or

(iii) an equitable percentage of any consideration received from the sale, licensing, or transfer of any interest in intellectual property, a proprietary product, or a business venture.

(iv) a combination of the foregoing, in an equitable amount and proportion as agreed to by the service provider and the inventor or entrepreneur.

(B) The fee shall be based on a consideration of the following factors:

(i) The inventor or entrepreneur's contribution to the financing of the product or business according to the development plan;

(ii) The service provider's contribution to the financing of the product or business according to the development plan; and

(iii) The potential for commercial success of the product or business.

(3)(A) In the case of inventor assistance, a written agreement from the inventor that all products developed under the program shall be researched, developed, manufactured, packaged, or delivered in and from Vermont, and distributed from Vermont to the extent that it is economically feasible; provided, wherever the products are manufactured, the fee set forth in subdivision (2) of this subsection shall accrue to the service provider pursuant to this chapter.

(B) In the case of entrepreneur assistance, a written agreement from the entrepreneur that the business will maintain its principal place in Vermont for a stipulated period of years, and that to the greatest extent possible, all business services and products provided to the business venture will be provided by Vermont-based businesses.

(4) Provision for acquisition by the service provider of any security interests as required to protect the service provider's interest in the fee paid pursuant to this section.

(5) Agreement by the inventor or entrepreneur that any assignment, sale, or licensing of a product or intellectual property developed under the program or any interest in any business venture developed under the program shall be subject to the service provider's security interest, and that any contract with a third party for the assignment, sale, or licensing of a product, intellectual property, or business developed under the program shall explicitly condition such assignment, sale, or license on the prior rights of the service provider.

(6) Provision for such fiscal reporting by the inventor or entrepreneur, its assignee, licensee, or successor as may be necessary to assure the performance of all provisions of the written contract.

(f) The service provider shall enter into a written contract with each of its employees which shall include provisions designed to protect the confidentiality of inventor and entrepreneur proposals and to prohibit the employee from using information gained by the service provider to compete with or disadvantage any inventor or entrepreneur.

(g) Before developing a product or business, the service provider, the inventor or entrepreneur, and the department of economic development or its designee shall enter into a written contract providing for a contribution to the inventor and entrepreneur assistance program fund established in section 298a of this chapter. The fund contribution amount shall be:

(1) Expressed either as a one-time contribution, or as a percentage of the fee selected under subdivision (e)(2)(A) of this section, and responsibility for the contribution shall be borne equally by the inventor or entrepreneur and the service provider.

(2) Calculated by the parties to the contract based on both the factors under subdivision (e)(2)(B) of this section, with consideration given for the role the program played in realizing the product or business development.

(3) With the consent of the department or its designee, contingent upon attaining a measurable threshold for success of the development, which threshold shall be established in the contract required in this section.

§ 298a. INVENTOR AND ENTREPRENEUR ASSISTANCE PROGRAM FUND

The inventor and entrepreneur assistance program fund is established in the state treasury and shall be administered by the department of economic development pursuant to subchapter 5 of chapter 7 of Title 32. There shall be deposited into the fund any monies appropriated by the general assembly or received by service providers for the support of the program from any other source public or private, including the fees assessed pursuant to this chapter. The fund shall be used for the purpose of establishing and maintaining the inventor and entrepreneur assistance program established by this chapter.

§ 298b. REPORT

On or before January 15 of each year the department of economic development shall submit an annual report based on the prior fiscal year to the governor and the general assembly. The report shall include:

(1) The number of proposals submitted for review and evaluation.

(2) The number of proposals accepted for development and the number rejected.

(3) The number of products patented.

(4) The number of products and businesses developed to the commercial state.

(5) The number of jobs created and preserved as a result of the manufacturing, marketing, packaging, warehousing, and distribution of products and delivery of business services and products.

(6) An estimate of the multiplier effect on the Vermont economy as a result of jobs so created and preserved.

* * * Broadband and Telecommunications * * *

Sec. 11. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR MULTIPLE COMMUNICATIONS FACILITIES

(a) Notwithstanding any other provision of law, if the applicant ~~in a single application~~ seeks approval for the construction or installation ~~within three years~~ of ~~three or more~~ telecommunications facilities ~~as part of an interconnected network~~ which are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

(b) For the purposes of this section:

(1) “Telecommunications facility” means ~~any~~ a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes and any associated support structure ~~extending more than 50 feet above the ground~~ that is proposed for construction or installation which is primarily for

communications purposes ~~and which supports facilities that transmit and receive communications signals for commercial, industrial, municipal, county, or state purposes~~, and any ancillary improvements which are proposed for construction or installation and which are primarily intended to serve the communications facilities or support structure.

(2) ~~Telecommunications facilities are "part of an interconnected network" if those facilities would allow one or more communications services to be provided throughout a contiguous area of coverage created by means of the proposed facilities or by means of the proposed facilities in combination with other facilities already in existence~~ An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to a preexisting structure.

(c) Before the public service board issues a certificate of public good under this section, it shall find that~~, in the aggregate~~:

(1) the proposed facilities will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, with due consideration having been given to the relevant criteria specified in subsection 1424a(d) and subdivisions 6086(a)(1) through (8) and (9)(K) of Title 10; and

(2) unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected

municipalities and the recommendations of the municipal and regional planning commissions regarding the municipal and regional plans, respectively.

(d) When issuing a certificate of public good under this section, the board shall give due consideration to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) No less than 45 days prior to filing a petition for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the secretary of the agency of natural resources; the commissioner of the department of public service and its director for public advocacy; and the landowners of record of property adjoining the project sites, unless the board determines that good cause exists to waive or modify the notice requirement with respect to such landowners. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. Upon motion or otherwise, the public service board shall direct that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(f) Unless the public service board identifies that an application raises a substantial issue, the board shall issue a final determination on an application filed pursuant to this section within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If the board rules that an application raises a substantial issue, it shall issue a final determination on an application filed pursuant to this section within 180 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 180 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(g) Nothing in this section shall be construed to prohibit an applicant from executing a letter of intent or entering into a contract before the issuance of a certificate of public good under this section, provided that the obligations under that letter of intent or contract are made subject to compliance with the requirements of this section.

(h) An applicant using the procedures provided in this section shall not be required to obtain a ~~local zoning~~ permit or a permit amendment under the provisions of Title 24, including chapters 83 and 117, or chapter 151 of

Title 10 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. Ordinances adopted pursuant to subdivision 2291(19) of Title 24 or a municipal charter that would otherwise apply to the construction or installation of facilities subject to this section are preempted. Disputes over jurisdiction under this section shall be resolved by the public service board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit amendment under the provisions of Title 24 (including chapters 83 and 117) or chapter 151 of Title 10 for the construction of a telecommunications facility may not apply for approval from the board for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

(i) ~~Effective July 1, 2010, no new applications for certificates of public good under this section may be considered by the board.~~ [Repealed.]

(j)(1) The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings otherwise required by this chapter if the board finds that such facilities will be of limited size and scope, and the petition does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the petition.

(2)(A) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition, and provide notice and a copy of the petition, proposed certificate of public good, and proposed findings of fact to the commissioner of the department of public service and its director for public advocacy, the secretary of the agency of natural resources, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. The applicant shall give written notice of the proposed certificate to the landowners of record of property adjoining the project site or sites, unless the board determines that good cause exists to waive or modify the notice requirement with respect to such landowners and any other person which the board has directed by rule or order to receive such notices. Such notice shall request comment to the board within 21 days of the notice on the question of whether the petition raises a substantial issue with respect to the substantive criteria of this section.

(B) If a party makes a request under the procedures authorized by this subsection and if the board does not find that the petition raises a substantial issue, the board shall issue a final determination on an application filed pursuant to this section within 45 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 45 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(C) If the board denies a request to consider an application under the procedures of this subsection, a filing made under this subsection that the board has found to be complete shall be deemed to satisfy notice requirements of subsection (e) of this section, and to have been made 45 days after receipt by the board for purposes of subsections (e) and (f) of this section.

(k) The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate, and may by rule or order waive the requirements of this section that the board determines are not applicable to telecommunications facilities of limited size or scope. Determination by the board that a petition raises a substantial issue with regard to one or more substantive criteria of this section shall not prevent the board from waiving other substantive criteria that it has determined are not applicable to such a telecommunications facility.

* * * Licensed Lender * * *

Sec. 12. 8 V.S.A. § 2201(c) is amended to read:

(c) No license shall be required of:

* * *

(14) nonprofit organizations established under testamentary instruments, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), and which make loans for postsecondary educational costs to students and their parents, provided that the organizations provide annual accountings to the probate court pursuant to 14 V.S.A. § 2324;

(15) persons who make no more than four commercial loans in a calendar year.

* * * Energy Efficiency * * *

Sec. 13. ENERGY EFFICIENCY

In order to rapidly ramp up and deliver thousands of additional building energy efficiency improvements and create green jobs, Vermont will need to expand the available workforce trained and ready to make these building improvements. To ensure the availability and adequate training of the workforce necessary to provide comprehensive energy efficiency services to Vermont homes, businesses, and institutions, and to ensure that the funding provided by the federal economic stimulus, as well as the longer-term energy needs of the state are met, the commissioner of the department of labor and the state's energy efficiency utility are to convene the Green Workforce Collaborative, bringing parties interested and involved in high-quality green workforce development to identify appropriate labor and resources needs that

<u>would meet the increased opportunities generated by the stimulus process and, in the long term, to enhance the economic and environmental vitality of the state. The convening parties shall report to the house committee on commerce and economic development, and any other appropriate committees of the general assembly, with an interim status and needs assessment by April 15, 2009, and then again by no later than January 30, 2010, to evaluate the long-term needs of the green workforce strategy for the state of Vermont.</u>

* * * Forestry and Biomass Resource Utilization * * *

Sec. 14. COUNTER-CYCLICAL TIMBER SUPPLY FROM STATE FORESTS

<u>It is the intent of the general assembly to increase the supply of timber and forest products from state forest lands in order to supplement and enhance the flow of wood into Vermont's forest products economy and to help Vermont businesses maintain market share and keep their employees on the payroll. Accordingly, the forestry division of the department of forests, parks and recreation shall develop a timber management program to increase the amount of expedited timber sales on state-owned or state-managed forests on no less than 2,500 acres in fiscal year 2010, and 4,000 acres in fiscal year 2011. To provide for the costs of developing and implementing the program, including for funding contracts with private entities, the forestry division shall exercise best reasonable efforts to access funds made available to the United States</u>

Department of Agriculture Forestry Service under Title VII of the American Reinvestment and Recovery Act of 2009 for "Wildland Fire Management."

Sec. 15. VERMONT BIOMASS AND RENEWABLE FUELS INCENTIVE PROGRAM

The department of economic development and the forestry division of the department of forests, parks and recreation shall collaboratively design a Vermont biomass and renewable fuels incentive program, the purpose of which is to encourage the transition from oil-based home heating systems to biomass and renewable fuels, with a particular focus on Vermont wood-based heating sources. The program shall provide grants or other incentives for homeowners to purchase traditional woodstoves, wood pellet stoves, wood-chip burning stoves, or other biomass-based home heating systems, with priority given to the purchase of stoves manufactured and sold by Vermont-based businesses. The program shall also offer grants or other incentives to dealers of biomass and renewable fuel heating systems for the sales of, installation of, and consultation for these heating systems, and to lending institutions to finance the purchase and related costs for these systems. The department of economic development and the forestry division shall work collaboratively to access funds made available to the United States Department of Agriculture Forestry Service under Title VII of the American Reinvestment and Recovery Act of 2009 for "Wildland Fire Management" on federal, state, and private lands, and implementation of the program shall be contingent upon and coextensive with receiving federal funding for the program costs as projected by the department of economic development.

* * * Motion Picture Industry; Motion Picture Credit* * *

Sec. 16. SOLICITATION OF MOTION PICTURE INDUSTRY

By July 1, 2009, the agency of commerce and community development shall research and develop a strategy for marketing Vermont as a potential permanent site for businesses associated with the motion picture industry. The agency shall present its strategy and potential costs and benefits to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs.

Sec. 17. 32 V.S.A. chapter 151, subchapter 11K is added to read:

Subchapter 11K. Other Tax Credits

§ 5930gg. MOTION PICTURE INDUSTRY TAX CREDIT

(a) As used in this section:

(1) "Commission" means the Vermont film commission.

(2) "Director" means the director of the Vermont film commission.

(3) "Eligible expense" means preproduction, production, and postproduction expenditures directly incurred in Vermont in the taxable year by an eligible production company for the production of a qualified motion picture. This term includes wages and salaries paid to individuals employed in

Vermont in the production of the motion picture, but does not include wages or salaries in excess of $1,000,000.00 for any one individual for any one motion picture; and includes expenditures for the following activities: set construction and operation, editing and related services, photography, sound synchronization, lighting, wardrobe, make-up, and accessories, film processing, transfer, mixing, special and visual effects, music, screenplay purchase, location fees, purchase or rental of facilities and equipment, or any other production expense incurred in Vermont that may be determined by the commission to be an eligible expense. This term does not include expenses incurred for marketing or advertising a motion picture or any amounts paid to persons as a result of their participation in profits from the exploitation of the production.

(4) "Eligible production company" means a company, including its subsidiaries, engaged in the business of producing qualified motion pictures; but shall not include any company which is in default, or which is affiliated with, or owned or controlled, in whole or in part, by any person in default, on taxes owed to the state or on a loan made or guaranteed by the state.

(5) "Principal photography" means the phase of production during which the motion picture is actually filmed. The term shall not include preproduction or postproduction.

(6) “Qualified motion picture” means a feature-length film, video, digital media project, video game, television series of 22 or more episodes, pilot, video on demand, or commercial made in whole or in part in Vermont, for commercial distribution, theatrical or television viewing, or mobile or wireless platforms. “Qualified motion picture” does not mean a television production featuring news, current events, weather, financial market reports, a sporting event, an award show, a production solely for fundraising, a long-form production primarily intended to market a product or service, or a production containing obscene material.

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

(8) “State-certified production” means a qualified motion picture certified by the Vermont film commission, pursuant to rules adopted by the commission, and produced by an eligible production company that has signed a viable distribution plan with either a major theatrical exhibitor, a television network, or a cable television program.

(b)(1) Qualified motion picture payroll credit. A taxpayer engaged in the making of a qualified motion picture shall be allowed a transferable credit against the taxes imposed by parts 3, 4, and 5 of subtitle 2 of this title for the employment of persons within the state in connection with the filming or production of one or more qualified motion pictures in the state within any consecutive 12-month period when total production costs incurred in the state within a taxable year equal or exceed $50,000.00 and such payments for employment constitute Vermont source income. The credit shall be:

(A) equal to 25 percent of the total aggregate payroll paid by an eligible production company for employees not residents of this state; and

(B) equal to 30 percent of the total aggregate payroll paid by an eligible production company for employees who are residents of this state.

(2) For purposes of this subsection, the term “total aggregate payroll” shall not include the salary of any employee whose salary is equal to or greater than $1,000,000.00.

(3) Dollar limit on qualified motion picture tax credit. Transferable tax credits available under this subchapter shall not exceed $9,000,000.00 in any one taxable year and the awards shall be made for state-certified productions chronologically in the order in which they qualify for the credits, until the $9,000,000.00 is fully awarded; and credits earned in any year which exceed the $9,000,000.00 may not be transferred or carried forward.

(c) Qualified motion picture expense credit. A taxpayer shall be allowed an additional transferable credit against the taxes imposed by parts 3, 4, and 5 of subtitle 2 of this title equal to 30 percent of all Vermont production expenses, not including the payroll expenses used to claim a credit pursuant to subsection (b) of this section, where the motion picture is also eligible for a credit pursuant to subsection (b) and either Vermont production expenses exceed 50 percent of the total production expenses for a motion picture, or at least 50 percent of the total principal photography days of the film take place in the state.

(d) The director of the commission shall determine by rule criteria for state-certified productions.

(e) Upon completion of a state-certified production, the secretary shall review the production expenses and certify the amount of expenses qualified for credit under this section.

(f) Any taxpayer applying for a credit of $100,000.00 or more shall hire a third-party certified public accountant and such accountant shall use Agreed Upon Procedures, as defined by the Auditing Standards Board of the American Institute of Certified Public Accountants, to certify the taxpayer's credit to the secretary.

(g) The transferable tax credit shall be taken only against taxes imposed under parts 3, 4, and 5 of subtitle 2 of this title and shall be refundable to the extent provided for in subsection (i) of this section. Any amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer or its transferee, buyer, or assignee to any of the five subsequent taxable years.

(h)(1) All or any portion of tax credits issued in accordance with this subsection may be transferred, sold, or assigned to another taxpayer only once. Any tax credit that is transferred, sold, or assigned and taken against taxes imposed by parts 3, 4, and 5 of subtitle 2 of this title shall not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the transferee, buyer, or assignee to any of the three subsequent taxable years from which a certificate is initially issued by the commissioner.

(2) An owner or transferee desiring to make a transfer, sale, or assignment shall submit to the commissioner a statement which describes the amount of tax credit for which the transfer, sale, or assignment of tax credit is eligible. The owner or transferee shall provide to the commissioner information as the commissioner may require for the proper allocation of the credit. The commissioner shall provide to the taxpayer a certificate of eligibility to transfer, sell, or assign the tax credit. The commissioner shall not issue a certificate to a taxpayer that has an outstanding tax obligation with the state for any prior taxable year. A tax credit shall not be transferred, sold, or assigned without a certificate.

(i)(1) At the written election of a taxpayer entitled to a credit under subsection (b) of this section, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 percent of the balance of the credits.

(2) The commissioner may require substantiation of a taxpayer's claim for refund under this subsection before payment of the refund. Notwithstanding any law to the contrary, no interest shall accrue on the refund before the commissioner's receipt of the substantiation he or she requested.

(3) The commissioner may adopt regulations or other guidelines as he or she deems necessary to implement this subsection.

(j) A film production company which receives a credit under this section shall acknowledge the state of Vermont in the end credits of the film.

(k) The commissioner, in consultation with the secretary and the director, shall adopt regulations necessary for the administration of this subchapter.

Sec. 18. 32 V.S.A. § 9701(45) is added to read:

(45) Manufacturing: shall not include motion picture or film production for which a credit has been or will be granted under subchapter 11K of chapter 151 of this title.

Sec. 19. 10 V.S.A. § 650h is added to read:

§ 650h. FEE

Each taxpayer, transferee, buyer, or assignee of tax credits granted under subchapter 11K of Title 32 shall pay a fee equal to two percent of the aggregate value of such credits to the program fund created by section 650g of this title.

Sec. 20. EFFECTIVE DATE

This section and Secs. 17 through 19 of this act shall take effect upon passage and shall apply to qualified motion picture projects begun on or after July 1, 2009 as certified by the secretary of commerce and community development.

* * * Funding Infusion for Travel and Tourism; Allocation of Excess Revenues from Meals and Rooms Tax * * *

Sec. 21. APPROPRIATION

For fiscal year 2010, a supplemental appropriation in the amount of $500,000.00 is appropriated from the general fund to the department of tourism and marketing, which shall be expended on direct promotional activities to increase tourism throughout Vermont and shall not be used for administrative or overhead costs of the department.

Sec. 22. APPROPRIATION

For fiscal year 2010, a supplemental appropriation in the amount of $100,000.00 is appropriated from the general fund to the Vermont convention bureau.

Sec. 23. USE OF EXCESS MEALS AND ROOMS TAX

Beginning in fiscal year 2011, 75 percent of revenues generated from meals and rooms tax over the amount collected during fiscal year 2008, not to exceed $ 2.5 million, shall be appropriated to the department of tourism and marketing to promote Vermont's tourism industry. The department of tourism and marketing may allocate funds not to exceed $100,000.00 annually to the Vermont convention bureau. The remaining 25 percent of the excess revenues generated from meals and rooms tax over the amount collected in fiscal year 2008 shall be appropriated to the inventor and entrepreneur assistance program fund under section 294d of Title 10. This formula for providing excess meals and rooms tax revenue to the department of tourism and marketing shall continue until June 30, 2015.

* * * Capitalization on Federal Stimulus Funding for Smart Grid, Additional State Energy Grants, and Rural Electrification Grants * * *

Sec. 24. FEDERAL FUNDING FOR SMART GRID AND ENERGY GRANTS; STATE COLLABORATION

It is the intent of the legislature that the department of public service, Vermont utilities, and other interested parties work collaboratively to ensure that Vermont capitalizes on all available funding allocated for research, workforce development, and projects relating to energy efficiency and electric generation, transmission, and distribution under Titles I and IV of Division A of the American Recovery and Reinvestment Act of 2009. Accordingly, to ensure that Vermont accesses and utilizes federal resources under the ARRA to the fullest extent possible:

(1) The department of public service shall investigate and pursue the opportunities for funding of electricity delivery and energy reliability research and projects to implement smart grid technologies, activities, and workforce training made available under Title IV of the ARRA.

(2) The department of public service shall generate a list of projects that are eligible for federal loan and grant funding available from the United States Departments of Agriculture and of Energy under the ARRA, identify the source of the grant funding, and identify the necessary steps for securing grant funds. The department shall work collaboratively with private utilities, additional government entities as necessary and appropriate, and other interested persons to design and submit grant applications that best position the state to capitalize on available funds.

(3) The governor, the department of public service, the public service board, and relevant state and local governmental entities shall take any and all steps necessary to implement the measures required under section 410 of the American Recovery and Reinvestment Act of 2009 to ensure that Vermont will receive the maximum amount of additional state energy grants available from

the United States Department of Energy under part D of Title III of the Energy Policy and Conservation Act.

* * * Digital Business * * *

Sec. 25. LEGISLATIVE INTENT

The purpose of this section and Secs. 26-31 of this act is to build on the momentum created by Secs. 74 through 100 of No. 190 of the Acts of the 2007 Adj. Sess. (2008), which provided for Vermont companies to conduct much of their statutorily required corporate affairs using electronic media, including e-mail, facsimile, and web-based filings.

Sec. 26. 32 V.S.A. § 5811(26) is added to read:

(26) "Digital business entity" means a business entity which, during the entire taxable year:

(A) was not a member of an affiliated group or engaged in a unitary business with one or more members of an affiliated group that is subject to Vermont income taxation; did not perform any activities in this state which would constitute doing business for purposes of income taxation, other than activities described in subdivisions (15)(C)(i) of this section (fulfillment operations) and (C)(ii) (web page, or Internet site maintenance); and

(B) used mainly computer, electronic, and telecommunications technologies in its formation and in the conduct of its business meetings, in its interaction with shareholders, members, and partners, in executing any other formal requirements.

Sec. 27. 32 V.S.A. § 5832(2) is amended to read:

(2)(A) $75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than $100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) $250.00 for all other corporations.

Sec. 28. 32 V.S.A. § 5911 is amended to read:

§ 5911. TAXATION OF AN S CORPORATION AND ITS SHAREHOLDERS

(a) An S corporation shall not be subject to the tax imposed by section 5832 of this title, except to the extent of income taxable to the corporation under the provisions of the Internal Revenue Code.

(b) For the purposes of section 5823 of this title, each shareholder’s pro rata share of the S corporation’s income attributable to Vermont and each resident shareholder’s pro rata share of the S corporation’s income not attributable to Vermont shall be taken into account by the shareholder in the manner provided in Section 1366 of the Code.

(c) An S corporation and its shareholders shall not be subject to the tax imposed by section 5832 of this title or to the provisions of this subchapter if the S corporation qualifies as and elects to be taxed as a digital business for the taxable year.

Sec. 29. 32 V.S.A. § 5921a is added to read:

§ 5921a. DIGITAL BUSINESS ENTITY ELECTION

A corporation, partnership, or limited liability company and its shareholders, partners, or members shall not be subject to the tax imposed by section 5832 of this title or to provisions of this subchapter if the corporation, partnership, or company qualifies as and elects to be taxed as a digital business entity for the taxable year.

Sec. 30. 32 V.S.A. § 5832a is added to read:

§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX

(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:

(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or $250.00, but in no case more than $500,000.00; or

(2) where the authorized capital stock does not exceed 5,000 shares, $250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, $500.00; and the further sum of $250.00 on each 10,000 shares or part thereof.

(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than $500,000.00 or less than $250.00.

(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.

(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.

(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.

(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title.

Sec. 31. EFFECTIVE DATE

This section and Secs. 25 through 30 of this act shall apply to taxable years beginning on or after January 1, 2010.

* * * Small Business Loan Program; Bonding; Technology Loan Program * * *

Sec. 32. STATE PLEDGE ON BEHALF OF SMALL BUSINESSES

An amount not to exceed $500,000.00 of the full faith and credit of the state pledged for the support of the activities of the Vermont economic development authority under section 223 of Title 10 is authorized to be used by the authority for loss reserves in the Vermont small business loan program until July 1, 2012.

Sec. 33. 10 V.S.A. § 221(a) is amended to read:

(a) Upon application of the proposed mortgagee, the authority may insure mortgage payments required to repay loans made by the mortgagee for the purpose of financing the costs of a project, upon such terms and conditions as the authority may prescribe~~,~~; provided, however, that the total principal obligations of all mortgages insured under this subsection and under subsection (c) of this section outstanding at any one time shall not exceed ~~$15,000,000.00~~ $9,000,000.00. Before insuring any mortgage payments hereunder, the authority shall determine and incorporate each of the findings established by this subsection in its minutes. Such findings, when adopted by the authority shall be conclusive.

Sec. 34. 10 V.S.A. § 223 is amended to read:

§ 223. CREDIT OF THE STATE PLEDGED

The full faith and credit of the state is pledged to the support of the activities of the authority under this subchapter. In furtherance of the pledge, the state treasurer is authorized and directed to transfer to the fund, without further approval, first from the indemnification fund and then from available cash in the treasury or from the proceeds of bonds or notes issued under this section, such additional amounts as may be requested from time to time by the authority to enable it to perform all insurance contracts punctually and in accordance with their terms. The authority shall request such transfers from time to time as additional amounts are required for such purposes. The treasurer is authorized and directed, without further approval, to issue full faith and credit bonds of the state, from time to time, in amounts necessary to support the activities of the authority under this subchapter and subchapter 8 of this chapter, but not to exceed an aggregate of ~~$35,000,000.00~~ $10,000,000.00 at any one time outstanding, and to borrow upon notes of the state in anticipation of the proceeds of such bonds. Any bonds under this subchapter shall be issued pursuant to the provisions of chapter 13 of Title 32, except that the approval of the governor shall not be required previous to their issuance by the treasurer.

Sec. 35. 10 V.S.A. § 279b(a) is amended to read:

(a) Upon registration by the authority of an eligible loan, the full faith and credit of the state shall be pledged in an amount equal to the reserve premium payment deposited to the fund by the participating bank in connection with such loan. The aggregate amount of the credit of the state which may be pledged pursuant to the provisions of this subchapter shall not exceed ~~$2,000,000.00~~ <u>$1,000,000.00</u> at any time.

Sec. 36. 10 V.S.A. chapter 12, subchapter 12 is added to read:

<u>Subchapter 12. Technology Loan Program</u>

<u>§ 280aa. FINDINGS AND PURPOSE</u>

<u>(a) Technology-based companies are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of this increasingly important sector of Vermont's economy is dependent upon the availability of flexible, risk-based capital. Because the primary assets of technology-based companies sometimes consist almost entirely of intellectual property, such companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.</u>

(b) To support the growth of technology-based companies and the resultant creation of high-wage employment in Vermont, a technology loan program is established under this subchapter.

§ 280bb. TECHNOLOGY LOAN PROGRAM

There is created a technology (TECH) loan program to be administered by the Vermont economic development authority. The program shall seek to meet the working capital and capital-asset financing needs of technology-based companies. The Vermont economic development authority shall establish such policies and procedures for the program as are necessary to carry out the purposes of this subchapter.

§ 280cc. CREDIT OF THE STATE PLEDGED

An amount not to exceed $1,000,000.00 of the full faith and credit of the state is pledged and authorized to be used by the authority for loss reserves in the TECH loan program established under this subchapter until July 1, 2012.

* * * Microbusiness and Entrepreneurship * * *

Sec. 37. APPROPRIATIONS; USE OF FEDERAL FUNDS

(a) It is the intent of the general assembly that the individual development account program and the microbusiness development program currently administered by the office of economic opportunity continue to be funded with amounts from the general fund at the May 2009 levels.

(b) There is appropriated from the general fund for fiscal year 2010 a supplemental appropriation in the amount of $66,000.00 to the office of economic opportunity to fund state matching contributions to individual development accounts.

(c) There is appropriated from the general fund for fiscal year 2010 a supplemental appropriation in the amount of $60,000.00 to the office of economic opportunity to fund the microbusiness development program.

(d) The supplemental amounts appropriated in this section shall to the greatest extent possible be funded through federal allocations and competitive grants under the American Recovery and Reinvestment Act of 2009.

Sec. 38. REPORTING REQUIREMENT

On or before January 15 of each year all microenterprise development programs, individual development account matched savings programs, and financial education programs that receive state funding allocations shall prepare and deliver to the house committee on commerce and economic development a report to ensure that funding is serving low income Vermonters and meeting economic development and human service goals. Annual reports should comply with nationally and state-recognized microenterprise outcomes metrics as laid out by the Association for Enterprise Opportunity, FIELD at the Aspen Institute, or the Center for Rural Studies at the University of Vermont.

Sec. 39. ECONOMIC OPPORTUNITY STUDIES AND COLLABORATION

(a) The office of economic opportunity and the department of economic development shall conduct a joint study of possible tools to promote the success of individual development accounts and the microbusiness development program. The study shall evaluate:

(1) Innovative microenterprise development funding models to identify ways to fill existing gaps in start-up capital.

(2) A guarantee program or interest buy-down program that encourages private banks to make longer-term, lower-interest fixed rate loans to Community Development Financial Institutions (CDFIs).

(3) A tax credit to business and individuals that donate funds to microenterprise development programs or IDA matched savings and financial education programs, under which the department of economic development would administer tax credits totaling 75 percent of the value of each donation to recognized qualified organizations with an annual statewide maximum for tax credits of $500,000.00 for contributions.

(4) A policy for collaboration with the Vermont treasurer’s office to utilize financial education funding for credit counseling and education.

(5) The feasibility of a first-year tax credit to microenterprises, and a credit or grant to self-employed persons for first-time employee hiring to ease the worker’s compensation burden.

(b) The department of economic development (DED) shall designate an employee to serve as a microbusiness liaison to the department of education and the office of economic opportunity. The liaison shall be aware of the resources, tools, and capital needs of microenterprises and Vermont's microenterprise development organizations. The liaison shall assist microentrepreneurs in accessing growth opportunities, new markets, and relevant microenterprise programs and resources much in the way DED economic development specialists currently assist larger-scale businesses. The liaison may also lead collaborative efforts to ensure Vermont's state agencies and nongovernmental organizations function effectively and efficiently to support microenterprises.