

1 S.220

2 Introduced by Senator Mullin

3 Referred to Committee on Finance

4 Date: January 7, 2014

5 Subject: Employer's liability and workers' compensation; conservation and
6 development; travel and recreation policy; banking and insurance

7 Statement of purpose of bill as introduced: This bill proposes to amend the
8 workers' compensation law, establish a registry of sole contractors, increase
9 the funds available to the Department of Tourism and Marketing for
10 advertising, and regulate legacy insurance transfers.

An act relating to furthering economic development

11 ~~An act relating to amending the workers' compensation law, establishing a~~
12 ~~registry of sole contractors, increasing the funds available to the Department~~
13 ~~of Tourism and Marketing for advertising, and regulating legacy insurance~~
14 ~~transfers.~~

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

16 ~~Sec. 1. FINDINGS AND PURPOSE~~

17 ~~The General Assembly finds:~~

18 ~~(1) The creation of jobs and increasing investment in Vermont through~~
19 ~~encouraging entrepreneurs, fostering the growth of new small businesses, and~~
20 ~~facilitating the recruitment and expansion of existing businesses is of the~~
21 ~~highest importance.~~

1 ~~(2) Ensuring that Vermont's workers' compensation laws reflect the~~
2 ~~importance of entrepreneurs and independent contractors and establishing a~~
3 ~~registry of sole contractors will help achieve these goals.~~

4 ~~(3) Vermont's economy remains heavily reliant on four-season tourism.~~
5 ~~Vermont enjoys the advantage of being within a day's drive of 80 million~~
6 ~~people in the surrounding metropolitan markets. However, Vermont is in~~
7 ~~competition with neighboring states and provinces for this market. As a result,~~
8 ~~Vermont must increase its advertising to continue to attract tourists and~~
9 ~~continue to sustain and grow tourism-dependent businesses and jobs.~~

10 ~~(4) By regulating legacy insurance transfers, Vermont will be able to~~
11 ~~recruit and expand businesses, which will lead to the retention and creation of~~
12 ~~new jobs.~~

13 Sec. 2. 21 V.S.A. § 601 is amended to read:

14 § 601. DEFINITIONS

15 Unless the context otherwise requires, words and phrases used in this
16 chapter shall be construed as follows:

17 * * *

18 (14) "Worker" and "employee" ~~means~~ mean an individual who has
19 entered into the employment of, or works under contract of service or
20 apprenticeship with, an employer. Any reference to a worker who has died as
21 the result of a work injury shall include a reference to the worker's dependents,

1 ~~and any reference to a worker who is a minor or incompetent shall include a~~

2 reference to the minor's committee, guardian, or next friend. The term

3 "worker" or "employee" does not include:

4 * * *

5 (G) An individual who performs services as a real estate broker or
6 real estate salesperson, provided:

7 (i) the individual is licensed to broker or sell real estate pursuant
8 to 26 V.S.A. chapter 41;

9 (ii) all the individual's compensation from performing real estate
10 broker or sales services is based on commissions from sales production or
11 results and is not based on time worked or an hourly wage;

12 (iii) the services are performed pursuant to a written agreement or
13 contract between the individual and the real estate sales or broker business or
14 another person with whom the individual is affiliated or associated and the
15 written agreement or contract explicitly states that the individual is not
16 considered to be an employee under this chapter and is not eligible for
17 coverage under this chapter; and

18 (iv) the individual is not treated as an employee for the purposes
19 of federal income and employment taxation with regard to the real estate
20 broker or sales services performed.

1 ~~(H) An independent contractor if it can be demonstrated that the~~
2 ~~independent contractor meets all of the following conditions:~~

3 ~~(i) maintains a separate business with a separate office, equipment,~~
4 ~~materials, or other facilities and has continuing recurring business liabilities or~~
5 ~~obligations;~~

6 ~~(ii) holds or has applied for a federal employer identification~~
7 ~~number with the Internal Revenue Service or has filed business or~~
8 ~~self-employment income tax returns with the federal Internal Revenue Service~~
9 ~~based on that work or service in the previous year;~~

10 ~~(iii) operates under a written contract that specifies that the~~
11 ~~independent contractor complies with all of the following:~~

12 ~~(I) will perform specific services or work for specific amounts~~
13 ~~of money, and the independent contractor controls the means of performing the~~
14 ~~services or work;~~

15 ~~(II) incurs the main expenses related to the service or work that~~
16 ~~the independent contractor performs under contract;~~

17 ~~(III) is responsible for the satisfactory completion of work or~~
18 ~~services that he or she contracts to perform and is liable for a failure to~~
19 ~~complete the work or service;~~

1 ~~(IV) receives compensation for work or service performed~~
2 ~~under a written contract on a commission or per-job competitive bid basis and~~
3 ~~not on any other basis;~~

4 ~~(V) may realize a profit or suffer a loss under contracts to~~
5 ~~perform work or service; and~~

6 ~~(iv) voluntarily elected the status of independent contractor.~~

7 ~~(H)(I)~~ With the approval of the Commissioner, a corporation or a
8 limited liability company (L.L.C.) may elect to file exclusions from the
9 provisions of this chapter. A corporation or an L.L.C. may elect to exclude up
10 to four executive officers or managers or members from coverage requirements
11 under this chapter. If all officers of the corporation or all managers or
12 members of an L.L.C. make such election, receive approval, and the business
13 has no employees, the corporation or L.L.C. shall not be required to purchase
14 workers' compensation coverage. If after election, the officer, manager, or
15 member suffers a personal injury and files a claim under this chapter, the
16 employer shall have all the defenses available in a personal injury claim.
17 However, this election shall not prevent any other individual, other than the
18 individual excluded under this section, found to be an employee of the
19 corporation or L.L.C. to recover workers' compensation from either the
20 corporation, L.L.C., or the statutory employer.

21 * * *

1 ~~Sec. 3. 21 V.S.A. § 708 is amended to read:~~

2 § 708. PENALTY FOR FALSE REPRESENTATION

3 * * *

4 (c) Any penalty assessed or order issued under this chapter or 8 V.S.A.
5 § 3661 shall continue in effect against any successor employer that has one or
6 more of the same principals or corporate officers as the employer against
7 which the penalties were assessed or order issued and is engaged in the same
8 or similar business.

9 (d) Coercing an individual to sign a statement of independent contractor
10 status or to obtain other documents of such status is false representation.

11 (e) Notwithstanding the assessment of an administrative penalty under this
12 section, a person may be prosecuted under 13 V.S.A. § 2024.

13 Sec. 4. 21 V.S.A. § 1301 is amended to read:

14 § 1301. DEFINITIONS

15 The following words and phrases, as used in this chapter, shall have the
16 following meanings unless the context clearly requires otherwise:

17 * * *

18 (6)(A)(i) "Employment," subject to the other provisions of this
19 subdivision (6), means service within the jurisdiction of this ~~state~~ State,
20 performed prior to January 1, 1978, which was employment as defined in this
21 subdivision prior to such date and, subject to the other provisions of this

1 ~~subdivision, service performed after December 31, 1977, by an employee, as~~
2 ~~defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act,~~
3 ~~including service in interstate commerce, performed for wages or under any~~
4 ~~contract of hire, written or oral, expressed or implied. Services partly within~~
5 ~~and partly without this state State may by election as ~~hereinbefore provided~~ be~~
6 ~~treated as if wholly within the jurisdiction of this state State. ~~And whenever~~~~
7 ~~Whenever an employing unit ~~shall have~~ has elected to come under the~~
8 ~~provisions of a similar act of a state where a part of the services of an~~
9 ~~employee are performed, the ~~commissioner~~ Commissioner, ~~upon his or her~~~~
10 ~~after approval of ~~said the~~ election ~~as to any such employee~~, may treat the~~
11 ~~services ~~covered by said approved election~~ the employing unit as having been~~
12 ~~performed wholly without the jurisdiction of this state State.~~

13 * * *

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

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

20 ~~(ii) Such service is either outside the usual course of the business~~
21 ~~for which such service is performed, or that such service is performed outside~~

1 ~~of all the places of business of the enterprise for which such service is~~
2 ~~performed; and~~

3 ~~(iii) Such individual is customarily engaged in an independently~~
4 ~~established trade, occupation, profession or business they are specifically~~
5 ~~excluded under this chapter.~~

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

7 * * *

8 (xxii) Service performed by an independent contractor if the
9 employer can demonstrate that the independent contractor meets all of the
10 following conditions:

11 (I) maintains a separate business with his or her own office,
12 equipment, materials, or other facilities and has continuing or recurring
13 liabilities or obligations;

14 (II) holds or has applied for a federal employer identification
15 number with the federal Internal Revenue Service or has filed business or
16 self-employment income tax returns with the federal Internal Revenue Service
17 based on that work or service in the previous year;

18 (III) operates under a written contract which specifies that the
19 independent contractor;

1 ~~(aa) will perform specific services or work for specific~~

2 ~~amounts of money and under which the independent contractor controls the~~

3 ~~means of performing the service or work;~~

4 ~~(bb) incurs the main expenses related to the service or work~~

5 ~~that he or she performs under contract;~~

6 ~~(cc) is responsible for the satisfactory completion of work or~~

7 ~~service that he or she contracts to perform and is liable for a failure to complete~~

8 ~~the work or service;~~

9 ~~(dd) receives compensation for work or service performed~~

10 ~~under a written contract on a commission or per-job competitive bid basis and~~

11 ~~not on any other basis; and~~

12 ~~(ee) may realize a profit or suffer a loss under contracts to~~

13 ~~perform work or service.~~

14 ~~(IV) voluntarily elected the status of independent contractor.~~

15 * * *

16 Sec. 5. 21 V.S.A. § 1369 is amended to read:

17 § 1369. FALSE STATEMENTS TO AVOID UNEMPLOYMENT

18 PROGRAM OBLIGATIONS

19 A person who ~~wilfully~~ willfully makes a material false statement or

20 representation to avoid becoming or remaining subject to this chapter, or to

21 avoid or reduce a contribution or other payment required of an employer under

1 ~~this chapter for either herself or himself or for any other person, after notice~~
2 and opportunity for hearing, may be assessed an administrative penalty of not
3 more than \$5,000.00. Coercing an individual to sign a statement of
4 independent contractor status or to obtain other documents of such status is
5 false representation.

6 Sec. 6. 21 V.S.A. chapter 23 is added to read:

7 CHAPTER 23. SOLE CONTRACTOR AUTHORIZATION PROCESS

8 § 1801. PURPOSE

9 (a) An individual who seeks to work as the sole operator of his or her own
10 business and who can meet the standards and criteria set forth in this chapter
11 may voluntarily request an authorization by the Department of Labor allowing
12 him or her to operate independently and without the benefits and protections
13 afforded employees under chapters 9 and 17 of this title when working within
14 the scope of the sole contractor authorization.

15 (b) The sole contractor authorization is limited to activities that are within
16 the scope of the certification applied for by the individual. If an authorized
17 sole contractor engages in activities outside the scope of the authorization, the
18 sole contractor shall be presumed to be the statutory employee of the hiring
19 entity.

1 ~~(c) This chapter is not intended to change the existing laws governing~~
2 employees and employers. The chapter applies only to individuals that have
3 received a sole contractor authorization.

4 (d) Nothing in this chapter shall prohibit an individual from working as an
5 independent contractor without the sole contractor authorization, provided the
6 individual meets the test for an independent contractor under law.

7 § 1802. DEFINITIONS

8 As used in this chapter:

9 (1) "Commissioner" means the Commissioner of Labor or designee.

10 (2) "Department" means the Department of Labor.

11 (3) "Hiring entity" means any person hiring an authorized sole
12 contractor to perform work.

13 (4) "Sole contractor" means an individual who is approved by the
14 authorization process established in section 1806 of this chapter. A sole
15 contractor may be an individual, a single-member limited liability company, or
16 a single shareholder corporation.

17 (5) "Sole Contractor Authorization Review Board" means the board
18 established pursuant to this chapter that is responsible for reviewing
19 applications from individuals seeking sole contractor status.

~~§ 1803. SOLE CONTRACTOR CRITERIA~~

~~(a) The Sole Contractor Authorization Review Board (Board) shall determine if an individual is eligible for sole contractor status. An individual operating an existing business or starting a new business and seeking authorization shall provide the Board with information demonstrating that he or she meets the sole contractor criteria. The applicant shall provide:~~

~~(1) a sworn statement from the individual seeking authorization affirming that he or she has not been coerced into falsely claiming to be a sole contractor;~~

~~(2) a federal employer identification number (FEIN) that is used for federal tax reporting purposes;~~

~~(3) a Social Security number or a work visa;~~

~~(4) proof of registration with the Vermont Secretary of State, either as a single individual with a trade name or as a single member LLC or single shareholder corporation;~~

~~(5) an affidavit attesting that he or she is and will be free to control and direct his or her work, hours of work, and the means and manner of the performance of such work, subject only to the broad framework of the project goals and completion date;~~

~~(6) an affidavit attesting that he or she has no employees or assistants and will not have any employees or assistants as a sole contractor, whether~~

1 ~~paid or unpaid, and does not engage in any joint ventures or associations with~~
2 other sole contractors to perform work; and

3 (7) an affidavit attesting that he or she is in good standing regarding any
4 outstanding child support or taxes.

5 (b) The applicant shall provide additional information reasonably required
6 by the Board demonstrating that he or she meets the sole contractor criteria,
7 which may include:

8 (1) a demonstrated history of having his or her own business, including
9 evidence of tax returns, recurring business expenditures such as equipment
10 purchases, shop rent, or charge accounts for supplies that establish that he or
11 she is customarily engaged in an established trade or business;

12 (2) proof that he or she works for multiple employers in the course of
13 his or her business;

14 (3) proof of past work, including written contracts or agreements,
15 invoices, or competitive bids, on a per-job basis; and

16 (4) proof that he or she is fully and solely responsible for the work
17 produced, possesses his or her own tools, equipment, and instruments of trade,
18 and normally provides materials and supplies necessary to complete the work.

19 § 1804. PRESUMPTION OF STATUS

20 (a) An individual who is authorized pursuant to this chapter shall not be
21 presumed to be an employee when operating under the provisions of this

1 ~~chapter, and the entity hiring the sole contractor shall not be considered the~~
2 statutory employer of the sole contractor. Notwithstanding this presumption, if
3 the sole contractor is working for the employer or a subcontractor in a capacity
4 that does not qualify as an individual sole contractor, then all statutory
5 provisions relating to unemployment, workers' compensation, wage and hour
6 provisions, and employment practices shall apply.

7 (b) A hiring entity shall not hire multiple sole authorized contractors to do
8 the same work on a project or at a job site.

9 § 1805. COMPOSITION OF BOARD

10 A Sole Contractor Authorization Review Board is hereby established
11 consisting of 11 members, five of whom shall represent labor to be appointed
12 by the Governor, five of whom shall represent business to be appointed by the
13 Governor, and one who shall be an employee of the Department appointed by
14 the Commissioner. Nominations for members for the Board shall be solicited
15 from organizations representing employer organizations, trade associations,
16 and employee organizations and from the Commissioner of Labor, as well as
17 from a public notice conducted by the Department of Labor. The Board
18 members appointed by the Governor shall be appointed for a term of
19 two years, with no member serving more than three consecutive terms.

1 ~~§ 1806. BOARD REVIEW PROCESS~~

2 ~~(a) Representatives from the Board shall meet weekly in three-member~~
3 ~~panels at the direction of the Commissioner, consisting of one member each~~
4 ~~representing labor and business and the Department representative. The~~
5 ~~members of the panels shall rotate weekly.~~

6 ~~(b) The Board shall meet to review pending applications and may schedule~~
7 ~~in-person reviews with individuals seeking authorization. The Board shall~~
8 ~~review documentation and information and take testimony from the applicants.~~
9 ~~The Board's decision to grant authorization shall be based on the criteria~~
10 ~~established in this chapter. If additional information is necessary to render a~~
11 ~~decision, the applicant will be given sufficient time to submit such information.~~
12 ~~Once the Board determines that it has sufficient information, it shall make a~~
13 ~~recommendation to the Commissioner. The Commissioner shall review the~~
14 ~~recommendation and make a decision within ten days. If additional~~
15 ~~information is needed, the Commissioner may remand for additional~~
16 ~~information, which shall be provided to the Commissioner within 14 days.~~
17 ~~The Commissioner shall issue a decision based on the additional information~~
18 ~~within five days of its receipt. The failure to render a decision within the~~
19 ~~prescribed time limits shall not result in an individual receiving authorization.~~

§ 1807. APPEAL

An applicant may appeal a decision of the Commissioner to the Supreme Court within 30 days of the date of the decision.

§ 1808. INFORMATION AND EDUCATION

(a) The Commissioner of Labor in consultation with the Board shall conduct a comprehensive information and education campaign regarding the provisions of this chapter for a period of not less than 12 months upon instituting this authorization process and shall continue to provide regular information to the labor and business communities about the authorization program and the issues of misclassification and miscoding.

(b) The Commissioner shall create and maintain an on-line sole contractor registry listing the names of currently authorized sole contractors and the names of individuals that had previously been certified.

(c) The Department shall provide all employers notice and information of the provisions relating to sole contractor authorization and hiring. The Department shall establish a simple method for employers using sole contractors to acknowledge receipt of the information, including by electronic means. An employer shall not hire a sole contractor until acknowledging receipt of the information with the Department. An employer hiring a sole contractor shall make the acknowledgment annually.

§ 1809. INVESTIGATION AND ENFORCEMENT

(a) The Commissioner is authorized to investigate and enforce the provisions of this chapter, including whether a sole contractor or a hiring entity is in compliance with the provisions of this title, including workers' compensation, unemployment insurance compensation, wage and hour laws, and employment practices.

(b) Upon request, a sole contractor shall provide the Department with books, records, or other documentation or evidence establishing his or her qualifications to be a sole contractor and evidence that all work performed as a sole contractor is performed in accordance with this chapter.

(c) Any person or entity found to have engaged in misrepresentation or fraudulent activities in relation to this chapter shall be listed on the Department's website and debarment list.

§ 1810. PENALTIES

(a) A person who purposefully makes a false statement or representation to obtain or assist another to obtain sole contractor status may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00 and may lose the authorization for up to two years.

(b) A sole contractor who violates the terms and conditions of his or her authorization may, after notice and opportunity for hearing, be assessed an

1 ~~administrative penalty of up to \$5,000.00 and may lose the authorization for up~~
2 ~~to one year.~~

3 ~~(c) Any person or entity who coerces an employee or prospective employee~~
4 ~~into becoming a sole contractor for the purpose of avoiding its obligations~~
5 ~~under this title or Title 32 may, after notice and opportunity for hearing, be~~
6 ~~assessed an administrative penalty of up to \$5,000.00.~~

7 ~~(d) An administrative penalty issued pursuant to this section may be in~~
8 ~~addition to other penalties authorized by chapters 9 and 17 of this title.~~

9 ~~(e) Administrative hearings shall be conducted in accordance with the~~
10 ~~Administrative Procedure Act, 3 V.S.A. chapter 25. Appeals from penalty~~
11 ~~assessment determinations shall be to the Vermont Supreme Court.~~

12 § 1811. FEES AND COSTS

13 ~~(a) The application fee for a sole contractor authorization shall be \$100.00,~~
14 ~~which shall be deposited into the Sole Contractor Registry Special Fund. The~~
15 ~~authorization shall be valid for two years and may be renewed for subsequent~~
16 ~~two-year periods upon reapplication and payment of the fee. The Department~~
17 ~~shall use the funds to administer the sole contractor program, including for the~~
18 ~~purpose of providing a per diem and mileage reimbursement for Board~~
19 ~~members.~~

20 ~~(b) The Commissioner is authorized to hire and employ one limited service~~
21 ~~position for a term of three years for program administration. The program~~

1 ~~shall be funded by the fees collected pursuant to this chapter and supplemented~~
2 by the General Fund when fees do not cover the full costs of the position and
3 program administration.

4 (c) There is created a Sole Contractor Registry Special Fund pursuant to
5 32 V.S.A. chapter 7, subchapter 5, to be expended by the Commissioner
6 consistent with the provisions of this section.

7 § 1812. RULEMAKING

8 The Commissioner may adopt rules to implement the provisions of this
9 chapter.

10 Sec. 7. 10 V.S.A. § 668 is added to read:

11 § 668. TOURISM FUNDING

12 (a) In addition to any other funds appropriated to the Department of
13 Tourism and Marketing, in each fiscal year, the General Assembly shall
14 appropriate to the Department of Tourism and Marketing 75 percent of the
15 amount by which the total meals and rooms tax revenue collected in the
16 immediately preceding fiscal year exceeds the total meals and rooms tax
17 revenue collected in the fiscal year two years preceding the current fiscal year.

18 (b) The additional amount appropriated in a fiscal year pursuant to this
19 section shall not exceed \$2,000,000.00.

1 ~~Sec. 8. 8 V.S.A. chapter 147 is added to read:~~

2 CHAPTER 147. LEGACY INSURANCE TRANSFERS

3 § 7111. DEFINITIONS

4 As used in this chapter:

5 (1) "Assuming company" means a Vermont-domiciled company
6 established specifically to acquire a closed block under a legacy insurance
7 transfer plan approved by the Commissioner.

8 (2) "Closed block" means a block, line, or group of commercial
9 nonadmitted insurance policies or reinsurance agreements, or both:

10 (A) which a transferring insurer has ceased to offer, write, or sell to
11 new applicants;

12 (B) for which all policy periods have been fully expired for not less
13 than 60 months;

14 (C) for which active premiums are no longer being paid; and

15 (D) which are not workers' compensation, health, life, or any other
16 personal line of insurance.

17 (3) "Comment period" means the 60-day period starting on the date
18 notice is issued by an assuming company under subsection 7112(h) of this
19 chapter. For good cause, the comment period may be extended by the
20 Commissioner up to an additional 30 days.

21 (4) "Commissioner" means the Commissioner of Financial Regulation.

1 ~~(5) “Controlling party” means a person having “control” of an assuming~~
2 ~~company or transferring insurer. “Control” shall have the same meaning as in~~
3 ~~section 3681 of this title.~~

4 (6) “Department” means the Department of Financial Regulation.

5 (7) “Domicile regulator” means the primary insurance regulatory
6 authority of the domicile jurisdiction of a transferring insurer.

7 (8) “Inward reinsurance agreement” means a contract of reinsurance
8 between a transferring insurer and another insurance company with respect to
9 which a transferring insurer is a party as the reinsurer.

10 (9) “Inward reinsurance counterparty” means an insurance company,
11 other than the transferring insurer, that is a party to an inward reinsurance
12 agreement.

13 (10) “Legacy insurance transfer” means the transfer of a closed block in
14 accordance with the requirements of this chapter.

15 (11) “Legacy insurance transfer plan” or “plan” means a plan that sets
16 forth all provisions and includes all documentation regarding a legacy
17 insurance transfer required under subsection 7112(b) of this chapter.

18 (12) “Nonadmitted insurance” means any property and casualty
19 insurance permitted to be placed directly or through a surplus lines broker with
20 a nonadmitted insurer eligible to accept such insurance.

1 ~~(13) "Nonadmitted insurer" means, with respect to a state, an insurer not~~
2 ~~licensed to engage in the business of insurance in such state. The term does~~
3 ~~not include a risk retention group or a captive insurance company.~~

4 ~~(14) "Outward reinsurance agreement" means a contract of reinsurance~~
5 ~~between a transferring insurer and another insurance company with respect to~~
6 ~~which a transferring insurer is a party as the reinsured.~~

7 ~~(15) "Outward reinsurance counterparty" means an insurance company,~~
8 ~~other than the transferring insurer, that is a party to an outward reinsurance~~
9 ~~agreement.~~

10 ~~(16) "Party" means:~~

11 ~~(A) the assuming company;~~

12 ~~(B) the transferring insurer;~~

13 ~~(C) with respect to any policy to be transferred under a plan, each~~
14 ~~policyholder;~~

15 ~~(D) with respect to any inward reinsurance agreement to be~~
16 ~~transferred under a plan, each inward reinsurance counterparty; and~~

17 ~~(E) any other person the Commissioner approves as a party with~~
18 ~~respect to such proceeding.~~

19 ~~(17) "Plan summary" means a written statement of the key terms and~~
20 ~~provisions of a plan as required under subdivision 7112(b)(19) of this chapter.~~

1 ~~(18) "Policy" means a contract of property and casualty insurance that is~~
2 ~~not a contract of reinsurance or a personal lines insurance policy.~~

3 ~~(19) "Policyholder" means the person identified as the policyholder or~~
4 ~~first named in a policy.~~

5 ~~(20) "Reinsurance agreement" means an inward reinsurance agreement~~
6 ~~or an outward reinsurance agreement.~~

7 ~~(21) "Reinsurance agreement counterparty" means an inward~~
8 ~~reinsurance agreement counterparty or an outward reinsurance counterparty.~~

9 ~~(22) "Transferring insurer" means a nonadmitted insurer that is~~
10 ~~transferring a closed block to an assuming company under a legacy insurance~~
11 ~~transfer plan.~~

12 § 7112. APPLICATION; FEE; PLAN

13 (a) An assuming company shall file a plan with the Commissioner and, at
14 the time of filing, shall pay to the Commissioner the fee described in
15 subdivision 7116(a)(1) of this chapter.

16 (b) A plan shall include the following:

17 (1) A list of all policies and inward reinsurance agreements in the closed
18 block to be transferred under the plan.

19 (2) A list of all outward reinsurance agreements attaching to the closed
20 block.

1 ~~(3) A list of all policyholders and inward reinsurance counterparties to~~
2 ~~policies and inward reinsurance agreements in the closed block to be~~
3 ~~transferred under the plan.~~

4 ~~(4) The identities of the transferring insurer and the assuming company~~
5 ~~and their respective controlling parties, if any.~~

6 ~~(5) Certificates issued by the domicile regulator of the transferring~~
7 ~~insurer and, if applicable, by any controlling party that is a regulated insurance~~
8 ~~company attesting to the good standing of the transferring insurer and the~~
9 ~~controlling party under the insurance regulatory laws of the jurisdiction of their~~
10 ~~respective domiciles; or, if any such certificate is not obtainable under the laws~~
11 ~~or practices of a domicile regulator, a certificate of an officer of the~~
12 ~~transferring insurer or the controlling party, as applicable, attesting to the~~
13 ~~foregoing.~~

14 ~~(6) A letter of no objection, or the equivalent, from the domicile~~
15 ~~regulator of the transferring insurer confirming that the regulator has no~~
16 ~~objection to the transfer of the closed block under the plan; or, if any such~~
17 ~~certificate is not obtainable under the laws or practices of a domicile regulator,~~
18 ~~a certificate of an officer of the transferring insurer or the controlling party, as~~
19 ~~applicable, attesting to the foregoing.~~

20 ~~(7) A statement describing the terms and conditions, if any, of any~~
21 ~~policy or inward reinsurance agreement in the closed block prohibiting~~

1 ~~assignment and assumption of the rights, liabilities, and obligations of the~~
2 ~~transferring insurer without the prior written consent of the respective~~
3 ~~policyholder or inward reinsurance counterparty.~~

4 ~~(8) The most recent audited financial statements and annual reports of~~
5 ~~the transferring insurer filed with its domicile regulator and such other~~
6 ~~financial information as the Commissioner may reasonably require with~~
7 ~~respect to a controlling party, if any.~~

8 ~~(9) An actuarial study or opinion in a form satisfactory to the~~
9 ~~Commissioner that quantifies the liabilities to be transferred to the assuming~~
10 ~~company under the policies or inward reinsurance agreements in the closed~~
11 ~~block.~~

12 ~~(10) A statement of outward reinsurance agreement assets attaching to~~
13 ~~the closed block.~~

14 ~~(11) Three years of pro-forma financial statements demonstrating the~~
15 ~~solvency of the assuming company.~~

16 ~~(12) Officer's certificates of the transferring insurer and the assuming~~
17 ~~company attesting that each has obtained all required internal approvals and~~
18 ~~authorizations regarding the plan and has completed all necessary and~~
19 ~~appropriate actions relating thereto.~~

1 ~~(13) The form of notice to be provided under the plan to any~~
2 ~~policyholder or inward reinsurance counterparty in the closed block and how~~
3 ~~such notice shall be provided.~~

4 ~~(14) The form of notice to be provided under the plan to any outward~~
5 ~~reinsurance counterparty attaching to the closed block and how such notice~~
6 ~~shall be provided.~~

7 ~~(15) A statement describing any pending dispute between the~~
8 ~~transferring insurer and any policyholder or inward reinsurance counterparty or~~
9 ~~any disputed claim by a third party with respect to any policy or inward~~
10 ~~reinsurance agreement in the closed block.~~

11 ~~(16) A statement describing the assuming company's proposed~~
12 ~~investment policies, officers, directors, key employees, and other arrangements~~
13 ~~regarding matters such as:~~

14 ~~(A) any contemplated third-party claims management and~~
15 ~~administration arrangements;~~

16 ~~(B) operations, management, and solvency relating to the closed~~
17 ~~block; and~~

18 ~~(C) a detailed plan for annual or other periodic financial reporting to~~
19 ~~the Commissioner, including an annual financial audit with actuarial opinion.~~

20 ~~(17) A statement from the assuming company consenting to the~~
21 ~~jurisdiction of the Commissioner with regard to ongoing oversight of~~

1 ~~operations, management, and solvency relating to the closed block, including~~
2 ~~the authority of the Commissioner to conduct examinations under section 7117~~
3 ~~of this chapter and to set reasonable standards for oversight of the assuming~~
4 ~~company, including:~~

5 ~~(A) material transactions with affiliates;~~

6 ~~(B) adequacy of surplus; and~~

7 ~~(C) dividends and other distributions, including limitations on~~
8 ~~extraordinary dividends.~~

9 ~~(18) A statement from the assuming company submitting to the~~
10 ~~jurisdiction and authority of the Commissioner of Financial Regulation, or the~~
11 ~~equivalent regulatory authority, in states in which policyholders or reinsurance~~
12 ~~counterparties reside, for the purposes of implementing each such state's~~
13 ~~Unfair Claims Settlement Practices Act, or its equivalent, if any, in such state's~~
14 ~~market conduct statutory framework. Notwithstanding any provision to the~~
15 ~~contrary in such act, the submission under this subdivision shall not confer a~~
16 ~~private cause of action upon any policyholder or reinsurance counterparty~~
17 ~~against the assuming company, even if the applicable Unfair Claims Settlement~~
18 ~~Practices Act, or equivalent, purports to provide a private cause of action.~~

19 ~~(19) A plan summary which includes all information regarding the plan~~
20 ~~as reasonably required by the Commissioner.~~

1 ~~(20) The statement described in subsection (c) of this section regarding~~
2 the information and documents submitted as part of or with respect to a plan
3 which are confidential.

4 (21) Any other information the Commissioner may reasonably require
5 with respect to the plan in the exercise of his or her discretion.

6 (c) The plan shall include a statement of the information and
7 documentation included in the plan that the assuming company or the
8 transferring insurer may request be given confidential treatment, which in all
9 cases shall include all information identifying policyholders and reinsurance
10 counterparties and which may include any information that qualifies as a trade
11 secret or other confidential research, development, or commercial information
12 of the transferring insurer or the assuming company. The Commissioner,
13 subject to the exercise of his or her reasonable discretion, shall determine
14 whether the information designated in such statement qualifies for confidential
15 treatment and therefore shall be exempt from public inspection and copying
16 under the Public Records Act. Any information qualifying for confidential
17 treatment shall not be subject to subpoena and shall not be made public by the
18 Commissioner or by any other person; provided, however, the Commissioner
19 may in his or her discretion grant access to such information to public officers
20 having jurisdiction over the regulation of insurance in any other state or
21 country, to public officers of a foreign or alien financial regulatory authority.

1 ~~or to state or federal law enforcement officers pursuant to a validly issued~~
2 subpoena or search warrant; provided that such officers receiving the
3 information agree in writing to hold it in a manner consistent with this section.

4 (d) Within 10 business days of the date the application is filed and the fee
5 payable under subsection (a) of this section is paid in full, the Commissioner
6 shall notify the assuming company whether the plan is complete. In his or her
7 discretion, the Commissioner may extend the 10-business-day application
8 review period for an additional 10 business days. With the written consent of
9 the assuming company, the application review period may be extended beyond
10 20 business days.

11 (e) Upon submission of a plan, the assuming company shall have a
12 continuing obligation to notify the Commissioner promptly and in a full and
13 accurate manner of any material change to information in the plan.

14 (f) If the Commissioner notifies the assuming company that the plan is not
15 complete, the Commissioner shall specify any modifications, supplements, or
16 amendments to the plan that are required, and any additional information or
17 documentation with respect to the plan that must be provided to the
18 Commissioner before the Commissioner issues the notice under subsection (d)
19 of this section.

1 ~~(g) If the Commissioner notifies the assuming company that the plan is~~
2 ~~complete, the Commissioner shall set a date, time, and place for a hearing on~~
3 ~~the plan as required under subsection (m) of this section.~~

4 (h) Within 30 days of the date the Commissioner notifies the assuming
5 company under subsection (g) of this section that the plan is complete, the
6 assuming company shall cause notice to be provided, in the form and manner
7 specified in the plan, to all policyholders and reinsurance counterparties listed
8 in the plan. The notice shall:

9 (1) comply with the plan and the provisions of 3 V.S.A. § 809(b);

10 (2) include the plan summary;

11 (3) describe the effect of the plan and the transfer on each policyholder
12 and reinsurance counterparty and on his or her respective policy or reinsurance
13 agreement, as applicable;

14 (4) state the right of each policyholder or inward reinsurance
15 counterparty to:

16 (A) accept or object to the plan, together with a description of the
17 means by which a policyholder or inward reinsurance counterparty may
18 expressly accept or object to the plan and the effect of such acceptance or
19 objection;

20 (B) file written comments on the plan with the Commissioner, and

21 (C) appear and present evidence on the plan at the hearing;

1 ~~(5) describe the terms and conditions under which a policyholder or~~
2 ~~inward reinsurance counterparty shall be deemed to have accepted the plan;~~
3 ~~(6) specify the date, time, and place of the hearing on the plan;~~
4 ~~(7) include all other information reasonably required by the~~
5 ~~Commissioner; and~~
6 ~~(8) be published in two newspapers of general nationwide circulation on~~
7 ~~two separate occasions, as determined by the Commissioner.~~
8 ~~(i) During the comment period:~~
9 ~~(1) Any party may file written comments on the plan with the~~
10 ~~Commissioner.~~
11 ~~(2) Any policyholder or inward reinsurance counterparty may, by~~
12 ~~delivery of such notice in accordance with the terms and conditions of the plan~~
13 ~~and prior to the expiration of the comment period, provide an express written~~
14 ~~notice that he or she accepts or objects to the plan.~~
15 ~~(3) The assuming company shall file with the Commissioner such~~
16 ~~additional documentation and information regarding the plan as the~~
17 ~~Commissioner may reasonably require.~~
18 ~~(j) In the event that, prior to the expiration of the comment period, any~~
19 ~~policyholder or inward reinsurance counterparty provides express written~~
20 ~~notice that he or she objects to the plan and specifies the policy or agreement~~
21 ~~with respect to which such objection is made, the assuming company shall, not~~

1 ~~later than 15 days after the end of the comment period, submit to the~~

2 Commissioner either:

3 (1) an amended list of policies and reinsurance agreements in the plan,
4 excluding such policyholder or inward reinsurance counterparty and its
5 respective policy or inward reinsurance agreement from the plan; or

6 (2) an express written notice from such policyholder or inward
7 reinsurance counterparty accepting the plan and consenting to the transfer
8 having the full force and effect of a statutory novation of its respective policy
9 or reinsurance agreement, as applicable, and withdrawing and rescinding its
10 prior notice of objection.

11 (k) Except as provided in subsection 7114(f) of this chapter, any
12 policyholder or inward reinsurance counterparty that, prior to the expiration of
13 the comment period, has not provided express written notice objecting to the
14 plan shall be deemed to have accepted the plan, and the transfer shall have the
15 full force and effect of a statutory novation of his or her respective policy or
16 inward reinsurance agreement, as applicable.

17 (l) Notwithstanding any provision of this chapter to the contrary, if a policy
18 or inward reinsurance agreement contains a provision prohibiting the transfer
19 of the policy or inward reinsurance agreement without the consent of the
20 policyholder or inward reinsurance counterparty, then such policy or inward
21 reinsurance agreement shall not be transferred under this chapter unless the

1 ~~applicable policyholder or inward reinsurance counterparty provides written~~
2 ~~consent to the proposed transfer.~~

3 ~~(m) The hearing on the plan shall be held on or before 60 days after the end~~
4 ~~of the comment period. In his or her discretion, the Commissioner may~~
5 ~~postpone the hearing for an additional 10 days. With the written consent of the~~
6 ~~assuming company, the hearing may be postponed beyond 70 days. Each party~~
7 ~~participating in the hearing shall bear his or her own costs and attorney's fees.~~

8 ~~§ 7113. PLAN REVIEW~~

9 ~~(a) The Commissioner may retain an actuary to conduct an actuarial study~~
10 ~~quantifying the liabilities under insurance policies and reinsurance agreements~~
11 ~~to be transferred to the assuming company under the plan and is authorized to~~
12 ~~retain any other legal, financial, and examination services from outside the~~
13 ~~Department necessary to assist in plan review.~~

14 ~~(b) In reviewing the plan, the Commissioner shall take into account all~~
15 ~~written comments filed with respect to the plan, all evidence taken at the~~
16 ~~hearing, and any other factors the Commissioner reasonably deems relevant~~
17 ~~with respect to the plan. In all cases, the Commissioner shall make findings~~
18 ~~with respect to each of the following:~~

19 ~~(1) the solvency of the assuming company before and after the~~
20 ~~implementation of the proposed plan;~~

1 ~~(2) the adequacy of the assuming company's proposals described in the~~
2 ~~statement required under subdivision 7112(b)(16) of this chapter;~~

3 ~~(3) the adequacy of the assuming company's consent to jurisdiction~~
4 ~~required under subdivision 7112(b)(17) of this chapter;~~

5 ~~(4) the ability of the assuming company to comply with all requirements~~
6 ~~of the policies and inward reinsurance agreements, including the capacity of~~
7 ~~the assuming company regarding the administration of claims in process on or~~
8 ~~after the effective date of the transfer;~~

9 ~~(5) whether any outward reinsurance agreement relating to any policy or~~
10 ~~policies in the closed block will be adversely affected by the transfer;~~

11 ~~(6) whether the plan materially adversely affects the interests of any~~
12 ~~party or outward reinsurance counterparty, including the interests of any~~
13 ~~policyholder or inward reinsurance counterparty who has accepted or been~~
14 ~~deemed to have accepted the plan;~~

15 ~~(7) whether policyholders or inward reinsurance counterparties, together~~
16 ~~with their respective insurance policies and inward reinsurance agreements,~~
17 ~~have been excluded from the plan as required under subsections 7112(j) and (l)~~
18 ~~of this chapter; and~~

19 ~~(8) the fairness of the plan to all parties.~~

1 § 7114. ORDER

2 (a) Within 30 days of the date the hearing is held on the plan, the
3 Commissioner shall issue an order setting forth the amount of fees payable by
4 the assuming company under subdivision 7116(a)(2) of this chapter, payable
5 on or before 14 days after the date of such order. Upon receipt of such
6 payment, the Commissioner shall within five days issue an order approving or
7 disapproving the plan in whole or in part. Whenever it is not practicable to
8 issue an order within 30 days, the Commissioner may extend such time up to
9 an additional 30 days. If the order approves the plan, the order shall:

10 (1) include the terms and conditions of the Commissioner's oversight
11 with regard to ongoing oversight of the operations, management, and solvency
12 relating to the closed block and any specific standards that the assuming
13 company will be required to comply with, including standards relating to:

14 (A) material transactions with affiliates;

15 (B) adequacy of surplus; and

16 (C) dividends and other distributions, including limitations on
17 dividends;

18 (2) set forth the tax payable by the assuming company under subsection
19 7116(b) of this chapter, which tax shall be payable on or before 14 days after
20 the date of such order; and

1 ~~(3) not be effective until such time as the costs and transfer tax~~
2 ~~described in this subsection have been paid in full.~~

3 ~~(b) The Commissioner shall not approve a plan unless the Commissioner~~
4 ~~finds that the assuming company has:~~

5 ~~(1) sufficient assets to meet its liabilities;~~

6 ~~(2) sufficient procedures in place for the handling of claims;~~

7 ~~(3) consented to sufficient regulatory oversight by the Department; and~~

8 ~~(4) excluded from the plan any policy or agreement required to be~~

9 ~~excluded under subsections 7112(j) and (l) of this chapter.~~

10 ~~(c) An order issued under subsection (a) of this section approving the plan~~
11 ~~shall have the full force and effect of a statutory novation with respect to all~~
12 ~~policyholders and reinsurance counterparties and their respective policies and~~
13 ~~reinsurance agreements under the plan and shall provide that the transferring~~
14 ~~insurer shall have no further rights, obligations, or liabilities with respect to~~
15 ~~such policies and reinsurance agreements, and that the assuming company shall~~
16 ~~have all such rights, obligations, and liabilities as if it, instead of the~~
17 ~~transferring insurer, were the original party to such policies and reinsurance~~
18 ~~agreements.~~

19 ~~(d) The Commissioner may issue any other orders he or she reasonably~~
20 ~~deems necessary to implement fully an order issued under subsection (a) of~~
21 ~~this section.~~

1 ~~(c) No order issued under subsection (a) or (d) of this section shall be~~
2 ~~construed to modify or amend the terms of a policy or reinsurance agreement,~~
3 ~~other than with respect to matters specifically subject to modification or~~
4 ~~amendment under this chapter.~~

5 ~~(f) If a policyholder or inward reinsurance counterparty provides express~~
6 ~~written notice that he or she objects to the plan after the comment period has~~
7 ~~expired, and provides evidence reasonably satisfactory to the Commissioner~~
8 ~~that he or she was not provided notice of the plan in the form and manner~~
9 ~~previously approved by the Commissioner, or if an outward reinsurance~~
10 ~~counterparty or other party provides express written notice that he or she~~
11 ~~objects to a plan, the Commissioner may not approve the plan with respect to~~
12 ~~such party unless the Commissioner determines that the plan:~~

13 ~~(1) does not materially adversely affect the objecting party; and~~

14 ~~(2) otherwise complies with the requirements of this chapter.~~

15 ~~(g) At any time before the Commissioner issues the order described in~~
16 ~~subsection (a) of this section, the assuming company may file an amendment to~~
17 ~~the plan, subject to the Commissioner's approval.~~

18 ~~(h) At any time before the Commissioner issues the order described in~~
19 ~~subsection (a) of this section, the assuming company may withdraw the plan~~
20 ~~without prejudice. Upon such withdrawal, however, the Commissioner shall~~
21 ~~issue an order setting forth the amount of fees payable by the assuming~~

1 ~~company under subdivision 7116(e)(2) of this chapter, payable on or before~~
2 14 days after the date of such order.

3 § 7115. JURISDICTION; APPEALS

4 (a) The Commissioner shall have exclusive regulatory jurisdiction with
5 respect to the review and approval or denial of any plan.

6 (b) Any party aggrieved by a final order of the Commissioner may appeal
7 that order to the Vermont Supreme Court under 3 V.S.A. § 815.

8 § 7116. FEE; COSTS; TRANSFER TAX

9 (a) To cover the costs of processing and reviewing a plan under this
10 chapter, the assuming company shall pay to the Commissioner the following
11 nonrefundable fees at the times set forth in subsections 7112(a) and 7114(a) of
12 this chapter:

13 (1) an administrative fee in the amount of \$30,000.00; and

14 (2) the reasonable costs of persons retained by the Commissioner under
15 subsection 7113(a) of this chapter.

16 (b) When a plan is approved, the assuming company shall pay the
17 Commissioner a transfer tax equal to the sum of:

18 (1) one percent of the first \$100,000,000.00 of the gross liabilities
19 transferred, including direct and assumed unpaid claims, losses, and loss
20 adjustment expenses with no reductions for amounts ceded; and

1 ~~(2) 0.5 percent of the gross liabilities transferred that exceed~~
2 ~~\$100,000,000.00, including direct and assumed unpaid claims, losses, and loss~~
3 ~~adjustment expenses with no reductions for amounts ceded.~~

4 ~~(c) All fees and payments received by the Department under subsection (a)~~
5 ~~of this section and 10 percent of the transfer tax under subsection (b) of this~~
6 ~~section shall be credited to the Insurance Regulatory and Supervision Fund~~
7 ~~under section 80 of this title. The remaining 90 percent of the transfer tax shall~~
8 ~~be deposited directly into the General Fund.~~

9 § 7117. EXAMINATIONS

10 ~~(a) The Commissioner has the authority to order any assuming company to~~
11 ~~produce any records, books, and papers in the possession of the assuming~~
12 ~~company or its affiliates necessary to ascertain the financial condition or~~
13 ~~legality of conduct of the assuming company.~~

14 ~~(b) The Commissioner shall exercise his or her authority under subsection~~
15 ~~(a) of this section only if he or she has reason to believe the interests of the~~
16 ~~assuming company's policyholders may be adversely affected under the plan.~~

17 ~~(c) The Commissioner may retain, at the assuming company's expense,~~
18 ~~attorneys, actuaries, accountants, and other experts not otherwise a part of the~~
19 ~~Commissioner's staff reasonably necessary to assist with an examination under~~
20 ~~this section. Any persons so retained shall be under the direction and control~~
21 ~~of the Commissioner and shall act in a purely advisory capacity.~~

1 ~~(d) Each assuming company that produces records, books, and papers for~~
2 ~~examination under this section shall pay the expense of such examination.~~

3 § 7118. APPLICABLE LAWS

4 (a) Chapter 157 (transfer and novation of insurance contracts) of this title
5 shall not apply to any legacy insurance transfer under this chapter.

6 (b) In the event of any conflict between a provision of this chapter and any
7 other provision of this title, such provision of this chapter shall control.

8 (c) A proposed legacy insurance transfer shall be a “contested case” under
9 3 V.S.A. chapter 25, except that a “party” shall be limited as defined in
10 subdivision 7111(15) of this chapter.

11 § 7119. ASSUMING COMPANY; BOARD; PRINCIPAL PLACE OF
12 BUSINESS; REGISTERED AGENT

13 No assuming company shall be a party to a legacy insurance transfer under
14 this chapter unless:

15 (1) its board of directors or committee of managers holds at least one
16 meeting each year in this State;

17 (2) it maintains its principal place of business in this State; and

18 (3) it appoints a registered agent to accept service of process and to
19 otherwise act on its behalf in this State; provided that whenever such registered
20 agent cannot with reasonable diligence be found at the registered office of the

1 ~~assuming company, the Secretary of State shall be an agent of such assuming~~
2 ~~company upon whom any process, notice, or demand may be served.~~

3 § 7120. POSTING OF PLANS ON WEBSITE

4 The Commissioner shall require that all plans filed with the Department are
5 posted on the Department's website, along with any other notice or other
6 information the Commissioner deems appropriate, excluding any information
7 designated as confidential under subsection 7112(c) of this chapter.

8 § 7121. REGULATION OF ASSUMING COMPANIES AND SERVICE

9 PROVIDERS

10 (a) An assuming company shall be subject to all rules adopted by the
11 Commissioner under this chapter and also shall be subject to:

12 (1) chapter 145 (supervision, rehabilitation, and liquidation of insurers)
13 of this title;

14 (2) the market conduct and unfair trade practices provisions of
15 chapter 129 (insurance trade practices) of this title, as deemed applicable by
16 the Commissioner; and

17 (3) in addition to the initial transfer tax required under subsection
18 7116(b) of this chapter, an annual renewal fee of \$300.00.

19 (b) An assuming company shall not be subject to the requirements of
20 chapter 101, subchapter 9 (property and casualty insurance guaranty
21 association) of this title.

1 ~~(c) The Commissioner may adopt rules regarding the provision of services~~
2 ~~to an assuming company by persons other than any director, officer, or~~
3 ~~employee of the assuming company with respect to the administration of~~
4 ~~policies and reinsurance agreements assumed by the assuming company under~~
5 ~~a legacy insurance transfer, including licensing or other requirements.~~

6 ~~(d) The Commissioner may adopt any other rules necessary or appropriate~~
7 ~~to carry out the provisions of this chapter.~~

8 Sec. 9. EFFECTIVE DATE

9 ~~This act shall take effect on July 1, 2014.~~

** * * One-Stop Shop Business Portal * * **

Sec. 1. ONE STOP SHOP WEB PORTAL

(a) In order to simplify the process for business creation and growth, the Office of the Secretary of State, Department of Taxes, Department of Labor, the Vermont Attorney General, the Agency of Commerce and Community Development, and the Agency of Administration have formed a Business Portal Committee to create an online "one-stop shop" for business registration, business entity creation, and registration compliance.

(b) On or before January 15, 2015, the Business Portal Committee shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development to inform the committees of the status of the project and a timeline for its completion.

** * * Vermont Entrepreneurial Lending Program;
Vermont Entrepreneurial Investment Tax Credit * * **

Sec. 2. 10 V.S.A. chapter 12 is amended to read:

*CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT
AUTHORITY*

** * **

*Subchapter 12. ~~Technology Loan~~ Vermont Entrepreneurial Lending
Program*

§ 280aa. FINDINGS AND PURPOSE

~~(a)(1) Technology-based companies~~ Vermont-based seed, start-up, and early growth-stage businesses 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 ~~these businesses is dependent upon the availability of flexible, risk-based capital.~~

~~(2) Because the primary assets of technology-based companies sometimes~~ seed, start-up, and early growth-stage businesses often consist almost entirely of intellectual property or insufficient tangible assets to support conventional lending, such ~~these~~ companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.

~~(b) To support the growth of technology-based companies~~ seed, start-up, and early growth-stage businesses and the resultant creation of high-wage employment in Vermont, a technology loan program is established under this subchapter ~~the~~ General Assembly hereby creates in this subchapter the Vermont Entrepreneurial Lending Program to support the growth and development of seed, start-up, and early growth-stage businesses.

§ 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL LENDING PROGRAM

~~(a) There is created a technology (TECH) loan program~~ the Vermont Entrepreneurial Lending Program to be administered by the Vermont economic development authority Economic Development Authority. The program ~~Program~~ shall seek to meet the working capital and capital-asset financing needs of technology-based companies ~~start-up, early stage, and early growth-stage businesses in Vermont. The Program shall specifically seek to fulfill capital requirement needs that are unmet in Vermont, including:~~

~~(1) loans up to \$100,000.00 for manufacturing businesses with innovative products that typically reflect long-term growth;~~

~~(2) loans from \$250,000.00 through \$1,000,000.00 to early growth-stage companies who do not meet the current underwriting criteria of other public and private lending institutions; and~~

~~(3) loans to businesses that are unable to access adequate capital resources because the primary assets of these businesses are typically intellectual property or similar nontangible assets.~~

~~(b) The economic development authority Authority shall establish such adopt regulations, policies, and procedures for the program~~ Program as are necessary to carry out the purposes of this subchapter. The authority's lending criteria shall include consideration of in-state competition and whether a company has made reasonable efforts to secure capital in the

~~private sector~~ increase the amount of investment funds available to Vermont businesses whose capital requirements are not being met by conventional lending sources.

(c) When considering entrepreneurial lending through the Program, the Authority shall give additional consideration and weight to an application of a business whose business model and practices will have a demonstrable effect in achieving other public policy goals of the State, including:

(1) The business will create jobs in strategic sectors such as the knowledge-based economy, renewable energy, advanced manufacturing, wood products manufacturing, and value-added agricultural processing.

(2) The business is located in a designated downtown, village center, growth center, or other significant geographic location recognized by the State.

(3) The business adopts energy and thermal efficiency practices in its operations or otherwise operates in a way that reflects a commitment to green energy principles.

(4) The business will create jobs that pay a livable wage and significant benefits to Vermont employees.

(d) The Authority shall include provisions in the terms of an entrepreneurial loan made under the Program to ensure that an entrepreneurial loan recipient shall maintain operations within the State for a minimum of five years from the date on which the recipient receives the entrepreneurial loan funds from the Authority.

* * *

Sec. 3. VERMONT ENTREPRENEURIAL LENDING PROGRAM; LOAN LOSS RESERVE FUNDS; CAPITALIZATION; PRIVATE CAPITAL; APPROPRIATION

(a) The Vermont Economic Development Authority shall capitalize loan loss reserves for the Vermont Entrepreneurial Lending Program created in 10 V.S.A. § 280bb with up to \$1,000,000.00 from Authority funds or eligible federal funds currently administered by the Authority.

(b) The Vermont Economic Development Authority shall use the funds allocated to the Program, as referenced in subsection (a) of this section, solely for the purpose of establishing and maintaining loan loss reserves to guarantee entrepreneurial loans.

~~Sec. 4. 32 V.S.A. § 5930zz is added to read.~~

~~§ 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX
CREDITS~~

~~(a) A person may receive a credit against his or her income tax imposed by this chapter in an amount equal to 35 percent of his or her direct investment in a Vermont-domiciled business that had gross revenues in the preceding 12 months of less than \$3,000,000.00.~~

~~(b) A person who owns or controls 50.1 percent or more of the business and members of his or her immediate family or household are not eligible for the credit under this section.~~

~~(c)(1) A person may claim no more than 25 percent of the amount of a credit under this section in a single tax year and may not use the credit to reduce the amount of tax due under this chapter by more than 50 percent of the person's liability in a taxable year.~~

~~(2) A person may carry forward any unused portion of a credit for five additional years beyond the year in which an eligible investment was made.~~

~~(d) A person who makes a direct investment and thereby qualifies for a credit pursuant to this section shall not have a right to receive a return of the person's investment for a period of five years; provided, however, that the investor may have the right to receive stock options, warrants, or other forms of return that are not in the nature of return of principal.~~

~~(e) A person that receives an investment that qualifies for a credit pursuant to this section shall annually report to the Department of Taxes the total number and amounts of investments received, the number of employees, the number of jobs created and retained, annual payroll, total sales revenue in the 12 months preceding the date of the report, and any additional information required by the Department.~~

~~(f) The total value of credits awarded pursuant to this section shall not exceed \$6,000,000.00.~~

Sec. 4. [DELETED]

* * * Electricity Rates for Businesses * * *

Sec. 5. COMMISSIONER OF PUBLIC SERVICE STUDY; BUSINESS
ELECTRICITY RATES

(a) The Commissioner of Public Service, in consultation with the Public Service Board and the Secretary of Commerce and Community Development, shall conduct a study of how best to advance the public good through consideration of the competitiveness of Vermont's energy-intensive businesses

with regard to electricity costs. As used in this section, “energy-intensive business” or “business” means a manufacturer, a business that uses 1,000 MWh or more of electricity per year, or a business that meets another energy threshold deemed more appropriate by the Commissioner.

(b) In conducting the study required by this section, the Commissioner shall consider:

(1) how best to incorporate into rate design proceedings the impact of electricity costs on business competitiveness and the identification of the costs of service incurred by businesses;

(2) with regard to the energy efficiency programs established under 30 V.S.A. § 209, potential changes to their delivery, funding, financing, and participation requirements;

(3) the history and outcome of any evaluations of the Energy Savings Account or Customer Credit programs, as well as best practices for customer self-directed energy efficiency programs;

(4) the history and outcome of any evaluations of retail choice programs or policies, as they relate to business competitiveness, that have been undertaken in Vermont and in other jurisdictions;

(5) any other programs or policies the Commissioner deems relevant; and

(6) whether and to what extent any programs or policies considered by the Commissioner under this section would impose cost shifts onto other customers, result in stranded costs (costs that cannot be recovered by a regulated utility due to a change in regulatory structure or policy), or conflict with renewable energy requirements in Vermont ~~and, if so, whether such programs or policies would nonetheless promote the public good.~~

(c) In conducting the study required by this section, the Commissioner shall provide the following persons and entities an opportunity for written and oral comments:

(1) consumer and business advocacy groups;

(2) regional development corporations; and

(3) any other person or entity as determined by the Commissioner.

(d) On or before December 15, 2014, the Commissioner shall provide a status report to the General Assembly of his or her findings ~~and recommendations~~ regarding regulatory or statutory changes that would reduce electric energy costs for Vermont businesses and promote the public good. On

or before December 15, 2015, the Commissioner shall provide a final report to the General Assembly of such findings and recommendations.

** * * Domestic Export Program * * **

~~Sec. 6. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT
AGRICULTURE AND FOREST PRODUCTS~~

~~(a) The Secretary of Agriculture, Food and Markets, in collaboration with the Agency of Commerce and Community Development and the Chief Marketing Officer, shall create a Domestic Export Program Pilot Project within the "Made in Vermont" designation program, the purpose of which shall be to:~~

~~(1) connect Vermont producers with brokers, buyers, and distributors in other U.S. state and regional markets;~~

~~(2) provide technical and marketing assistance to Vermont producers to convert these connections into increased sales and sustainable commercial relationships; and~~

~~(3) provide matching grants of up to \$2,000.00 per business per year to attend trade shows and similar events to expand producers' market presence in other U.S. states.~~

~~(b) There is appropriated in Fiscal Year 2015 from the General Fund to the Agency of Agriculture, Food and Markets the amount of \$75,000.00 to implement the provisions of this section.~~

~~Sec. 6. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT
AGRICULTURE AND FOREST PRODUCTS~~

~~The Secretary of Agriculture, Food and Markets, in collaboration with the Agency of Commerce and Community Development and the Chief Marketing Officer, may create a Domestic Export Program Pilot Project within the "Made in Vermont" designation program, the purpose of which shall be to connect Vermont producers with brokers, buyers, and distributors in other U.S. state and regional markets, and to provide technical and marketing assistance to Vermont producers to convert these connections into increased sales and sustainable commercial relationships.~~

~~* * * Cloud Tax * * *~~

~~Sec. 7. SALES TAX ON PREWRITTEN SOFTWARE DOES NOT APPLY
TO REMOTELY ACCESSED SOFTWARE~~

~~(a) The imposition of sales and use tax on prewritten computer software by 32 V.S.A. chapter 233 shall not apply to charges for remotely accessed software made after December 31, 2006.~~

~~(b) In this section, "charges for remotely accessed software" means charges for the right to access and use prewritten software run on underlying infrastructure that is not managed or controlled by the consumer. The term "charges for remotely accessed software" does not include charges for the right to access and use prewritten software that is also commercially available in a tangible form.~~

~~(c) Enforcement of the sales and use tax imposed on the purchase of specified digital products pursuant to 32 V.S.A. § 9771(8) is not affected by this section.~~

Sec. 7. [DELETED]

**** Criminal Penalties for Computer Crimes ****

Sec. 8. 13 V.S.A. chapter 87 is amended to read:

CHAPTER 87. COMPUTER CRIMES

§ 4104. ALTERATION, DAMAGE, OR INTERFERENCE

(a) A person shall not intentionally and without lawful authority, alter, damage, or interfere with the operation of any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(b) Penalties. A person convicted of violating this section shall be:

(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than ~~\$500.00~~ \$5,000.00, or both;

(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than ~~\$1,000.00~~ \$10,000.00, or both; or

(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than ~~\$10,000.00~~ \$100,000.00, or both.

§ 4105. THEFT OR DESTRUCTION

(a)(1) A person shall not intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of, or intentionally and without lawful authority, destroy any computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(2) Copying a commercially available computer program or computer software is not a crime under this section, provided that the computer program

and computer software has a retail value of \$500.00 or less and is not copied for resale.

(b) Penalties. A person convicted of violating this section shall be:

(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than ~~\$500.00~~ \$5,000.00, or both;

(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than ~~\$1,000.00~~ \$10,000.00, or both; or

(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than ~~\$10,000.00~~ \$100,000.00, or both.

§ 4106. CIVIL LIABILITY

A person damaged as a result of a violation of this chapter may bring a civil action against the violator for damages, costs, and fees, including reasonable attorney's fees, and such other relief as the court deems appropriate.

** * **

** * * Statute of Limitations to Commence Action
for Misappropriation of Trade Secrets * * **

Sec. 9. 12 V.S.A. § 523 is amended to read:

§ 523. TRADE SECRETS

An action for misappropriation of trade secrets under 9 V.S.A. chapter 143 of ~~Title 9~~ shall be commenced within ~~three~~ five years after the cause of action accrues, and not after. The cause of action shall be deemed to accrue as of the date the misappropriation was discovered or reasonably should have been discovered.

** * * Protection of Trade Secrets * * **

Sec. 10. 9 V.S.A. chapter 143 is amended to read:

CHAPTER 143. TRADE SECRETS

§ 4601. DEFINITIONS

As used in this chapter:

(1) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

(2) "Misappropriation" means:

(A) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(B) disclosure or use of a trade secret of another without express or implied consent by a person who:

(i) used improper means to acquire knowledge of the trade secret; or

(ii) at the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:

(I) derived from or through a person who had utilized improper means to acquire it;

(II) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(III) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(iii) before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

(3) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(A) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

§ 4602. INJUNCTIVE RELIEF

(a) ~~Actual~~ A court may enjoin actual or threatened misappropriation ~~may be enjoined~~ of a trade secret. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

(b) In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include, ~~but are not limited to,~~ a material and prejudicial change of position prior to

acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

(c) In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

§ 4603. DAMAGES

(a)(1) Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation.

(2) Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss.

(3) In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

(4) A court shall award a successful complainant his or her costs and fees, including reasonable attorney's fees, arising from a misappropriation of the complainant's trade secret.

(b) If malicious misappropriation exists, the court may award punitive damages.

§ 4605. PRESERVATION OF SECRECY

In an action under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

§ 4607. EFFECT ON OTHER LAW

(a) Except as provided in subsection (b) of this section, this chapter displaces conflicting tort, restitutionary, and any other law of this ~~state~~ State providing civil remedies for misappropriation of a trade secret.

(b) This chapter does not affect:

(1) contractual remedies, whether or not based upon misappropriation of a trade secret;

(2) *other civil remedies that are not based upon misappropriation of a trade secret; or*

(3) *criminal remedies, whether or not based upon misappropriation of a trade secret.*

* * *

* * * *Technology Businesses and Government
Contracting* * * *

Sec. 11. 3 V.S.A. § 346 is added to read:

§ 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,
SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

(a) The Secretary of Administration shall include in Administrative Bulletin 3.5 a policy direction applicable to State procurement contracts that include services for the development of software applications, computer coding, or other intellectual property, which would allow the State of Vermont to grant permission to the contractor to use the intellectual property created under the contract for the contractor's commercial purposes.

(b) The Secretary may recommend contract provisions that authorize the State to negotiate with a contractor to secure license terms and license fees, royalty rights, or other payment mechanism for the contractor's commercial use of intellectual property developed under a State contract.

(c) If the Secretary authorizes a contractor to own intellectual property developed under a State contract, the Secretary shall recommend language to ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid right to continue to use the intellectual property.

* * * *Study; Commercial Lenders* * * *

*Sec. 12. STUDY; DEPARTMENT OF FINANCIAL REGULATION;
LICENSED LENDER REQUIREMENTS; COMMERCIAL
LENDERS*

On or before January 15, 2015, the Department of Financial Regulation shall evaluate and report to the House Committee on Commerce and Economic Development and to the Senate Committees on Finance and on Economic Development, Housing and General Affairs any statutory and regulatory changes to the State's licensed lender requirements that are necessary to open private capital markets and remove unnecessary barriers to business investment in Vermont.

** * * Tourism Funding; Study * * **

Sec. 13. TOURISM FUNDING; PILOT PROJECT STUDY

On or before January 15, 2015, the Secretary of Commerce and Community Development shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that analyzes the results of the performance-based funding pilot project for the Department of Tourism and Marketing and recommends appropriate legislative or administrative changes to the funding mechanism for tourism and marketing programs.

** * * Land Use; Housing; Industrial Development * * **

Sec. 14. 10 V.S.A. § 238 is added to read:

§ 238. AVAILABILITY OF LOANS AND ASSISTANCE FOR INDUSTRIAL PARKS

Notwithstanding any provision of this chapter to the contrary, the developer of a project in an industrial park permitted under chapter 151 of this title shall have access to the loans and assistance available to a local development corporation from the Vermont Economic Development Authority for the creation or improvement of industrial parks under this subchapter.

~~*Sec. 15. 3 V.S.A. § 2875 is added to read.*~~

~~*§ 2875. ASSISTANCE FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT*~~

~~*The developer of a project in an industrial park permitted under 10 V.S.A. chapter 151 shall have access to:*~~

~~*(1) site planning assistance from the Department of Housing and Community Development in an amount up to 25 percent of the project cost; and*~~

~~*(2) financing of up to 25 percent of site acquisition and infrastructure development costs from the Department of Housing and Community Development through grants, loans, or other mechanisms as determined by the Commissioner of Housing and Community Development in the Commissioner's discretion.*~~

Sec. 15. [DELETED]

~~*Sec. 16. 10 V.S.A. § 6001(35) is added to read.*~~

~~*(35) "Industrial park" means an area of land permitted under this chapter that is planned, designed, and zoned as a location for one or more industrial buildings, that includes adequate access roads, utilities, water,*~~

~~sewer, and other services necessary for the uses of the industrial buildings, and includes no retail use except that which is incidental to an industrial use or office use, except that which is incidental or secondary to an industrial use.~~

Sec. 16. 10 V.S.A. § 6001(35) is added to read:

(35) "Industrial park" means an area of land permitted under this chapter that is planned, designed, and zoned as a location for one or more industrial buildings, that includes adequate access roads, utilities, water, sewer, and other services necessary for the uses of the industrial buildings, and includes no retail use except that which is incidental to an industrial use, and no office use except that which is incidental or secondary to an industrial use.

Sec. 17. REVIEW OF MASTER PLAN POLICY

On or before January 1, 2015, the Natural Resources Board shall review its master plan policy and commence the policy's adoption as a rule. The proposed rule shall include provisions for efficient master plan permitting and master plan permit amendments for industrial parks. The Board shall consult with affected parties when developing the proposed rule.

* * * Primary Agricultural Soils; Industrial Parks * * *

Sec. 18. 10 V.S.A. § 6093(a)(4) is amended to read:

(4) Industrial parks.

(A) Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils located in an industrial park—~~as defined in subdivision 212(7) of this title and permitted under this chapter and~~ in existence as of January 1, 2006, shall be allowed to pay a mitigation fee computed according to the provisions of subdivision (1) of this subsection, except that it shall be entitled to a ratio of 1:1, protected acres to acres of affected primary agricultural soil. If an industrial park is developed to the fullest extent before any expansion, this ratio shall apply to any contiguous expansion of such an industrial park that totals no more than 25 percent of the area of the park or no more than 10 acres, whichever is larger; provided any expansion based on percentage does not exceed 50 acres. Any expansion larger than that described in this subdivision shall be subject to the mitigation provisions of this subsection at ratios that depend upon the location of the expansion.

~~(B) In any application to a district commission for expansion of District Commission to amend a permit for an existing industrial park, compact development patterns shall be encouraged that assure the most efficient and full use of land and the realization of maximum economic development potential through appropriate densities, taking into account any~~

~~long-term needs for project expansion within the industrial park shall be allowed consistent with all applicable criteria of subsection 6086(a) of this title. Industrial park expansions and industrial park infill shall not be subject to requirements established in subdivision 6086(a)(9)(B)(iii) of this title, nor to requirements established in subdivision 6086(a)(9)(C)(iii).~~

~~(B) In any application to a district commission for expansion of District Commission to amend a permit for an existing industrial park, compact development patterns shall be encouraged that assure the most efficient and full use of land and the realization of maximum economic development potential through appropriate densities shall be allowed consistent with all applicable criteria of subsection 6086(a) of this title. Industrial park expansions and industrial park infill shall not be subject to requirements established in subdivision 6086(a)(9)(B)(iii) of this title, nor to requirements established in subdivision 6086(a)(9)(C)(iii).~~

~~*** Affordable Housing ***~~

~~Sec. 19. 10 V.S.A. § 6001 is amended to read:~~

~~§ 6001. DEFINITIONS~~

~~In this chapter:~~

~~***~~

~~(3)(A) "Development" means each of the following:~~

~~***~~

~~(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or trailer mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:~~

~~(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:~~

~~(aa) 275 or more, in a municipality with a population of 15,000 or more;~~

~~(bb) 150 or more, in a municipality with a population of 10,000 or more but less than 15,000;~~

~~(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000.~~

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000;

(ee) 25 or more, in a municipality with a population of less than 3,000; and

(ff) notwithstanding subdivisions (aa) through (ee) of this subdivision (iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have no adverse effect; no adverse effect provided that specified conditions are met; or will have an adverse effect but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

~~(B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing or mixed use, or any combination thereof, and is located entirely within a growth center designated pursuant to 24 V.S.A. 2793e or entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, “development” means:~~

~~(I) Construction of mixed income housing with 200 or more housing units or a mixed use project with 200 or more housing units, in a municipality with a population of 15,000 or more.~~

~~(II) Construction of mixed income housing with 100 or more housing units or a mixed use project with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.~~

~~(III) Construction of mixed income housing with 50 or more housing units or a mixed use project with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.~~

~~(IV) Construction of mixed income housing with 30 or more housing units or a mixed use project with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.~~

~~(V) Construction of mixed income housing with 25 or more housing units or a mixed use project with 25 or more housing units, in a municipality with a population of less than 3,000.~~

~~(VI) Historic Buildings. Construction of 10 or more units of mixed income housing or a mixed use project with 10 or more housing units where if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or, will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.~~

~~(ii) Mixed Income Housing Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing and is located entirely within a Vermont neighborhood designated pursuant to 24 V.S.A. § 2793d or a neighborhood development area as defined in 24 V.S.A. § 2791(16), "development" means:~~

~~(I) Construction of mixed income housing with 200 or more housing units, in a municipality with a population of 15,000 or more.~~

~~(II) Construction of mixed income housing with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.~~

~~(III) Construction of mixed income housing with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.~~

~~(IV) Construction of mixed income housing with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.~~

~~(V) Construction of mixed income housing with 25 or more housing units, in a municipality with a population of less than 3,000.~~

~~(VI) Historic Buildings. Construction of 10 or more units of mixed income housing where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have: no~~

~~adverse effect; no adverse effect provided that specified conditions are met; or will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document. [Repealed.]~~

~~(C) For the purposes of determining jurisdiction under subdivisions subdivision (3)(A) and (3)(B) of this section, the following shall apply:~~

~~(i) Incentive for Growth Inside Designated Areas. Notwithstanding subdivision (3)(A)(iv) of this section, housing units constructed by a person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area shall not be counted to determine jurisdiction over housing units constructed by that person entirely within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area. [Repealed.]~~

~~(ii) Five Year, Five Mile Radius Jurisdiction Analysis. Within any continuous period of five years, housing units constructed by a person entirely within a designated downtown district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area shall be counted together with housing units constructed by that person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area to determine jurisdiction over the housing units constructed by a person partially or completely outside the designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area and within a five mile radius in accordance with subdivision (3)(A)(iv) of this section. [Repealed.]~~

~~(iii) Discrete Housing Projects in Designated Areas and Exclusive Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19) of this section, jurisdiction shall be determined exclusively by counting housing units constructed by a person within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area, provided that the housing units are part of a discrete project located on a single tract or multiple contiguous tracts of land. [Repealed.]~~

* * *

~~(27) “Mixed income housing” means a housing project in which the following apply:~~

(A) *Owner-occupied housing.* At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) *at least 15 percent of the housing units have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or*

(ii) *at least 20 percent of the housing units have a purchase price which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency;*

(B) ~~*Affordable Rental Housing.* At least 20 percent of the housing units that is are rented by the occupants whose gross annual household income does not exceed 60 percent of the county median income, or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development for use with the Housing Credit Program under Section 42(g) of the Internal Revenue Code, and the total annual cost of the housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the gross annual household income as defined at Section 42(g)(2)(C), and with constitute affordable housing and have a duration of affordability of no less than 20 years.~~

(28) *“Mixed use” means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. “Mixed use” does not include industrial use.*

(29) *“Affordable housing” means either of the following:*

(A) *Housing that is owned by its occupants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees, is not more than 30 percent of the gross annual household income.*

(B) *Housing that is rented by the occupants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States*

Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the gross annual household income.

* * *

(36) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

* * *

** * * Credit Facility for Vermont Clean Energy Loan Fund * * **

Sec. 20. 2013 Acts and Resolves No. 87, Sec. 8 is amended to read:

Sec. 8. INVESTMENT OF STATE MONIES

The Treasurer is hereby authorized to establish a ~~short term~~ credit facility for the benefit of the Vermont Economic Development Authority in an amount of up to \$10,000,000.00.

** * * Licensed Lender Requirements; Exemption for De Minimis Lending Activity * * **

Sec. 21. 8 V.S.A. § 2201 is amended to read:

2201. LICENSES REQUIRED

(a) No person shall without first obtaining a license under this chapter from the ~~commissioner~~ Commissioner:

(1) engage in the business of making loans of money, credit, goods, or things in action and charge, contract for, or receive on any such loan interest, a finance charge, discount, or consideration ~~therefore~~ therefor;

(2) act as a mortgage broker;

(3) engage in the business of a mortgage loan originator; or

(4) act as a sales finance company.

(b) Each licensed mortgage loan originator must register with and maintain a valid unique identifier with the Nationwide Mortgage Licensing System and Registry and must be either:

(1) *an employee actively employed at a licensed location of, and supervised and sponsored by, only one licensed lender or licensed mortgage broker operating in this ~~state~~ State;*

(2) *an individual sole proprietor who is also a licensed lender or licensed mortgage broker; or*

(3) *an employee engaged in loan modifications employed at a licensed location of, and supervised and sponsored by, only one third-party loan servicer licensed to operate in this ~~state~~ State pursuant to chapter 85 of this title. ~~For purposes of~~ As used in this subsection, “loan modification” means an adjustment or compromise of an existing residential mortgage loan. The term “loan modification” does not include a refinancing transaction.*

(c) *A person licensed pursuant to subdivision (a)(1) of this section may engage in mortgage brokerage and sales finance if such person informs the ~~commissioner~~ Commissioner in advance that he or she intends to engage in sales finance and mortgage brokerage. Such person shall inform the ~~commissioner~~ Commissioner of his or her intention on the original license application under section 2202 of this title, any renewal application under section 2209 of this title, or pursuant to section 2208 of this title, and shall pay the applicable fees required by subsection 2202(b) of this title for a mortgage broker license or sales finance company license.*

(d) *No lender license, mortgage broker license, or sales finance company license shall be required of:*

(1) *a ~~state~~ State agency, political subdivision, or other public instrumentality of the ~~state~~ State;*

(2) *a federal agency or other public instrumentality of the United States;*

(3) *a gas or electric utility subject to the jurisdiction of the ~~public service board~~ Public Service Board engaging in energy conservation or safety loans;*

(4) *a depository institution or a financial institution as defined in 8 V.S.A. § 11101(32);*

(5) *a pawnbroker;*

(6) *an insurance company;*

(7) *a seller of goods or services that finances the sale of such goods or services, other than a residential mortgage loan;*

(8) *any individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual’s residence, including a vacation home, or inherited property that served as the deceased’s*

dwelling, provided that the individual does not act as a mortgage loan originator or provide financing for such sales so frequently and under such circumstances that it constitutes a habitual activity and acting in a commercial context;

(9) lenders that conduct their lending activities, other than residential mortgage loan activities, through revolving loan funds, that are nonprofit organizations exempt from taxation under Section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c), and that register with the ~~commissioner of economic development~~ Commissioner of Economic Development under 10 V.S.A. § 690a;

(10) persons who lend, other than residential mortgage loans, an aggregate of less than \$75,000.00 in any one year at rates of interest of no more than 12 percent per annum;

(11) a seller who, pursuant to 9 V.S.A. § 2355(f)(1)(D), includes the amount paid or to be paid by the seller to discharge a security interest, lien interest, or lease interest on the traded-in motor vehicle in a motor vehicle retail installment sales contract, provided that the contract is purchased, assigned, or otherwise acquired by a sales finance company licensed pursuant to this title to purchase motor vehicle retail installment sales contracts or a depository institution;

(12)(A) a person making an unsecured commercial loan, which loan is expressly subordinate to the prior payment of all senior indebtedness of the commercial borrower regardless of whether such senior indebtedness exists at the time of the loan or arises thereafter. The loan may or may not include the right to convert all or a portion of the amount due on the loan to an equity interest in the commercial borrower;

(B) ~~for purposes of~~ as used in this subdivision (12), “senior indebtedness” means:

(i) all indebtedness of the commercial borrower for money borrowed from depository institutions, trust companies, insurance companies, and licensed lenders, and any guarantee thereof; and

(ii) any other indebtedness of the commercial borrower that the lender and the commercial borrower agree shall constitute senior indebtedness;

(13) 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 Division of the Superior Court;

(14) any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(15) a housing finance agency;

(16) a person who makes no more than three mortgage loans in any consecutive three-year period beginning on or after July 1, 2011.

(e) No mortgage loan originator license shall be required of:

(1) Registered mortgage loan originators, when employed by and acting for an entity described in subdivision 2200(22) of this chapter.

(2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.

(3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence, including a vacation home, or inherited property that served as the deceased's dwelling, provided that the individual does not act as a mortgage loan originator or provide financing for such sales so frequently and under such circumstances that it constitutes a habitual activity and acting in a commercial context.

(4) An individual who is an employee of a federal, ~~state~~ State, or local government agency, or an employee of a housing finance agency, who acts as a mortgage loan originator only pursuant to his or her official duties as an employee of the federal, ~~state~~ State, or local government agency or housing finance agency.

(5) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator. To the extent an attorney licensed in this State undertakes activities that are covered by the definition of a mortgage loan originator, such activities do not constitute engaging in the business of a mortgage loan originator, provided that:

(A) such activities are considered by the State governing body responsible for regulating the practice of law to be part of the authorized practice of law within this State;

(B) such activities are carried out within an attorney-client relationship; and

(C) the attorney carries them out in compliance with all applicable laws, rules, ethics, and standards.

(6) A person who makes no more than three mortgage loans in any consecutive three-year period beginning on or after July 1, 2011

(f) If a person who offers or negotiates the terms of a mortgage loan is exempt from licensure pursuant to subdivision (d)(16) or (e)(6) of this section, there is a rebuttable presumption that he or she is not engaged in the business of making loans or being a mortgage loan originator.

(g) Independent contractor loan processors or underwriters. A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a mortgage loan originator license. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(g)(h) This chapter shall not apply to commercial loans of \$1,000,000.00 or more.

** * * Workforce Education and Training * * **

Sec. 22. 10 V.S.A. § 545 is added to read:

§ 545. WORKFORCE EDUCATION AND TRAINING LEADER

~~*(a) The Commissioner of Labor shall have the authority to create one full-time position of Workforce Education and Training Leader within the Department.*~~

(a) The Commissioner of Labor shall have the authority to designate one existing full-time position within the Department as "Workforce Education and Training Leader."

(b) The Workforce Leader shall have primary authority within State government to conduct an inventory of the workforce education and training activities throughout the State both within State government agencies and departments that perform those activities and with State partners who perform those activities with State funding, and to coordinate those activities to ensure an integrated workforce education and training system throughout the State.

(c) In conducting the inventory pursuant to subsection (b) of this section, the Workforce Leader shall design and implement a stakeholder engagement process that brings together employers with potential employees, including students, the unemployed, and incumbent employees seeking further training.

(d) Notwithstanding any provision of State law to the contrary, and to the fullest extent allowed under federal law, the Leader shall ensure that in each State and State-funded workforce education and training program, the program administrator collects and reports individual data and outcomes at the individual level by Social Security Number or equivalent.

Sec. 23. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

On or before January 15, 2015, the Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that details the internship opportunities available to Vermonters between 15 and 18 years of age and recommends one or more means to expand these opportunities through the Vermont Career Internship Program, 10 V.S.A. § 544, or through other appropriate mechanisms.

** * * Vermont Strong Scholars Program * * **

Sec. 24. 16 V.S.A. chapter 90 is redesignated to read:

*CHAPTER 90. FUNDING OF POSTSECONDARY INSTITUTIONS
EDUCATION*

Sec. 25. 16 V.S.A. § 2888 is added to read:

§ 2888. VERMONT STRONG SCHOLARS PROGRAM

(a) Program creation. There is created a postsecondary loan forgiveness program to be known as the Vermont Strong Scholars Program designed to forgive a portion of Vermont Student Assistance Corporation (the Corporation) loans in order to encourage Vermonters to select majors that prepare them for jobs that are critical to the Vermont economy, to enroll and remain enrolled in a Vermont postsecondary institution, and to live in Vermont upon graduation.

(b) Academic majors; projections.

(1) Annually, on or before November 15, the Secretary of Commerce and Community Development (the Secretary), in consultation with the Vermont State Colleges, the University of Vermont, the Corporation, the Commissioner of Labor, and the Secretary of Education, shall identify eligible postsecondary majors, projecting at least four years into the future, that:

(A) are offered by the Vermont State Colleges, the University of Vermont, or Vermont independent colleges (the eligible institutions); and

(B) lead to jobs the Secretary has identified as critical to the Vermont economy.

(2) The Secretary shall prioritize the identified majors and shall select a similar number of associate's degree and bachelor's degree programs. A major shall be identified as eligible for this Program for no less than two years.

(3) Based upon the identified majors, the Secretary of Administration shall annually provide the General Assembly with the estimated cost of the Corporation's loan forgiveness awards under the Program during the then-current fiscal year and each of the four following fiscal years.

(c) Eligibility. An individual shall be eligible for loan forgiveness under this section if he or she:

(1) was classified as a Vermont resident by the eligible institution from which he or she was graduated;

(2) is a graduate of an eligible institution;

(3) shall not hold a prior bachelor's degree;

(4) was awarded an associate's or bachelor's degree in a field identified pursuant to subsection (b) of this section;

(5) completed the associate's degree within three years or the bachelor's degree within five years;

(6) is employed in Vermont in a field or specific position closely related to the identified degree during the period of loan forgiveness; and

(7) is a Vermont resident throughout the period of loan forgiveness.

(d) Loan forgiveness.

(1) An eligible individual shall have his or her postsecondary loan from the Corporation forgiven as follows:

(A) for an individual awarded an associate's degree by an eligible institution, in an amount equal to the tuition rate for 15 credits at the Community College of Vermont during the individual's final semester of enrollment, to be prorated over the three years following graduation; and

(B) for an individual awarded a bachelor's degree by an eligible institution, in an amount equal to the in-state tuition rate at the Vermont State Colleges during the individual's final year of enrollment, to be prorated over the five years following graduation;

(2) Loan forgiveness may be awarded on a prorated basis to an otherwise eligible Vermont resident who transfers to and is graduated from an eligible institution.

(e) Program management and funding. The Secretary shall develop all organizational details of the Program consistent with the purposes and requirements of this section, including the identification of eligible major programs and eligible jobs. The Secretary may contract with the Corporation for management of the Program. The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the Program. The availability and payment of loan forgiveness awards under this section are subject to funding available to the Corporation for the awards.

(f) Fund creation.

(1) There is created a special fund to be known as the Vermont Strong Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund shall be used and administered solely for the purposes of this section. ~~The Secretary may draw warrants for disbursements from the Fund in anticipation of receipts.~~ Any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

(2) The Fund shall consist of sums to be identified by the Secretary from any source accepted for the benefit of the Fund and interest earned from the investment of Fund balances.

Sec. 25a. VERMONT PRODUCTS PROGRAM; STUDY; REPORT

(a) On or before September 1, 2015, the Agency of Commerce and Community Development, after consulting with appropriate stakeholders, shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development on creating a Vermont Products Program for the purpose of providing Vermont businesses with a means of promoting and marketing products and services that are manufactured, designed, engineered, or formulated in Vermont and avoiding confusion by consumers when the Vermont brand is used in marketing products or services.

(b) The report required by this section shall describe the method, feasibility, and cost of creating a Vermont Products Program that includes the following elements:

(1) The program shall include a licensing system that enables qualifying persons to make marketing claims concerning significant business activities occurring in Vermont, and to self-certify products and services that are manufactured, designed, engineered, or formulated in Vermont. Under this system, the Secretary shall identify and craft branding and marketing guidelines that concern whether and how qualifying products or services manufactured, designed, engineered, or formulated in Vermont can be properly claimed so as to be licensed. The licensing system shall permit an

applicant to self-certify compliance with designated criteria and attest to the accuracy of claims authorized by the Secretary in order to obtain a license to advertise and promote a product or service using the licensed materials.

(2) The program may charge an annual fee for the issuance of the license.

(3) The program shall include an on-line application process that permits an applicant to obtain the license if he or she certifies compliance with criteria designated by the Secretary, attests to the accuracy of statements designated by the Secretary, and pays the required fee.

(4) Licenses issued under the program shall include a provision requiring that disputes regarding the license be resolved by alternative dispute resolution. A person who objects to the issuance of a license may file a complaint with the Secretary, who shall refer it for alternative dispute resolution as provided in the license.

(5) A special fund, comprising license fees and any monies appropriated by the General Assembly, may be created for the administration and advertising of the program.

(c) The report required by this section shall include a recommendation as to whether the Vermont Products Program should replace the rules regarding Vermont Origin adopted by the Attorney General.

~~Sec. 25.~~ Sec. 26. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any other provision of law to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer for purposes established by the Treasurer's Local Investment Advisory Committee.

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer prior to or subsequent to the effective date of this section, and the renewal or replacement of those credit facilities.

~~Sec. 26.~~ Sec. 27. TREASURER'S LOCAL INVESTMENT ADVISORY COMMITTEE; REPORT

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee (Advisory Committee) is established to advise the Treasurer on funding priorities and address other mechanisms to increase local investment.

(b) Membership.

(1) The Advisory Committee shall be composed of six members as follows:

(A) the State Treasurer or designee;

(B) the Chief Executive Officer of the Vermont Economic Development Authority or designee;

(C) the Chief Executive Officer of the Vermont Student Assistance Corporation or designee;

(D) the Executive Director of the Vermont Housing Finance Agency or designee;

(E) the Director of the Municipal Bond Bank or designee; and

(F) the Director of Efficiency Vermont or designee.

(2) The State Treasurer shall be the Chair of the Advisory Committee and shall appoint a vice chair and secretary. The appointed members of the Advisory Committee shall be appointed for terms of six years and shall serve until their successors are appointed and qualified.

(c) Powers and duties. The Advisory Committee shall:

(1) meet regularly to review and make recommendations to the State Treasurer on funding priorities and using other mechanisms to increase local investment in the State of Vermont;

(2) invite regularly State organizations and citizens groups to Advisory Committee meetings to present information on needs for local investment, capital gaps, and proposals for financing; and

(3) consult with constituents and review feedback on changes and needs in the local and State investment and financing environments.

(d) Meetings. The Advisory Committee shall meet no more than six times per calendar year. The meetings shall be convened by the State Treasurer.

(e) Report. On or before January 15, 2015, and annually thereafter, the Advisory Committee shall submit a report to the Senate Committees on Finance and on Government Operations and the House Committees on Ways and Means and on Government Operations. The report shall include the following:

(1) the amount of the subsidies associated with lending through each credit facility authorized by the General Assembly and established by the Treasurer;

(2) a description of the Advisory Committee's activities; and

(3) any information gathered by the Advisory Committee on the State's unmet capital needs, and other opportunities for State support for local investment and the community.

(f) It is the intent of the General Assembly that the Advisory Committee report described in subsection (e) of this section that is due on or before January 15, 2015 shall include a recommendation on whether to grant statutory authority to the Vermont Economic Development Authority to engage in banking activities.

~~*** Effective Date ***~~

~~Sec. 26. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2014.~~

~~Sec. 26.~~ Sec. 28. VERMONT STRONG INTERIM REPORT

On or before November 1, 2014, the Secretary of Commerce and Community Development shall report to the Joint Fiscal Committee on the organizational and economic details of the Vermont Strong Scholars Program, and specifically on the majors selected for forgiveness and the projected annual cost, the proposed funding source, and the projected fund balance for each fiscal year through fiscal year 2018.

~~Sec. 27.~~ Sec. 29. EFFECTIVE DATES

This act shall take effect on July 1, 2014, except that 16 V.S.A. § 2888(d) in Sec. 25 shall take effect on July 1, 2015.