

1 H.645

2 Representatives Botzow of Pownal and Marcotte of Coventry move that the
3 House concur in the Senate proposal of amendment and that the bill be further
4 amended by striking out all after the enacting clause and inserting in lieu
5 thereof the following:

6 * * * One-Stop Business Support Services * * *

7 Sec. 1. ONE-STOP SHOP WEB PORTAL

8 (a) Purpose. The State of Vermont seeks to simplify and expedite the
9 process for business creation and growth by providing:

10 (1) a clear guide to resources and technical assistance for all phases of
11 business development;

12 (2) a directory of financial assistance, including grants, funding capital,
13 tax credits, and incentives;

14 (3) a directory of workforce development assistance, including
15 recruiting, job postings, and training;

16 (4) a link to centralized business services available from the Secretary of
17 State, the Department of Labor, the Department of Taxes, and others; and

18 (5) agency contacts and links for available services and resources.

19 (b) Administration. On or before June 30, 2015, the Secretary of State, the
20 Department of Taxes, the Department of Labor, the Vermont Attorney
21 General, the Agency of Commerce and Community Development, and the

1 Agency of Administration shall coordinate with other relevant agencies and
2 departments within State government and outside partners, including regional
3 development corporations, regional planning commissions, and small business
4 development centers, to provide comprehensive business services, regional
5 coaching teams, print materials, other outreach, and a “One-Stop Shop”
6 website.

7 (c) On or before January 15, 2015, the Secretary of State and partners shall
8 report to the Senate Committee on Economic Development, Housing and
9 General Affairs and the House Committee on Commerce and Economic
10 Development to inform the committees of the status of the project and a
11 timeline for its completion.

12 Secs. 2–3. RESERVED

13 * * * Vermont Economic Development Authority * * *

14 Sec. 4. 10 V.S.A. chapter 12 is amended to read:

15 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

16 AUTHORITY

17 * * *

18 Subchapter 12. ~~Technology Loan~~ Vermont Entrepreneurial Lending

19 Program

1 § 280aa. FINDINGS AND PURPOSE

2 (a)(1) ~~Technology-based companies~~ Vermont-based businesses in seed,
3 start-up, and growth stages are a vital source of innovation, employment, and
4 economic growth in Vermont. The continued development and success of ~~this~~
5 ~~increasingly important sector of Vermont's economy~~ these businesses is
6 dependent upon the availability of flexible, risk-based capital.

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

13 (b) To support the growth of ~~technology-based companies~~ Vermont-based
14 businesses in seed, start-up, and growth stages and the resultant creation of
15 ~~high-wage~~ higher wage employment in Vermont, a ~~technology loan program is~~
16 ~~established under this subchapter~~ the General Assembly hereby creates in this
17 subchapter the Vermont Entrepreneurial Lending Program.

18 § 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL
19 LENDING PROGRAM

20 (a) There is created a ~~technology (TECH) loan program~~ the Vermont
21 Entrepreneurial Lending Program to be administered by the Vermont ~~economic~~

1 ~~development authority~~ Economic Development Authority. The ~~program~~
2 Program shall seek to meet the working capital and capital-asset financing
3 needs of ~~technology-based companies~~ Vermont-based businesses in seed, start-
4 up, and growth stages. The Program shall specifically seek to fulfill capital
5 requirement needs that are unmet in Vermont, including:

6 (1) loans up to \$100,000.00 to manufacturing businesses and software
7 developers with innovative products that typically reflect long-term, organic
8 growth;

9 (2) loans up to \$1,000,000.00 in growth-stage companies who do not
10 meet the underwriting criteria of other public and private entrepreneurial
11 financing sources; and

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

15 (b) The ~~economic development authority~~ Authority shall establish such
16 adopt regulations, policies, and procedures for the ~~program~~ Program as are
17 necessary to carry out the purposes of this subchapter. The authority's lending
18 criteria shall include consideration of in-state competition and whether a
19 company has made reasonable efforts to secure capital in the private sector
20 increase the amount of investment funds available to Vermont businesses
21 whose capital requirements are not being met by conventional lending sources.

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

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

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

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

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

16 (d) The Authority shall include provisions in the terms of an loan made
17 under the Program to ensure that a loan recipient shall maintain operations
18 within the State for a minimum of five years from the date on which the
19 recipient receives the loan funds from the Authority or shall otherwise be
20 required to repay the outstanding funds in full.

21 * * *

1 Sec. 5. VERMONT ENTREPRENEURIAL LENDING PROGRAM; LOAN
2 LOSS RESERVE FUNDS; CAPITALIZATION

3 (a) The Vermont Economic Development Authority shall capitalize loan
4 loss reserves for the Vermont Entrepreneurial Lending Program created in
5 10 V.S.A. § 280bb with the following funding from the following sources:

6 (1) up to \$1,000,000.00 from Authority funds or eligible federal funds
7 currently administered by the Authority; and

8 (2) any fiscal year 2014 or fiscal year 2015 funds, or both, appropriated
9 or authorized by the General Assembly.

10 (b) The Authority shall use the funds in subsection (a) of this section solely
11 for the purpose of establishing and maintaining loan loss reserves to guarantee
12 loans made pursuant to 10 V.S.A. § 280bb.

13 Sec. 6. 10 V.S.A. chapter 16A is amended to read:

14 CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM
15 § 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT
16 PROGRAM

17 * * *

18 (b) No borrower shall be approved for a loan from the corporation that
19 would result in the aggregate principal balances outstanding of all loans to that
20 borrower exceeding the then-current maximum Farm Service Agency loan
21 guarantee limits, or \$2,000,000.00, whichever is greater.

1 § 374b. DEFINITIONS

2 As used in this chapter:

3 (1) “Agricultural facility” means land and rights in land, buildings,
4 structures, machinery, and equipment which is used for, or will be used for
5 producing, processing, preparing, packaging, storing, distributing, marketing,
6 or transporting agricultural products which have been primarily produced in
7 this ~~state~~ State, and working capital reasonably required to operate an
8 agricultural facility.

9 (2) “Agricultural land” means real estate capable of supporting
10 commercial farming or forestry, or both.

11 (3) “Agricultural products” mean crops, livestock, forest products, and
12 other farm or forest commodities produced as a result of farming or forestry
13 activities.

14 (4) “Farm ownership loan” means a loan to acquire or enlarge a farm or
15 agricultural facility, to make capital improvements including construction,
16 purchase, and improvement of farm and agricultural facility buildings that can
17 be made fixtures to the real estate, to promote soil and water conservation and
18 protection, and to refinance indebtedness incurred for farm ownership or
19 operating loan purposes, or both.

20 (5) “Authority” means the Vermont ~~economic development authority~~
21 Economic Development Authority.

1 (6) “Cash flow” means, on an annual basis, all income, receipts, and
2 revenues of the applicant or borrower from all sources and all expenses of the
3 applicant or borrower, including all debt service and other expenses.

4 (7) “Farmer” means an individual directly engaged in the management
5 or operation of an agricultural facility or farm operation for whom the
6 agricultural facility or farm operation constitutes two or more of the following:

7 (A) is or is expected to become a significant source of the farmer’s
8 income;

9 (B) the majority of the farmer’s assets; and

10 (C) an occupation in which the farmer is actively engaged ~~in~~, either
11 on a seasonal or year-round basis.

12 (8) “Farm operation” shall mean the cultivation of land or other uses of
13 land for the production of food, fiber, horticultural, silvicultural, orchard,
14 maple syrup, Christmas trees, forest products, or forest crops; the raising,
15 boarding, and training of equines, and the raising of livestock; or any
16 combination of the foregoing activities. Farm operation also includes the
17 storage, preparation, retail sale, and transportation of agricultural or forest
18 commodities accessory to the cultivation or use of such land.

19 * * *

1 * * * Connecting Capital Providers and Entrepreneurs * * *

2 Sec. 7. NETWORKING INITIATIVES

3 (a) The Agency of Commerce and Community Development shall support
4 networking events offered by one or more regional economic development
5 providers designed to connect capital providers with one another or with
6 Vermont entrepreneurs, or both, and shall take steps to facilitate outreach and
7 matchmaking opportunities between investors and entrepreneurs.

8 (b) The Agency shall submit to the House Committee on Commerce and
9 Economic Development and to the Senate Committee on Economic
10 Development, Housing and General Affairs a report on or before January 15,
11 2015 concerning the structure of networking initiatives, the relevant provisions
12 of governing performance contracts, the benchmarks and measures of
13 performance, and the outcomes of and further recommendations for the
14 program.

15 * * * Downtown Tax Credits * * *

16 Sec. 8. 32 V.S.A. § 5930aa(3) is amended to read:

17 (3) “Qualified code or technology improvement project” means a
18 project:

19 (A)(i) ~~To~~ to install or improve platform lifts suitable for transporting
20 personal mobility devices, elevators, sprinkler systems, and capital
21 improvements in a qualified building, and the installations or improvements

1 are required to bring the building into compliance with the statutory
2 requirements and rules regarding fire prevention, life safety, and electrical,
3 plumbing, and accessibility codes as determined by the ~~department of public~~
4 ~~safety~~. Department of Public Safety; or

5 (ii) to install or improve data or network wiring, or heating,
6 ventilating, or cooling systems reasonably related to data or network
7 installations or improvements, in a qualified building, provided that a
8 professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the
9 fact and cost of the installation or improvement;

10 (B) ~~to~~ abate lead paint conditions or other substances hazardous to
11 human health or safety in a qualified building; or

12 (C) ~~to~~ redevelop a contaminated property in a designated
13 downtown or village center under a plan approved by the Secretary of Natural
14 Resources pursuant to 10 V.S.A. § 6615a.

15 Sec. 9. 32 V.S.A. § 5930aa(7) is amended to read:

16 (7) “Qualified project” means a qualified code or technology
17 improvement, qualified façade improvement, qualified technology
18 infrastructure project, or qualified historic rehabilitation project as defined by
19 this subchapter.

20 Sec. 10. 32 V.S.A. § 5930bb is amended to read:

21 § 5930bb. ELIGIBILITY AND ADMINISTRATION

1 (a) Qualified applicants may apply to the State Board to obtain the tax
2 credits provided by this subchapter for ~~qualified code improvement, façade~~
3 ~~improvement, or historic rehabilitation projects~~ a qualified project at any time
4 before one year after completion of the qualified project.

5 * * *

6 Sec. 11. 32 V.S.A. § 5930cc(c) is amended to read:

7 (c) Code or technology improvement tax credit. The qualified applicant of
8 a qualified code or technology improvement project shall be entitled, upon the
9 approval of the State Board, to claim against the taxpayer's State individual
10 income tax, State corporate income tax, or bank franchise or insurance
11 premiums tax liability a credit of 50 percent of qualified expenditures up to a
12 maximum tax credit of \$12,000.00 for installation or improvement of a
13 platform lift, a maximum tax credit of \$50,000.00 for installation or
14 improvement of an elevator, a maximum tax credit of \$50,000.00 for
15 installation or improvement of a sprinkler system, a maximum tax credit of
16 \$30,000.00 for the combined costs of installation or improvement of data or
17 network wiring or a heating, ventilating, or cooling system, and a maximum
18 tax credit of \$25,000.00 for the combined costs of all other qualified code
19 improvements.

1 Sec. 12. 30 V.S.A. § 218e is added to read:

2 § 218e. IMPLEMENTING STATE ENERGY POLICY;

3 MANUFACTURING

4 To give effect to the policies of section 202a of this title to provide reliable
5 and affordable energy and assure the State's economic vitality, it is critical to
6 retain and recruit manufacturing and other businesses and to consider the
7 impact on manufacturing and other businesses when issuing orders, adopting
8 rules, and making other decisions affecting the cost and reliability of electricity
9 and other fuels. Implementation of the State's energy policy should:

10 (1) encourage recruitment and retention of employers providing
11 high-quality jobs and related economic investment and support the State's
12 economic welfare; and

13 (2) appropriately balance the objectives of this section with the other
14 policy goals and criteria established in this title.

15 Sec. 13. INVESTIGATION; ELECTRICITY COSTS; MANUFACTURING

16 (a) The Commissioner of Public Service and the Secretary of Commerce
17 and Community Development, in consultation with the Public Service Board, a
18 private organization that represents the interests of manufacturers, a
19 cooperative electric company, an efficiency utility, a shareholder-owned
20 utility, the Vermont Public Power Supply Authority (VPPSA), a municipal
21 utility that is not a member of VPPSA, and the Vermont Electric Power

1 Company (VELCO), shall conduct an investigation of how best to advance the
2 public good through consideration of the competitiveness of Vermont's
3 industrial or manufacturing businesses with regard to electricity costs.

4 (b) In conducting the investigation required by this section, the
5 Commissioner and Secretary shall consider:

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

9 (2) with regard to the energy efficiency programs established under
10 30 V.S.A. § 209, potential changes to their delivery, funding, financing, and
11 participation requirements;

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

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

18 (5) any other programs or policies the Commissioner and the Secretary
19 deem relevant;

20 (6) whether and to what extent any programs or policies considered by
21 the Commissioner and the Secretary under this section would impose cost

1 shifts onto other customers, result in stranded costs (costs that cannot be
2 recovered by a regulated utility due to a change in regulatory structure or
3 policy), or conflict with renewable energy requirements in Vermont and, if so,
4 whether such programs or policies would nonetheless promote the public good;

5 (7) whether and to what extent costs have shifted to residential and
6 business ratepayers following the loss of large utility users, and potential
7 scenarios for additional cost shifts of this type; and

8 (8) the potential benefits and potential cost shift to residential and
9 business ratepayers if a large utility user undertakes efficiency measures and
10 thereby reduces its share of fixed utility costs.

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

14 (1) consumer and business advocacy groups;

15 (2) regional development corporations and regional planning
16 commissions; and

17 (3) any other person or entity as determined by the Commissioner and
18 Secretary.

19 (d) On or before December 15, 2014, the Commissioner and Secretary shall
20 provide a status report to the General Assembly of its findings and
21 recommendations regarding regulatory or statutory changes that would reduce

1 energy costs for Vermont businesses and promote the public good. On or
2 before December 15, 2015, the Commissioner and Secretary shall provide a
3 final report to the General Assembly of such findings and recommendations.

4 * * * Domestic Export Program * * *

5 Sec. 14. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT
6 AGRICULTURE AND FOREST PRODUCTS

7 (a) The Secretary of Agriculture, Food and Markets, in collaboration with
8 the Agency of Commerce and Community Development and the Chief
9 Marketing Officer, shall, subject to available funding, create a Domestic
10 Export Program Pilot Project within the “Made in Vermont” designation
11 program, the purpose of which shall be to:

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

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

17 (3) provide one-time matching grants of up to \$2,000.00 per business to
18 attend trade shows and similar events to expand producers’ market presence in
19 other U.S. states, subject to available funding.

20 (b) The Secretary shall collect data on the activities and outcomes of the
21 pilot project authorized under this section and shall report his or her findings

1 and recommendations for further action on or before January 15, 2015, to the
2 House Committees on Agriculture and Forest Products and on Commerce and
3 Economic Development and to the Senate Committees on Agriculture and on
4 Economic Development, Housing and General Affairs.

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

6 Sec. 15. 13 V.S.A. chapter 87 is amended to read:

7 CHAPTER 87. COMPUTER CRIMES

8 * * *

9 § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

18 (2) if the damage or loss does not exceed \$500.00 for a second or
19 subsequent offense, imprisoned not more than two years or fined not more than
20 ~~\$1,000.00~~ \$10,000.00, or both; or

1 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
2 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

3 § 4105. THEFT OR DESTRUCTION

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

9 (2) Copying a commercially available computer program or computer
10 software is not a crime under this section, provided that the computer program
11 and computer software has a retail value of \$500.00 or less and is not copied
12 for resale.

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

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

17 (2) if the damage or loss does not exceed \$500.00 for a second or
18 subsequent offense, imprisoned not more than two years or fined not more than
19 ~~\$1,000.00~~ \$10,000.00, or both; or

20 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
21 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

1 § 4106. CIVIL LIABILITY

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

5 * * *

6 * * * Statute of Limitations to Commence Action

7 for Misappropriation of Trade Secrets * * *

8 Sec. 16. 12 V.S.A. § 523 is amended to read:

9 § 523. TRADE SECRETS

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

15 * * * Protection of Trade Secrets * * *

16 Sec. 17. 9 V.S.A. chapter 143 is amended to read:

17 CHAPTER 143. TRADE SECRETS

18 § 4601. DEFINITIONS

19 As used in this chapter:

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

4 (2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

9 § 4602. INJUNCTIVE RELIEF

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

16 (b) In exceptional circumstances, an injunction may condition future use
17 upon payment of a reasonable royalty for no longer than the period of time for
18 which use could have been prohibited. Exceptional circumstances include, ~~but~~
19 ~~are not limited to~~, a material and prejudicial change of position prior to
20 acquiring knowledge or reason to know of misappropriation that renders a
21 prohibitive injunction inequitable.

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

3 § 4603. DAMAGES

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

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

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

15 (4) A court shall award a substantially prevailing party his or her costs
16 and fees, including reasonable attorney's fees, in an action brought pursuant to
17 this chapter.

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

20 § 4605. PRESERVATION OF SECRECY

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

7 § 4607. EFFECT ON OTHER LAW

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

11 (b) This chapter does not affect:

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

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

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

18 * * *

19 * * * Intellectual Property; Businesses and Government Contracting * * *

1 Sec. 18. 3 V.S.A. § 346 is added to read:

2 § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

3 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

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

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

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

18 * * * Department of Financial Regulation * * *

19 Sec. 19. SMALL BUSINESS ACCESS TO CAPITAL

20 (a) Crowdfunding study. The Department of Financial Regulation shall
21 study the opportunities and limitations for crowdfunding to increase access to

1 capital for Vermont’s small businesses. On or before January 15, 2015, the
2 Department shall report its findings and recommendations to the House
3 Committee on Commerce and Economic Development and the Senate
4 Committee on Economic Development, Housing and General Affairs.

5 (b) Small business issuer education and outreach. On or before January 15,
6 2015, the Department of Financial Regulation shall conduct at least two
7 educational events to inform the legal, small business, and investor
8 communities and other interested parties, of opportunities for small businesses
9 to access capital in Vermont, including, the Vermont Small Business Offering
10 Exemption regulation and other securities registration exemptions.

11 (c) Vermont Small Business Offering Exemption. The Commissioner of
12 Financial Regulation shall exercise his or her rulemaking authority under
13 9 V.S.A. chapter 150 to review and revise the Vermont Small Business
14 Offering Exemption and any other state securities exemptions, specifically
15 including those designed to complement exemptions from federal registration
16 requirements available under Regulation D, in order to recognize and reflect
17 the evolution of capital markets and to ensure that Vermont remains current
18 and competitive in its securities regulations, particularly with respect to access
19 to capital for small businesses.

20 Sec. 20. STUDY; DEPARTMENT OF FINANCIAL REGULATION;
21 LICENSED LENDER REQUIREMENTS; COMMERCIAL

1 LENDERS

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

9 * * * Licensed Lender Requirements; Exemption for De Minimis

10 Lending Activity * * *

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

12 2201. LICENSES REQUIRED

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

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

18 (2) act as a mortgage broker;

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

20 (4) act as a sales finance company.

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

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

7 (2) ~~an~~ An individual sole proprietor who is also a licensed lender or
8 licensed mortgage broker; ~~or~~.

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

15 (c) A person licensed pursuant to subdivision (a)(1) of this section may
16 engage in mortgage brokerage and sales finance if such person informs the
17 ~~commissioner~~ Commissioner in advance that he or she intends to engage in
18 sales finance and mortgage brokerage. Such person shall inform the
19 ~~commissioner~~ Commissioner of his or her intention on the original license
20 application under section 2202 of this title, any renewal application under
21 section 2209 of this title, or pursuant to section 2208 of this title, and shall pay

1 the applicable fees required by subsection 2202(b) of this title for a mortgage
2 broker license or sales finance company license.

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

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

7 (2) ~~a~~ A federal agency or other public instrumentality of the United
8 States;

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

12 (4) ~~a~~ A depository institution or a financial institution as defined in
13 8 V.S.A. § 11101(32);

14 (5) ~~a~~ A pawnbroker;

15 (6) ~~an~~ An insurance company;

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

18 (8) ~~any~~ Any individual who offers or negotiates the terms of a
19 residential mortgage loan secured by a dwelling that served as the individual's
20 residence, including a vacation home, or inherited property that served as the
21 deceased's dwelling, provided that the individual does not act as a mortgage

1 loan originator or provide financing for such sales so frequently and under
2 such circumstances that it constitutes a habitual activity and acting in a
3 commercial context;

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

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

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

20 (12)(A) a A person making an unsecured commercial loan, which loan
21 is expressly subordinate to the prior payment of all senior indebtedness of the

1 commercial borrower regardless of whether such senior indebtedness exists at
2 the time of the loan or arises thereafter. The loan may or may not include the
3 right to convert all or a portion of the amount due on the loan to an equity
4 interest in the commercial borrower;

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

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

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

13 (13) ~~nonprofit~~ Nonprofit organizations established under testamentary
14 instruments, exempt from taxation under Section 501(c)(3) of the Internal
15 Revenue Code, 26 U.S.C. § 501(c)(3), and which make loans for
16 postsecondary educational costs to students and their parents, provided that the
17 organizations provide annual accountings to the Probate Division of the
18 Superior Court;

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

1 (15) a A housing finance agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 * * * Vermont State Treasurer; Credit Facilities; 10 Percent for Vermont * * *

11 Sec. 22. 2013 Acts and Resolves No. 87, Sec. 8 is amended to read:

12 Sec. 8. INVESTMENT OF STATE MONIES

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

16 Sec. 23. VERMONT STATE TREASURER; CREDIT FACILITY FOR

17 LOCAL INVESTMENTS

18 (a) Notwithstanding any other provision of law to the contrary, the
19 Vermont State Treasurer shall have the authority to establish a credit facility of
20 up to 10 percent of the State's average cash balance on terms acceptable to the

1 Treasurer consistent with the provisions of the Uniform Prudent Investor Act,
2 14A V.S.A. chapter 9.

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

7 Sec. 24. TREASURER'S LOCAL INVESTMENT ADVISORY
8 COMMITTEE; REPORT

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

12 (b) Membership.

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

15 (A) the State Treasurer or designee;

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

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

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

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

2 (F) the Director of Efficiency Vermont or designee.

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

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

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

11 (2) invite regularly State organizations, citizens groups, and members of
12 the public to Advisory Committee meetings to present information on needs
13 for local investment, capital gaps, and proposals for financing; and

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

16 (d) Meetings.

17 (1) Meetings of the Advisory Committee shall occur at the call of the
18 Treasurer.

19 (2) A majority of the members of the Advisory Committee who are
20 physically present at the same location or available electronically shall
21 constitute a quorum, and a member may participate and vote electronically.

1 (3) To be effective, action of the Advisory Committee shall be taken by
2 majority vote of the members at a meeting in which a quorum is present.

3 (e) Report. On or before January 15, 2015, and annually thereafter, the
4 Advisory Committee shall submit a report to the Senate Committees on
5 Appropriations, on Economic Development, Housing and General Affairs, on
6 Finance, and on Government Operations and the House Committees on
7 Appropriations, on Commerce and Economic Development, on Ways and
8 Means, and on Government Operations. The report shall include the
9 following:

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

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

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

17 Sec. 25. SUNSET

18 Secs. 23–24 of this act shall be repealed on July 1, 2015.

19 Sec. 26. 9 V.S.A. § 2481w is amended to read:

20 § 2481w. UNLICENSED LOAN TRANSACTIONS

21 (a) In this subchapter:

1 (1) “Financial account” means a checking, savings, share, stored value,
2 prepaid, payroll card, or other depository account.

3 (2) “Lender” means a person engaged in the business of making loans of
4 money, credit, goods, or things in action and charging, contracting for, or
5 receiving on any such loan interest, a finance charge, a discount, or
6 consideration.

7 (3) “Process” or “processing” includes printing a check, draft, or other
8 form of negotiable instrument drawn on or debited against a consumer’s
9 financial account, formatting or transferring data for use in connection with the
10 debiting of a consumer’s financial account by means of such an instrument or
11 an electronic funds transfer, or arranging for such services to be provided to a
12 lender.

13 (4) “Processor” means a person who engages in processing, as defined
14 in subdivision (3) of this subsection. In this section, “processor” does not
15 include an interbank clearinghouse.

16 (5) “Interbank clearinghouse” means a person that operates an exchange
17 of automated clearinghouse items, checks, or check images solely between
18 insured depository institutions.

19 (b) It is an unfair and deceptive act and practice in commerce for a lender
20 directly or through an agent to solicit or make a loan to a consumer by any
21 means unless the lender is in compliance with all provisions of 8 V.S.A.

1 chapter 73 or is otherwise exempt from the requirements of 8 V.S.A.

2 chapter 73.

3 (c) It is an unfair and deceptive act and practice in commerce for a
4 processor, other than a federally insured depository institution, to process a
5 check, draft, other form of negotiable instrument, or an electronic funds
6 transfer from a consumer's financial account in connection with a loan
7 solicited or made by any means to a consumer unless the lender is in
8 compliance with all provisions of 8 V.S.A. chapter 73 or is otherwise exempt
9 from the requirements of 8 V.S.A. chapter 73.

10 (d) It is an unfair and deceptive act and practice in commerce for any
11 person, including the lender's financial institution as defined in 8 V.S.A.
12 § 10202(5), but not including the consumer's financial institution as defined in
13 8 V.S.A. § 10202(5) or an interbank clearinghouse as defined in subsection (a)
14 of this section, to provide substantial assistance to a lender or processor when
15 the person or the person's authorized agent receives notice from a regulatory,
16 law enforcement, or similar governmental authority, or knows from its normal
17 monitoring and compliance systems, or consciously avoids knowing that the
18 lender or processor is in violation of subsection (b) or (c) of this section, or is
19 engaging in an unfair or deceptive act or practice in commerce.

20 Sec. 27. 30 V.S.A. § 248a is amended to read:

1 § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS

2 FACILITIES

3 * * *

4 (b) Definitions. ~~For the purposes of~~ As used in this section:

5 * * *

6 (4) “Telecommunications facility” means a communications facility that
7 transmits and receives signals to and from a local, State, national, or
8 international network used primarily for two-way communications for
9 commercial, industrial, municipal, county, or State purposes and any
10 associated support structure that is proposed for construction or installation
11 which is primarily for communications purposes, and any ancillary
12 improvements that are proposed for construction or installation and are
13 primarily intended to serve the communications facilities or support structure.
14 An applicant may seek approval of construction or installation of a
15 telecommunications facility whether or not the telecommunications facility is
16 attached to an existing structure.

17 (5) “Wireless service” means any commercial mobile radio service,
18 wireless service, common carrier wireless exchange service, cellular service,
19 personal communications service (PCS), specialized mobile radio service,
20 paging service, wireless data service, or public or private radio dispatch
21 service.

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* * *

(c) Findings. Before the Public Service Board issues a certificate of public good under this section, it shall find that:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public’s use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the Board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

(A) ~~The~~ the Board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision; and

(B) ~~A~~ a telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the Department of

1 Environmental Conservation, regardless of any provisions in that handbook
2 that limit its applicability.

3 (2) Unless there is good cause to find otherwise, substantial deference
4 has been given to the land conservation measures in the plans of the affected
5 municipalities and the recommendations of the municipal legislative bodies
6 and the municipal and regional planning commissions regarding the municipal
7 and regional plans, respectively. Nothing in this section or other provision of
8 law shall prevent a municipal body from basing its recommendations on an
9 ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under
10 24 V.S.A. chapter 117 by the municipality in which the facility is located.

11 A rebuttable presumption respecting compliance with the applicable plan shall
12 be created by a letter from an affected municipal legislative body or municipal
13 planning commission concerning compliance with the municipal plan and by a
14 letter from a regional planning commission concerning compliance with the
15 regional plan.

16 (3) If the proposed facility relates to the provision of wireless service,
17 the proposed facility reasonably cannot be collocated on or at an existing
18 telecommunications facility, or such collocation would cause an undue adverse
19 effect on aesthetics.

20 * * *

1 (e) Notice. No less than 45 days prior to filing an application for a
2 certificate of public good under this section, the applicant shall serve written
3 notice of an application to be filed with the Board pursuant to this section to
4 the legislative bodies and municipal and regional planning commissions in the
5 communities in which the applicant proposes to construct or install facilities;
6 the Secretary of Natural Resources; the Secretary of Transportation; the
7 Division for Historic Preservation; the Commissioner of Public Service and its
8 Director for Public Advocacy; the Natural Resources Board if the application
9 concerns a telecommunications facility for which a permit previously has been
10 issued under 10 V.S.A. chapter 151; and the landowners of record of property
11 adjoining the project sites. In addition, at least one copy of each application
12 shall be filed with each of these municipal and regional planning commissions.

13 (1) Upon motion or otherwise, the Public Service Board shall direct that
14 further public or personal notice be provided if the Board finds that such
15 further notice will not unduly delay consideration of the merits and that
16 additional notice is necessary for fair consideration of the application.

17 (2) On the request of the municipal legislative body or the planning
18 commission, the applicant shall attend a public meeting with the municipal
19 legislative body or planning commission, or both, within the 45-day notice
20 period before filing an application for a certificate of public good. The
21 Department of Public Service shall attend the public meeting on the request of

1 the municipality. The Department shall consider the comments made and
2 information obtained at the meeting in making recommendations to the Board
3 on the application and in determining whether to retain additional personnel
4 under subsection (o) of this section.

5 * * *

6 (i) Sunset of Board authority. Effective on July 1, 2014 2017, no new
7 applications for certificates of public good under this section may be
8 considered by the Board.

9 * * *

10 (m) Municipal bodies; participation. The legislative body and the planning
11 commission for the municipality in which a telecommunications facility is
12 located shall have the right to appear and participate on any application under
13 this section seeking a certificate of public good for the facility.

14 (n) Municipal recommendations. The Board shall consider the comments
15 and recommendations submitted by the municipal legislative body and
16 planning commission. The Board's decision to issue or deny a certificate of
17 public good shall include a detailed written response to each recommendation
18 of the municipal legislative body and planning commission.

19 (o) Retention; experts. The Department of Public Service may retain
20 experts and other personnel as identified in section 20 of this title to provide
21 information essential to a full consideration of an application for a certificate

1 of public good under this section. The Department may allocate the expenses
2 incurred in retaining these personnel to the applicant in accordance with
3 section 21 of this title. The Department may commence retention of these
4 personnel once the applicant has filed the 45-day notice under subsection (e) of
5 this section. A municipal legislative body or planning commission may
6 request that the Department retain these personnel. Granting such a request
7 shall not oblige the Department or the personnel it retains to agree with the
8 position of the municipality.

9 (p) Review process; guide. The Department of Public Service, in
10 consultation with the Board, shall create, maintain, and make available to the
11 public a guide to the process of reviewing telecommunications facilities under
12 this section for use by local governments and regional planning commissions
13 and members of the public who seek to participate in the process. On or before
14 September 1, 2014, the Department shall complete the creation of this guide
15 and make it publically available.

16 Sec. 28. PUBLIC SERVICE BOARD; ORDER REVISION

17 The Public Service Board (the Board) shall define the terms “good cause”
18 and “substantial deference” for the purpose of 30 V.S.A. § 248a(c)(2) in
19 accordance with the following process:

20 (1) Within 30 days of the effective date of this section, the Board shall
21 provide direct notice to each municipal legislative body and planning

1 commission, the Vermont League of Cities and Towns, the Department of
2 Public Service, and such other persons as the Board considers appropriate, that
3 it will be amending its procedures order issued under 30 V.S.A. § 248a(1) to
4 include definitions of these terms. The notice shall provide an opportunity for
5 submission of comments and recommendations and include the date and time
6 of the workshop to be held.

7 (2) Within 60 days of giving notice under subdivision (1) of this section,
8 the Board shall amend its procedures order to include definitions of these
9 terms.

10 Sec. 29. REPORT; TELECOMMUNICATIONS FACILITY REVIEW

11 PROCESS

12 On or before October 1, 2015, the Department of Public Service shall
13 submit to the House Committee on Commerce and Economic Development
14 and the Senate Committee on Finance a report assessing the
15 telecommunications facility review process under 30 V.S.A § 248a. The report
16 shall include the number of applications for the construction or installation of
17 telecommunications facilities filed with the Board, the number of applications
18 for which a certificate of public good was granted, the number of applications
19 for which notice was filed but were then withdrawn, and the number of times
20 the Department used its authority under 30 V.S.A. § 248(o) to allocate

1 expenses incurred in retaining expert personnel to the applicant, during the
2 year ending August 31, 2015.

3 Sec. 30. 10 V.S.A. § 1264(j) is amended to read:

4 (j) Notwithstanding any other provision of law, if an application to
5 discharge stormwater runoff pertains to a telecommunications facility as
6 defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2017 and the
7 discharge will be to a water that is not principally impaired by stormwater
8 runoff:

9 (1) The Secretary shall issue a decision on the application within
10 40 days of the date the Secretary determines the application to be complete, if
11 the application seeks authorization under a general permit.

12 (2) The Secretary shall issue a decision on the application within
13 60 days of the date the Secretary determines the application to be complete, if
14 the application seeks or requires authorization under an individual permit.

15 Sec. 31. 10 V.S.A. § 8506 is amended to read:

16 § 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS
17 FACILITY; APPEALS

18 (a) Within 30 days of the date of the act or decision, any person aggrieved
19 by an act or decision of the ~~secretary~~ Secretary, under the provisions of law
20 listed in section 8503 of this title, or any party by right may appeal to the
21 ~~public service board~~ Public Service Board if the act or decision concerns a

1 renewable energy plant for which a certificate of public good is required under
2 30 V.S.A. § 248 or a telecommunications facility for which the applicant has
3 applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for
4 approval under 30 V.S.A. § 248a. This section shall not apply to a facility that
5 is subject to section 1004 (dams before the Federal Energy Regulatory
6 Commission) or 1006 (certification of hydroelectric projects) or chapter 43
7 (dams) of this title. This section shall not apply to an appeal of an act or
8 decision of the secretary regarding a telecommunications facility made on or
9 after July 1, ~~2014~~ 2017.

10 * * *

11 Sec. 32. REPEAL

12 2011 Acts and Resolves No. 53, Sec. 14d (repeal of limitations on
13 municipal bylaws; municipal ordinances; wireless telecommunications
14 facilities) is repealed.

15 Sec. 33. 3 V.S.A. § 2809 is amended to read:

16 § 2809. REIMBURSEMENT OF AGENCY COSTS

17 (a)(1) The Secretary may require an applicant for a permit, license,
18 certification, or order issued under a program that the Secretary enforces under
19 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, programmatic,
20 or engineering expertise provided by the Agency of Natural Resources,
21 provided that the following apply:

1 (A) ~~the~~ The Secretary does not have such expertise or services and
2 such expertise is required for the processing of the application for the permit,
3 license, certification, or order; ~~or,~~

4 (B) ~~the~~ The Secretary does have such expertise but has made a
5 determination that it is beyond the ~~agency's~~ Agency's internal capacity to
6 effectively utilize that expertise to process the application for the permit,
7 license, certification, or order. In addition, the Secretary shall determine that
8 such expertise is required for the processing of the application for the permit,
9 license, certification, or order.

10 (2) The Secretary may require an applicant under 10 V.S.A. chapter 151
11 to pay for the time of Agency of Natural Resources personnel providing
12 research, scientific, or engineering services or for the cost of expert witnesses
13 when ~~agency~~ Agency personnel or expert witnesses are required for the
14 processing of the permit application.

15 (3) In addition to the authority set forth under 10 V.S.A. chapters 59 and
16 159 and § section 1283, the Secretary may require a person who caused the
17 ~~agency~~ Agency to incur expenditures or a person in violation of a permit,
18 license, certification, or order issued by the Secretary to pay for the time of
19 ~~agency~~ Agency personnel or the cost of other research, scientific, or
20 engineering services incurred by the ~~agency~~ Agency in response to a threat to

1 public health or the environment presented by an emergency or exigent
2 circumstance.

3 * * *

4 (g) Concerning an application for a permit to discharge stormwater runoff
5 from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed
6 before July 1, ~~2014~~2017:

7 (1) Under subdivision (a)(1) of this section, the ~~agency~~ Agency shall not
8 require an applicant to pay more than \$10,000.00 with respect to a facility.

9 (2) The provisions of subsection (c) (mandatory meeting) of this section
10 shall not apply.

11 Sec. 34. JFO ACCD DEMOGRAPHIC STUDY

12 The Agency of Commerce and Community Development, with consultation
13 and review by the legislative economist and the Joint Fiscal Office, shall
14 conduct an economic impact analysis, including study of demographic and
15 infrastructure impacts associated with recently announced development
16 projects in the Northeast Kingdom of Vermont, and shall submit its findings to
17 the House Committee on Commerce and Economic Development, the Senate
18 Committee on Economic Development, Housing and General Affairs, and the
19 Joint Fiscal Committee on or before December 1, 2014.

1 * * * Tourism Funding; Study * * *

2 Sec. 35. TOURISM FUNDING; PILOT PROJECT STUDY

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

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

12 Sec. 36. 10 V.S.A. chapter 12 is amended to read:

13 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

14 * * *

15 § 212. DEFINITIONS

16 As used in this chapter:

17 * * *

18 (6) “Eligible facility” or “eligible project” means any industrial,
19 commercial, or agricultural enterprise or endeavor approved by the authority
20 that meets the criteria established in the Vermont Sustainable Jobs Strategy
21 adopted by the Governor under section 280b of this title, including land and

1 rights in land, air, or water, buildings, structures, machinery, and equipment of
2 such eligible facilities or eligible projects, except that an eligible facility or
3 project shall not include the portion of an enterprise or endeavor relating to the
4 sale of goods at retail where such goods are manufactured primarily out of
5 state, and except further that an eligible facility or project shall not include the
6 portion of an enterprise or endeavor relating to housing. Such enterprises or
7 endeavors may include:

8 * * *

9 (M) Sustainably Priced Energy Enterprise Development (SPEED)
10 resources, as defined in 30 V.S.A. § 8002; ~~or~~

11 (N) any combination of the foregoing activities, uses, or purposes.
12 An eligible facility may include structures, appurtenances incidental to the
13 foregoing such as utility lines, storage accommodations, offices, dependent
14 care facilities, or transportation facilities; or

15 (O) industrial park planning, development, or improvement.

16 * * *

17 § 261. ADDITIONAL POWERS

18 In addition to powers enumerated elsewhere in this chapter, the
19 authority may:

20 * * *

1 (6) provide loans and assistance under this subchapter for the planning,
2 development, or improvement of an industrial park or an eligible project within
3 an industrial park.

4 Sec. 37. 10 V.S.A. § 6001(35) is added to read:

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

11 Sec. 38. REVIEW OF MASTER PLAN POLICY

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

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

18 Sec. 39. 10 V.S.A. § 6093(a)(4) is amended to read:

19 (4) Industrial parks.

20 (A) Notwithstanding any provision of this chapter to the contrary, a
21 conversion of primary agricultural soils located in an industrial park ~~as defined~~

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

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

1 Sec. 40. RESERVED

2 * * * Workforce Education and Training * * *

3 Sec. 41. 10 V.S.A. chapter 22A is amended to read:

4 CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

5 § 540. WORKFORCE EDUCATION AND TRAINING LEADER

6 The Commissioner of Labor shall be the leader of workforce education and
7 training in the State, and shall have the authority and responsibility for the
8 coordination of workforce education and training within State government,
9 including the following duties:

10 (1) Perform the following duties in consultation with the State
11 Workforce Investment Board:

12 (A) advise the Governor on the establishment of an integrated system
13 of workforce education and training for Vermont;

14 (B) create and maintain an inventory of all existing workforce
15 education and training programs and activities in the State;

16 (C) use data to ensure that State workforce education and training
17 activities are aligned with the needs of the available workforce, the current and
18 future job opportunities in the State, and the specific credentials needed to
19 achieve employment in those jobs;

1 (D) develop a State plan, as required by federal law, to ensure that
2 workforce education and training programs and activities in the State serve
3 Vermont citizens and businesses to the maximum extent possible;

4 (E) ensure coordination and non-duplication of workforce education
5 and training activities;

6 (F) identify best practices and gaps in the delivery of workforce
7 education and training programs;

8 (G) design and implement criteria and performance measures for
9 workforce education and training activities; and

10 (H) establish goals for the integrated workforce education and
11 training system.

12 (2) Require from each business, training provider, or program that
13 receives State funding to conduct workforce education and training a report
14 that evaluates the results of the training. Each recipient shall submit its report
15 on a schedule determined by the Commissioner and shall include at least the
16 following information:

17 (A) name of the person who receives funding;

18 (B) amount of funding;

19 (C) activities and training provided;

20 (D) number of trainees and their general description;

21 (E) employment status of trainees; and

1 (F) future needs for resources.

2 (3) Review reports submitted by each recipient of workforce education
3 and training funding.

4 (4) Issue an annual report to the Governor and the General Assembly on
5 or before December 1 that includes a systematic evaluation of the
6 accomplishments of the State workforce investment system and the
7 performance of participating agencies and institutions.

8 (5) Coordinate public and private workforce programs to assure that
9 information is easily accessible to students, employees, and employers, and
10 that all information and necessary counseling is available through one contact.

11 (6) Facilitate effective communication between the business community
12 and public and private educational institutions.

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

18 § 541. ~~WORKFORCE DEVELOPMENT COUNCIL; STATE WORKFORCE~~
19 ~~INVESTMENT BOARD; MEMBERS, TERMS~~

20 ~~(a) The Workforce education and training Council is created as the~~
21 ~~successor to and the continuation of the Governor's Human Resources~~

1 ~~Investment Council and shall be the State Workforce Investment Board under~~
2 ~~Public Law 105-220, the Workforce Investment Act of 1998, and any~~
3 ~~reauthorization of that act. The Council shall consist of the members required~~
4 ~~under the federal act and the following: the President of the University of~~
5 ~~Vermont or designee; the Chancellor of the Vermont State Colleges or~~
6 ~~designee; the President of the Vermont Student Assistance corporation or~~
7 ~~designee; the President of the Association of Vermont Independent Colleges or~~
8 ~~designee; a representative of the Abenaki Self Help Organization; at least two~~
9 ~~representatives of labor appointed by the Governor in addition to the two~~
10 ~~required under the federal act, who shall be chosen from a list of names~~
11 ~~submitted by Vermont AFL-CIO, Vermont NEA, and the Vermont State~~
12 ~~Employees Association; one representative of the low income community~~
13 ~~appointed by the Governor; two members of the Senate appointed by the~~
14 ~~Senate Committee on Committees; and two members of the house appointed~~
15 ~~by the speaker. In addition, the Governor shall appoint enough other members~~
16 ~~who are representatives of business or employers so that one half plus one of~~
17 ~~the members of the council are representatives of business or employers. At~~
18 ~~least one third of those appointed by the Governor as representatives of~~
19 ~~business or employers shall be chosen from a list of names submitted by the~~
20 ~~regional technical centers. As used in this section, “representative of business”~~
21 ~~means a business owner, a chief executive operating officer, or other business~~

1 ~~executive, and “employer” means an individual with policy making or hiring~~
2 ~~authority, including a public school superintendent or school board member~~
3 ~~and representatives from the nonprofit, social services, and health sectors of~~
4 ~~the economy. If there is a dispute as to who is to represent an interest as~~
5 ~~required under the federal law, the Governor shall decide who shall be the~~
6 ~~member of the Council.~~

7 ~~(b) Appointed members, except legislative appointees, shall be appointed~~
8 ~~for three year terms and serve at the pleasure of the Governor.~~

9 ~~(c) A vacancy shall be filled for the unexpired term in the same manner as~~
10 ~~the initial appointment.~~

11 ~~(d) The Governor shall appoint one of the business or employer members~~
12 ~~to chair the council for a term of two years. A member shall not serve more~~
13 ~~than three consecutive terms as chair.~~

14 ~~(e) Legislative members shall be entitled to compensation and expenses as~~
15 ~~provided in 2 V.S.A. § 406, and other members shall be entitled to~~
16 ~~compensation and expenses as provided in 32 V.S.A. § 1010.~~

17 ~~(f) The Department of Labor shall provide the Council with administrative~~
18 ~~support.~~

19 ~~(g) The Workforce education and training Council shall be subject to~~
20 ~~1 V.S.A. chapter 5, subchapters 2 and 3, relating to public meetings and access~~
21 ~~to public records.~~

1 ~~(h) [Repealed.]~~

2 ~~(i) The Workforce education and training Council shall:~~

3 ~~(1) Advise the Governor on the establishment of an integrated network~~
4 ~~of workforce education and training for Vermont.~~

5 ~~(2) Coordinate planning and services for an integrated network of~~
6 ~~workforce education and training and oversee its implementation at State and~~
7 ~~regional levels.~~

8 ~~(3) Establish goals for and coordinate the State's workforce education~~
9 ~~and training policies.~~

10 ~~(4) Speak for the workforce needs of employers.~~

11 ~~(5) Negotiate memoranda of understanding between the Council and~~
12 ~~agencies and institutions involved in Vermont's integrated network of~~
13 ~~workforce education and training in order to ensure that each is working to~~
14 ~~achieve annual objectives developed by the Council.~~

15 ~~(6) Carry out the duties assigned to the State Workforce Investment~~
16 ~~Board, as required for a single service delivery state, under P.L. 105-220, the~~
17 ~~Workforce Investment Act of 1998, and any amendments that may be made to~~
18 ~~it. [Repealed.]~~

19 § 541a. STATE WORKFORCE INVESTMENT BOARD

20 (a) Board established; duties. Pursuant to the requirements of 29 U.S.C.
21 § 2821, the Governor shall establish a State Workforce Investment Board to

1 assist the Governor in the execution of his or her duties under the Workforce
2 Investment Act of 1998 and to assist the Commissioner of Labor as specified
3 in section 540 of this title.

4 (b) Additional duties; planning; process. In order to inform its
5 decision-making and to provide effective assistance under subsection (a) of
6 this section, the Board shall:

7 (1) conduct an ongoing public engagement process throughout the State
8 that brings together employers and potential employees, including students, the
9 unemployed, and incumbent employees seeking further training, to provide
10 feedback and information concerning their workforce education and training
11 needs; and

12 (2) maintain familiarity with the federal Comprehensive Economic
13 Development Strategy (CEDS) and other economic development planning
14 processes, and coordinate workforce and education activities in the State,
15 including the development and implementation of the State plan required under
16 the Workforce Investment Act of 1998, with economic development planning
17 processes occurring in the State, as appropriate.

18 (c) Membership. The Board shall consist of the Governor and the
19 following members who are appointed by the Governor and serve at his or her
20 pleasure, unless otherwise indicated:

- 1 (1) two Members of the Vermont House of Representatives appointed
2 by the Speaker of the House;
- 3 (2) two Members of the Vermont Senate appointed by the Senate
4 Committee on Committees;
- 5 (3) the President of the University of Vermont or designee;
- 6 (4) the Chancellor of the Vermont State Colleges or designee;
- 7 (5) the President of the Vermont Student Assistance Corporation or
8 designee;
- 9 (6) a representative of an independent Vermont college or university;
- 10 (7) the Secretary of Education or designee;
- 11 (8) a director of a regional technical center;
- 12 (9) a principal of a Vermont high school;
- 13 (10) two representatives of labor organizations who have been
14 nominated by State labor federations;
- 15 (11) two representatives of individuals and organizations who have
16 experience with respect to youth activities, as defined in 29 U.S.C. § 2801(52);
- 17 (12) two representatives of individuals and organizations who have
18 experience in the delivery of workforce investment activities, as defined in
19 29 U.S.C. § 2801(51);
- 20 (13) the lead State agency officials with responsibility for the programs
21 and activities carried out by one-stop partners, as described in 29 U.S.C.

1 § 2841(b), or if no official has that responsibility, a representative in the State
2 with expertise relating to these programs and activities;

3 (14) the Commissioner of Economic Development;

4 (15) the Commissioner of Labor;

5 (16) the Secretary of Human Services or designee;

6 (17) two individuals who have experience in, and can speak for, the
7 training needs of underemployed and unemployed Vermonters; and

8 (18) a number of appointees sufficient to constitute a majority of the

9 Board who:

10 (A) are owners, chief executives, or operating officers of businesses,
11 and other business executives or employers with optimum policymaking or
12 hiring authority;

13 (B) represent businesses with employment opportunities that reflect
14 the employment opportunities of the State; and

15 (C) are appointed from among individuals nominated by State
16 business organizations and business trade associations.

17 (d) Operation of Board.

18 (1) Member representation.

19 (A) Members of the State Board who represent organizations,
20 agencies, or other entities shall be individuals with optimum policymaking
21 authority within the organizations, agencies, or entities.

1 (B) The members of the Board shall represent diverse regions of the
2 State, including urban, rural, and suburban areas.

3 (2) Chair. The Governor shall select a chair for the Board from among
4 the business representatives appointed pursuant to subdivision (c)(18) of this
5 section.

6 (3) Meetings. The Board shall meet at least three times annually and
7 shall hold additional meetings upon call of the Chair.

8 (4) Work groups; task forces. The Chair, in consultation with the
9 Commissioner of Labor, may:

10 (A) assign one or more members to work groups to carry out the
11 work of the Board; and

12 (B) appoint one or more members of the Board, or nonmembers of
13 the Board, or both, to one or more task forces for a discrete purpose and
14 duration.

15 (5) Quorum; meetings; voting.

16 (A) A majority of the sitting members of the Board shall constitute a
17 quorum, and to be valid any action taken by the Board shall be authorized by a
18 majority of the members present and voting at any regular or special meeting at
19 which a quorum is present.

20 (B) The Board may permit one or more members to participate in a
21 regular or special meeting by, or conduct the meeting through the use of, any

1 means of communication, including an electronic, telecommunications, and
2 video- or audio-conferencing conference telephone call, by which all members
3 participating may simultaneously or sequentially communicate with each other
4 during the meeting. A member participating in a meeting by this means is
5 deemed to be present in person at the meeting.

6 (C) The Board shall deliver electronically the minutes for each of its
7 meetings to each member of the Board and to the Chairs of the House
8 Committees on Education and on Commerce and Economic Development, and
9 to the Senate Committees on Education and on Economic Development,
10 Housing and General Affairs.

11 (6) Reimbursement.

12 (A) Legislative members of the Board shall be entitled to
13 compensation and expenses as provided in 2 V.S.A. § 406.

14 (B) Unless otherwise compensated by his or her employer for
15 performance of his or her duties on the Board, a nonlegislative member of the
16 Board shall be eligible for per diem compensation of \$50.00 per day for
17 attendance at a meeting of the Board, and for reimbursement of his or her
18 necessary expenses, which shall be paid by the Department of Labor solely
19 from funds available for that purpose under the Workforce Investment Act
20 of 1998.

21 (7) Conflict of interest. A member of the Board shall not:

1 (A) vote on a matter under consideration by the Board:

2 (i) regarding the provision of services by the member, or by an
3 entity that the member represents; or

4 (ii) that would provide direct financial benefit to the member or
5 the immediate family of the member; or

6 (B) engage in any activity that the Governor determines constitutes a
7 conflict of interest as specified in the State Plan required under 29 U.S.C.
8 § 2822.

9 (8) Sunshine provision. The Board shall make available to the public,
10 on a regular basis through open meetings, information regarding the activities
11 of the Board, including information regarding the State Plan adopted
12 pursuant to 29 U.S.C. § 2822 and prior to submission of the State Plan to the
13 U.S. Secretary of Labor, information regarding membership, and, on request,
14 minutes of formal meetings of the Board.

15 § 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF

16 OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE
17 PARTNERS

18 (a) To ensure the Workforce Investment Board and the Commissioner of
19 Labor are able to fully perform their duties under this chapter, each agency and
20 department within State government, and each person who receives funding
21 from the State, shall comply within a reasonable period of time with a request

1 for data and information made by the Board or the Commissioner in
2 furtherance of their duties under this chapter.

3 (b) The Agency of Commerce and Community Development shall
4 coordinate its work in adopting a statewide economic development plan with
5 the activities of the Board and the Commissioner of Labor, including the
6 development and implementation of the state plan for workforce education and
7 training required under the Workforce Investment Act of 1998.

8 § 542. REGIONAL WORKFORCE ~~DEVELOPMENT~~ EDUCATION AND
9 TRAINING

10 (a) The Commissioner of Labor, in coordination with the Secretary of
11 Commerce and Community Development, and in consultation with the
12 ~~Workforce education and training Council~~ Investment Board, is authorized to
13 issue performance grants to one or more persons to perform workforce
14 education and training activities in a region.

15 (b) Each grant shall specify the scope of the workforce education and
16 training activities to be performed and the geographic region to be served, and
17 shall include outcomes and measures to evaluate the grantee's performance.

18 (c) The Commissioner of Labor and the Secretary of Commerce and
19 Community Development shall jointly develop a grant process and eligibility
20 criteria, as well as an outreach process for notifying potential participants of

1 the grant program. The Commissioner of Labor shall have final authority to
2 approve each grant.

3 § 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT
4 PROGRAMS

5 (a) Creation. There is created a Workforce Education and Training Fund in
6 the ~~department of labor~~ Department of Labor to be managed in accordance
7 with 32 V.S.A. chapter 7, subchapter 5.

8 (b) Purposes. The Fund shall be used exclusively for the following ~~two~~
9 purposes:

10 (1) training ~~to improve the skills of~~ for Vermont workers, including
11 those who are unemployed, underemployed, or in transition from one job or
12 career to another; and

13 (2) internships to provide students with work-based learning
14 opportunities with Vermont employers; and

15 (3) apprenticeship-related instruction.

16 (c) Administrative Support. Administrative support for the grant award
17 process shall be provided by the ~~Departments~~ Department of Labor ~~and of~~
18 ~~Economic Development~~. Technical, ~~administrative, financial, and other~~
19 support shall be provided whenever appropriate and reasonable by the
20 Workforce ~~Development Council~~ Investment Board and all other public
21 entities involved in ~~Economic Development, workforce development and~~

1 ~~training, and education~~ economic development and workforce education and
2 training.

3 (d) Eligible Activities. Awards from the Fund shall be made to employers
4 and entities that offer programs that require collaboration between employees
5 and businesses, including private, public, and nonprofit entities, institutions of
6 higher education, high schools, technical centers, and workforce education and
7 training programs. Funding shall be for training programs and student
8 internship programs that offer education, training, apprenticeship, mentoring,
9 or work-based learning activities, or any combination; that employ innovative
10 intensive student-oriented competency-based or collaborative approaches to
11 workforce education and training; and that link workforce education and
12 economic development strategies. Training programs or projects that
13 demonstrate actual increased income and economic opportunity for employees
14 and employers may be funded for more than one year. Student internships and
15 training programs that involve the same employer may be funded multiple
16 times, provided that new students participate.

17 (e) ~~Award Criteria and Process. The Workforce education and training~~
18 ~~Council, in consultation with the Commissioners of Labor and of Economic~~
19 ~~Development and the Secretary of Education, shall develop criteria consistent~~
20 ~~with subsection (d) of this section for making awards under this section. The~~

1 ~~Commissioners of Labor and of Economic Development and the Secretary of~~
2 ~~Education, shall develop a process for making awards. [Repealed].~~

3 (f) Awards. ~~Based on guidelines set by the council, the~~ The Commissioner
4 ~~of labor, and the Secretary of Education~~ Labor, in consultation with the
5 Workforce Investment Board, shall jointly develop award criteria and may
6 make awards to the following:

7 (1) Training Programs.

8 (A) Public, private, and nonprofit entities for existing or new
9 ~~innovative training programs. Awards may be made to programs that retrain~~
10 ~~incumbent workers~~ that enhance the skills of Vermont workers and:

11 (i) train workers for trades or occupations that are expected to lead
12 to jobs paying at least 200 percent of the current minimum wage or at least
13 150 percent if benefits are included; this requirement may be waived when
14 warranted based on regional or occupational wages or economic reality;

15 (ii) do not duplicate, supplant, or replace other available programs
16 funded with public money;

17 (iii) articulate clear goals and demonstrate readily accountable,
18 reportable, and measurable results; and

19 (iv) demonstrate an integrated connection between training and
20 specific new or continuing employment opportunities.

1 (B) Awards under this subdivision shall be made to programs or
2 projects that ~~do all the following:~~

3 ~~(A)(i)~~ offer innovative programs of intensive, student-centric,
4 competency-based education, training, apprenticeship, mentoring, or any
5 combination of these;

6 ~~(B)(ii)~~ address the needs of workers who are unemployed,
7 underemployed, or are at risk of becoming unemployed due to changing
8 workplace demands by increasing productivity and developing new skills for
9 incumbent workers; or

10 (iii) in the discretion of the Commissioner, otherwise serve the
11 purposes of this chapter.

12 ~~(C) train workers for trades or occupations that are expected to lead~~
13 ~~to jobs paying at least 200 percent of the current minimum wage or at least 150~~
14 ~~percent if benefits are included; this requirement may be waived when~~
15 ~~warranted based on regional or occupational wages or economic reality;~~

16 ~~(D) do not duplicate, supplant, or replace other available programs~~
17 ~~funded with public money;~~

18 ~~(E) articulate clear goals and demonstrate readily accountable,~~
19 ~~reportable, and measurable results;~~

20 ~~(F) demonstrate an integrated connection between training and~~
21 ~~specific employment opportunities, including an effort and consideration by~~

1 ~~participating employers to hire those who successfully complete a training~~
2 ~~program; and~~

3 (2) Vermont Career Internship Program. Funding for eligible internship
4 programs and activities under the Vermont Career Internship Program
5 established in section 544 of this title.

6 (3) Apprenticeship Program. The Vermont Apprenticeship Program
7 established under 21 V.S.A. chapter 13. Awards under this subdivision may be
8 used to fund the cost of apprenticeship-related instruction provided by the
9 Department of Labor.

10 (g) [Repealed.]

11 § 544. VERMONT CAREER INTERNSHIP PROGRAM

12 (a)(1) The Department of Labor, in consultation with the Agency of
13 Education, shall develop and implement a statewide Vermont Career
14 Internship Program for Vermonters who are in high school or in college and
15 for those who are recent graduates of 24 months or less.

16 (2) The Department of Labor shall coordinate and provide funding to
17 public and private entities for internship programs that match Vermont
18 employers with students from public and private secondary schools, regional
19 technical centers, the Community High School of Vermont, colleges, and
20 recent graduates of 24 months or less.

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

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

6 (B) create real workplace expectations and consequences;

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

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

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

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

20 (4) ~~For the purposes of~~ As used in this section, “internship” means a
21 learning experience working with an employer where the intern may, but does

1 not necessarily, receive academic credit, financial remuneration, a stipend, or
2 any combination of these.

3 (b) The Department of Labor, in collaboration with the Agencies of
4 Agriculture, Food and Markets and of Education, ~~state-funded~~ State-funded
5 postsecondary educational institutions, the Workforce ~~Development Council~~
6 Investment Board, and other ~~state~~ State agencies and departments that have
7 workforce education and training and training monies, shall:

8 (1) identify new and existing funding sources that may be allocated to
9 the Vermont Career Internship Program;

10 (2) collect data and establish program goals and quantifiable
11 performance measures for internship programs funded through the Vermont
12 Career Internship Program;

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

15 (4) engage appropriate agencies and departments of the State in the
16 Internship Program to expand internship opportunities with State government
17 and with entities awarded State contracts; and

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

1 Sec. 42. 10 V.S.A. chapter 22 is amended to read:

2 CHAPTER 22. ~~EMPLOYMENT~~ THE VERMONT

3 TRAINING PROGRAM

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

5 (a)(1) The Secretary of Commerce and Community Development ~~may, in~~
6 consultation with the Workforce Investment Board, shall have the authority to
7 design and implement a Vermont Training Program, the purpose of which shall
8 be to issue performance-based grants to any employer, consortium of
9 employers, or providers of training, either individuals or organizations, as
10 necessary, to conduct training under the following circumstances: to
11 employers and to education and training providers to increase employment
12 opportunities in Vermont consistent with this chapter.

13 (2) The Secretary shall structure the Vermont Training Program to serve
14 as a flexible, nimble, and strategic resource for Vermont businesses and
15 workers across all sectors of the economy.

16 ~~(1) when issuing grants to an employer or consortium of employers, the~~
17 ~~employer promises as a condition of the grant to where eligible facility is~~
18 ~~defined as in subdivision 212(6) of this title relating to the Vermont Economic~~
19 ~~Development Authority, or the employer or consortium of employers promises~~
20 ~~to open an eligible facility within the State which will employ persons,~~

1 ~~provided that for the purposes of this section, eligible facility may be broadly~~
2 ~~interpreted to include employers in sectors other than manufacturing; and~~

3 ~~(2) training is required for potential employees, new employees, or long-~~
4 ~~standing employees in the methods, either singularly or in combination relating~~
5 ~~to pre-employment training, on-the-job training, upgrade training, and~~
6 ~~crossover training, or specialized instruction, either in plant or through a~~
7 ~~training provider.~~

8 (b) Eligibility for grant. The Secretary of Commerce and Community
9 Development may award a grant to an employer if:

10 (1) ~~the employer's new or expanded initiative will enhance employment~~
11 ~~opportunities for Vermont residents; the training is for preemployment, new~~
12 ~~employees, or incumbent employees in the methods, either singularly or in~~
13 ~~combination, relating to preemployment training, on-the-job training, upgrade~~
14 ~~training, crossover training, or specialized instruction, either on-site or through~~
15 ~~a training provider;~~

16 (2) the employer provides its employees with at least three of the
17 following:

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

20 (B) dental assistance;

21 (C) paid vacation ~~and;~~

- 1 (D) paid holidays;
- 2 ~~(D)~~(E) child care;
- 3 ~~(E)~~(F) other extraordinary employee benefits;
- 4 ~~(F)~~(G) retirement benefits; and
- 5 (H) other paid time off, including paid sick days;

6 (3) the training is directly related to the employment responsibilities of
7 the trainee; and

8 (4) compensation for each trainee at the completion of the training
9 program equals or exceeds the livable wage as defined in 2 V.S.A. § 505,
10 provided that the Secretary shall have the authority to modify this requirement
11 if he or she determines that the employer offers compensation or benefits, the
12 value of which exceeds the compensation and benefit assumptions in the basic
13 needs budget and livable wage calculated pursuant to 2 V.S.A. § 505.

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

15 ~~(1) employ new persons at a wage which, at the completion of the~~
16 ~~training program, is two times the prevailing state or federal minimum wage,~~
17 ~~whichever is greater, reduced by the value of any existing health benefit~~
18 ~~package up to a limit of 30 percent of the gross program wage, or for existing~~
19 ~~employees, to increase the wage to two times the prevailing state and federal~~
20 ~~minimum wage, whichever is greater, reduced by the value of any existing~~
21 ~~health benefit package up to a limit of 20 percent of the gross program wage,~~

1 ~~upon completion of training; provided, however, that in areas defined by the~~
2 ~~Secretary of Commerce and Community Development in which the Secretary~~
3 ~~finds that the rate of unemployment is 50 percent greater than the average for~~
4 ~~the State, the wage rate under this subsection may be set by the Secretary at a~~
5 ~~rate no less than one and one half times the federal or state minimum wage,~~
6 ~~whichever is greater;~~

7 ~~(2) employ persons who have completed the training provided for them~~
8 ~~and nominated as qualified for a reasonable period at the wages and~~
9 ~~occupations described in the contract, unless the employer reasonably finds the~~
10 ~~nominee is not qualified;~~

11 ~~(3) provide its employees with at least three of the following:~~

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

14 ~~(B) dental assistance;~~

15 ~~(C) paid vacation and holidays;~~

16 ~~(D) child care;~~

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

18 ~~(F) retirement benefits.~~

19 ~~(4) submit a customer satisfaction report to the Secretary of Commerce~~
20 ~~and Community Development, on a form prepared by the Secretary for that~~
21 ~~purpose, no more than 30 days from the last day of the training program.~~

1 In the case of a grant to a training provider, the Secretary shall require as a
2 condition of the grant that the provider shall disclose to the Secretary the name
3 of the employer and the number of employees trained prior to final payment
4 for the training.

5 (d) In order to avoid duplication of programs or services and to provide the
6 greatest return on investment from training provided under this section, the
7 Secretary of Commerce and Community Development shall:

8 (1) ~~first~~ consult with the Commissioner of Labor regarding whether the
9 grantee has accessed, or is eligible to access, other workforce education and
10 training resources ~~offered by public or private workforce education and~~
11 ~~training partners;~~

12 (2) disburse grant funds only for training hours that have been
13 successfully completed by employees; provided that a grant for on-the-job
14 training shall either provide not more than 50 percent of wages for each
15 employee in training, or not more than 50 percent of trainer expense, but not
16 both, and further provided that training shall be performed in accordance with
17 a training plan that defines the subject of the training, the number of training
18 hours, and how the effectiveness of the training will be evaluated; and

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

1 (e) ~~The Secretary of Commerce and Community Development shall~~
2 ~~administer all training programs under this section, may select and use~~
3 ~~providers of training as appropriate, and shall adopt rules and may accept~~
4 ~~services, money, or property donated for the purposes of this section. The~~
5 ~~Secretary may promote awareness of, and may give priority to, training that~~
6 ~~enhances critical skills, productivity, innovation, quality, or competitiveness,~~
7 ~~such as training in Innovation Engineering, “Lean” systems, and ISO~~
8 ~~certification for expansion into new markets. [Repealed.]~~

9 (f) Upon completion of the training program for any individual, the
10 secretary of Commerce and Community Development shall review the records
11 and shall award to the trainee, if appropriate, a certificate of completion for the
12 training.

13 (g) ~~None of the criteria in subdivision (a)(1) of this section shall apply to a~~
14 ~~designated job development zone under chapter 29, subchapter 2 of this title.~~
15 [Repealed.]

16 (h) ~~The Secretary may designate the Commissioner of Economic~~
17 ~~Development to carry out his or her powers and duties under this chapter.~~
18 [Repealed.]

19 (i) ~~Program Outcomes.~~

20 (1) ~~On or before September 1, 2011, the Agency of Commerce and~~
21 ~~Community Development, in coordination with the department of labor, and in~~

1 ~~consultation with the Workforce education and training Council and the~~
2 ~~legislative Joint Fiscal Office, shall develop, to the extent appropriate, a~~
3 ~~common set of benchmarks and performance measures for the training~~
4 ~~program established in this section and the Workforce Education and Training~~
5 ~~Fund established in section 543 of this title, and shall collect employee specific~~
6 ~~data on training outcomes regarding the performance measures; provided,~~
7 ~~however, that the Secretary shall redact personal identifying information from~~
8 ~~such data.~~

9 ~~(2) On or before January 15, 2013, the Joint Fiscal Office shall prepare a~~
10 ~~performance report using the benchmarks and performance measures created~~
11 ~~pursuant to subdivision (1) of this subsection. The Joint Fiscal Office shall~~
12 ~~submit its report to the Senate Committee on Economic Development, Housing~~
13 ~~and General Affairs and the House Committee on Commerce and Economic~~
14 ~~Development.~~

15 ~~(3) The Secretary shall use information gathered pursuant to this~~
16 ~~subsection and customer satisfaction reports submitted pursuant to subdivision~~
17 ~~(e)(4) of this section to evaluate the program and make necessary changes that~~
18 ~~fall within the Secretary's authority or, if beyond the scope of the Secretary's~~
19 ~~authority, to recommend necessary changes to the appropriate committees of~~
20 ~~the General Assembly. [Repealed.]~~

1 (j) ~~Consistent with the training program's goal of providing specialized~~
2 ~~training and increased employment opportunities for Vermonters, and~~
3 ~~notwithstanding provisions of this section to the contrary, the Secretary shall~~
4 ~~canvas apprenticeship sponsors to determine demand for various levels of~~
5 ~~training and classes and shall transfer up to \$250,000.00 annually to the~~
6 ~~regional technical centers to fund or provide supplemental funding for~~
7 ~~apprenticeship training programs leading up to certification or licensing as~~
8 ~~journeyman or master electricians or plumbers. The Secretary shall seek to~~
9 ~~provide these funds equitably throughout Vermont; however, the Secretary~~
10 ~~shall give priority to regions not currently served by apprenticeship programs~~
11 ~~offered through the Vermont Department of Labor pursuant to 21 V.S.A.~~
12 ~~chapter 13. [Repealed].~~

13 (k) Annually on or before January 15, the Secretary shall submit a report to
14 the House Committee on Commerce and Economic Development and the
15 Senate Committee on Economic Development, Housing and General Affairs
16 summarizing. In addition to the reporting requirements under section 540 of
17 this title, the report shall identify:

18 (1) all active and completed contracts and grants;

19 (2) the types of training activities provided, from among the following,
20 the category the training addressed:

1 (A) preemployment training or other training for a new employee to
2 begin a newly created position with the employer;

3 (B) preemployment training or other training for a new employee to
4 begin in an existing position with the employer;

5 (C) training for an incumbent employee who, upon completion of
6 training, assumes a newly created position with the employer;

7 (D) training for an incumbent employee who upon completion of
8 training assumes a different position with the employer;

9 (E) training for an incumbent employee to upgrade skills;

10 (3) for the training identified in subdivision whether the training is
11 onsite or classroom-based;

12 (4) the number of employees served, ~~and~~ ;

13 (5) the average wage by employer, ~~and addressing~~;

14 (6) any waivers granted;

15 (7) the identity of the employer, or, if unknown at the time of the report,

16 the category of employer;

17 (8) the identity of each training provider; and

18 (9) whether training results in a wage increase for a trainee, and the

19 amount of increase.

1 Sec. 43. REPEAL

2 2007 Acts and Resolves No. 46, Sec. 6(a), as amended by 2009 Acts and
3 Resolves No. 54, Sec. 8 (workforce education and training leader) and 2013
4 Acts and Resolves No. 81, Sec. 2, is repealed.

5 Sec. 44. DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND
6 COMMUNITY DEVELOPMENT; STATUTORY PROPOSALS

7 On or before November 1, 2014:

8 (1) The Commissioner of Labor shall submit to the House Committee on
9 Commerce and Economic Development and the Senate Committee on
10 Economic Development, Housing and General Affairs a proposal to amend the
11 language of 10 V.S.A. § 543 to reflect best practices and improve clarity in the
12 administration of, and for applicants to, the grant program from the Workforce
13 Education and Training Fund under that section.

14 (2) The Secretary of Commerce and Community Development shall
15 submit to the House Committee on Commerce and Economic Development
16 and the Senate Committee on Economic Development, Housing and General
17 Affairs a proposal to amend the language of 10 V.S.A. § 531 to reflect best
18 practices and improve clarity in the administration of, and for applicants to, the
19 Vermont Training Program under that section.

1 Sec. 45. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

2 On or before January 15, 2015, the Commissioner of Labor shall submit to
3 the House Committee on Commerce and Economic Development and the
4 Senate Committee on Economic Development, Housing and General Affairs a
5 report that details the internship opportunities available to Vermonters between
6 15 and 18 years of age and recommends one or more means to expand these
7 opportunities through the Vermont Career Internship Program, 10 V.S.A.
8 § 544, or through other appropriate mechanisms.

9 * * * Vermont Strong Scholars Program * * *

10 Sec. 46. 16 V.S.A. chapter 90 is redesignated to read:

11 CHAPTER 90. FUNDING OF POSTSECONDARY INSTITUTIONS

12 EDUCATION

13 Sec. 47. 16 V.S.A. § 2888 is added to read:

14 § 2888. VERMONT STRONG SCHOLARS AND INTERNSHIP

15 INITIATIVE

16 (a) Creation.

17 (1) There is created a postsecondary loan forgiveness and internship
18 initiative designed to forgive a portion of Vermont Student Assistance
19 Corporation loans of students employed in economic sectors identified as
20 important to Vermont's economy and to build internship opportunities for
21 students to gain work experience with Vermont employers.

1 (2) The initiative shall be known as the Vermont Strong Scholars and
2 Internship Initiative and is designed to:

3 (A) encourage students to:

4 (i) consider jobs in economic sectors that are critical to the
5 Vermont economy;

6 (ii) enroll and remain enrolled in a Vermont postsecondary
7 institution; and

8 (iii) live in Vermont upon graduation;

9 (B) reduce student loan debt for postsecondary education in targeted
10 fields;

11 (C) provide experiential learning through internship opportunities
12 with Vermont employers; and

13 (D) support a pipeline of qualified talent for employment with
14 Vermont's employers.

15 (b) Vermont Strong Loan Forgiveness Program.

16 (1) Economic sectors; projections.

17 (A) Annually, on or before November 15, the Secretary of Commerce
18 and Community Development and the Commissioner of Labor, in consultation
19 with the Vermont State Colleges, the University of Vermont, the Vermont
20 Student Assistance Corporation, the Secretary of Human Services, and the

1 Secretary of Education, shall identify economic sectors, projecting at least four
2 years into the future, that are or will be critical to the Vermont economy.

3 (B) Based upon the identified economic sectors and the number of
4 students anticipated to qualify for loan forgiveness under this section, the
5 Secretary of Commerce and Community Development shall annually provide
6 the General Assembly with the estimated cost of the Vermont Student
7 Assistance Corporation's loan forgiveness awards under the loan forgiveness
8 program during the then-current fiscal year and each of the four following
9 fiscal years.

10 (2) Eligibility. A graduate of a public or private Vermont postsecondary
11 institution shall be eligible for forgiveness of a portion of his or her Vermont
12 Student Assistance Corporation postsecondary education loans under this
13 section if he or she:

14 (A) was a Vermont resident, as defined in 16 V.S.A. § 2822(7), at the
15 time he or she was graduated;

16 (B) enrolled in a postsecondary institution on or after July 1, 2015
17 and completed an associate's degree within three years, or a bachelor's degree
18 within six years;

19 (C) becomes employed in Vermont within 12 months of graduation
20 in an economic sector identified by the Secretary and Commissioner under
21 subdivision (1) of this subsection;

1 (D) remains employed in Vermont throughout the period of loan
2 forgiveness in an economic sector identified by the Secretary and
3 Commissioner under subdivision (1) of this subsection; and

4 (E) remains a Vermont resident throughout the period of loan
5 forgiveness.

6 (3) Loan forgiveness. An eligible individual shall have a portion of his
7 or her Vermont Student Assistance Corporation loan forgiven as follows:

8 (A) for an individual awarded an associate’s degree, in an amount
9 equal to the comprehensive in-state tuition rate for 15 credits at the Vermont
10 State Colleges during the individual’s final semester of enrollment, to be
11 prorated over the three years following graduation; and

12 (B) for an individual awarded a bachelor’s degree, in an amount
13 equal to the comprehensive in-state tuition rate for 30 credits at the Vermont
14 State Colleges during the individual’s final year of enrollment, to be prorated
15 over the five years following graduation.

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

1 (4) Management.

2 (A) The Secretary of Commerce and Community Development shall
3 develop all organizational details of the loan forgiveness program consistent
4 with the purposes and requirements of this section.

5 (B) The Secretary shall enter into a memorandum of understanding
6 with the Vermont Student Assistance Corporation for management of the loan
7 forgiveness program.

8 (C) The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25
9 necessary to implement the Program.

10 (c) Vermont Strong Internship Program.

11 (1) Internship program management.

12 (A) The Commissioner of Labor and the Secretary of Commerce and
13 Community Development shall jointly develop and implement the
14 organizational details of the internship program consistent with the purposes
15 and requirements of this section and may adopt rules pursuant to 3 V.S.A.
16 chapter 25 necessary to implement the internship program.

17 (B) The Commissioner, in consultation with the Secretary, shall issue
18 a request for proposals for a person to serve as an Internship Program
19 Intermediary, who shall perform the duties and responsibilities pursuant to the
20 terms of a performance contract negotiated by the Commissioner and the
21 Intermediary.

1 (C) The Department of Labor, the Agency of Commerce and
2 Community Development, the regional development corporations, and the
3 Intermediary, shall have responsibility for building connections within the
4 business community to ensure broad private sector participation in the
5 internship program.

6 (D) The Program Intermediary shall:

7 (i) identify and foster postsecondary internships that are rigorous,
8 productive, well-managed, and mentored;

9 (ii) cultivate relationships with employers, employer-focused
10 organizations, and state and regional government bodies;

11 (iii) build relationships with Vermont postsecondary institutions
12 and facilitate recruitment of students to apply for available internships;

13 (iv) create and maintain a registry of participating employers and
14 associated internship opportunities;

15 (v) coordinate and provide support to the participating student, the
16 employer, and the student's postsecondary institution;

17 (vi) develop and oversee a participation contract between each
18 student and employer, including terms governing the expectations for the
19 internship, a work plan, mentoring and supervision of the student, reporting by
20 the employer and student, and compensation terms; and

1 (vii) carry out any additional activities and duties as directed by
2 the Commissioner.

3 (2) Qualifying internships.

4 (A) Criteria. To qualify for participation in the internship program an
5 internship shall at minimum:

6 (i) be with a Vermont employer as approved by the Intermediary
7 in consultation with the Commissioner and Secretary;

8 (ii) pay compensation to an intern of at least the prevailing
9 minimum wage; and

10 (iii) meet the quality standards and expectations as established by
11 the Intermediary.

12 (B) Employment of interns. Interns shall be employed by the
13 sponsoring employer except, with the approval of the Commissioner on a
14 case-by-case basis, interns may be employed by the Intermediary and assigned
15 to work with a participating Vermont employer, in which case the sponsoring
16 employer shall contribute funds as determined by the Commissioner.

17 (3) Student eligibility. To participate in the internship program an
18 individual shall be:

19 (A) a Vermont resident enrolled in a post-secondary institution in or
20 outside Vermont;

1 (B) a student who graduated from a postsecondary institution within
2 24 months of entering the program who was classified as a Vermont resident
3 during that schooling or who is a student who attended a post-secondary
4 institution in Vermont; or

5 (C) a student enrolled in a Vermont post-secondary institution.

6 (d) Funding.

7 (1) Loan forgiveness program.

8 (A) Loan forgiveness; State funding.

9 (i) There is created a special fund to be known as the Vermont
10 Strong Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5, which
11 shall be used and administered by the Secretary of Commerce and Community
12 Development solely for the purposes of loan forgiveness pursuant to this
13 section.

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

17 (iii) Any interest earned and any remaining balance at the end of
18 the fiscal year shall be carried forward in the Fund.

19 (iv) The availability and payment of loan forgiveness awards
20 under this subdivision is subject to State funding available for the awards.

21 (B) Loan forgiveness; Vermont Student Assistance Corporation.

1 The Vermont Student Assistance Corporation shall have the authority to grant
2 loan forgiveness pursuant to this section by using the private loan forgiveness
3 capacity associated with bonds issued by the Corporation to raise funds for
4 private loans that are eligible for forgiveness under this section, if available.

5 (2) Internship program. Notwithstanding any provision of law to the
6 contrary, the Commissioner of Labor shall have the authority to use funds
7 allocated to the Workforce Education and Training Fund established in
8 10 V.S.A. § 543 to implement the internship program created in this section.

9 Sec. 48. VERMONT STRONG INTERIM REPORT

10 On or before November 1, 2014, the Secretary of Commerce and
11 Community Development shall report to the Joint Fiscal Committee on the
12 organizational and economic details of the Vermont Strong Scholars Initiative,
13 including:

14 (1) the economic sectors selected for loan forgiveness;

15 (2) the projected annual cost of the Initiative,

16 (3) the proposed funding sources;

17 (4) programmatic proposals and economic projections on the feasibility
18 and impacts of expanding eligibility for the loan forgiveness program to
19 include Vermont residents who attend postsecondary institutions outside
20 Vermont and out-of-state residents who attend Vermont postsecondary
21 institutions; and

1 (5) the projected balance of the Vermont Strong Scholars Fund for each
2 fiscal year through fiscal year 2018.

3 Sec. 49. VERMONT PRODUCTS PROGRAM; STUDY; REPORT

4 (a) On or before September 1, 2016, the Agency of Commerce and
5 Community Development, after consulting with appropriate stakeholders, shall
6 report to the Senate Committee on Economic Development, Housing and
7 General Affairs and the House Committee on Commerce and Economic
8 Development on creating a Vermont Products Program for the purpose of
9 providing Vermont businesses with a means of promoting and marketing
10 products and services that are manufactured, designed, engineered, or
11 formulated in Vermont and avoiding confusion by consumers when the
12 Vermont brand is used in marketing products or services.

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

16 (1) The program shall include a licensing system that enables qualifying
17 persons to make marketing claims concerning significant business activities
18 occurring in Vermont, and to self-certify products and services that are
19 manufactured, designed, engineered, or formulated in Vermont. Under this
20 system, the Secretary shall identify and craft branding and marketing
21 guidelines that concern whether and how qualifying products or services

1 manufactured, designed, engineered, or formulated in Vermont can be properly
2 claimed so as to be licensed. The licensing system shall permit an applicant to
3 self-certify compliance with designated criteria and attest to the accuracy of
4 claims authorized by the Secretary in order to obtain a license to advertise and
5 promote a product or service using the licensed materials.

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

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

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

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

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

4 (d) On or before February 1, 2015, the Secretary of Commerce and
5 Community Development shall deliver testimony to the Senate Committee on
6 Economic Development, Housing and General Affairs and the House
7 Committee on Commerce and Economic Development on the status of the
8 Vermont Products Program pursuant to this section.

9 * * * Workers' Compensation * * *

10 Sec. 50. 21 V.S.A. § 632 is amended to read:

11 § 632. COMPENSATION TO DEPENDENTS; ~~DEATH BENEFITS~~
12 BURIAL AND FUNERAL EXPENSES

13 If death results from the injury, the employer shall pay to the persons
14 entitled to compensation or, if there is none, then to the personal representative
15 of the deceased employee, the actual burial and funeral expenses ~~in the amount~~
16 ~~of \$5,500.00~~ not to exceed \$10,000.00 and the actual expenses for out-of-state
17 transportation of the decedent to the place of burial not to exceed ~~\$1,000.00~~
18 \$5,000.00. Every two years, the Commissioner of Labor shall evaluate the
19 average burial and funeral expenses in the State and make a recommendation
20 to the House Committee on Commerce and Economic Development and the
21 Senate Committee on Finance as to whether an adjustment in compensation is

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

7 * * *

8 Sec. 51. 21 V.S.A. § 639 is amended to read:

9 § 639. DEATH, PAYMENT TO DEPENDENTS

10 In cases of the death of a person from any cause other than the accident
11 during the period of payments for disability or for the permanent injury, the
12 remaining payments for disability then due or for the permanent injury shall be
13 made to the person's dependents according to the provisions of sections 635
14 and 636 of this title, or if there are none, the remaining amount due, but ~~not~~
15 ~~exceeding \$5,500.00 for burial and funeral expenses~~ no more than the actual
16 burial and funeral expenses not to exceed \$10,000.00 and the actual expenses
17 for out-of-state transportation of the decedent to the place of burial not to
18 exceed ~~\$1,000.00~~ \$5,000.00, shall be paid in a lump sum to the proper person.
19 Every two years, the Commissioner of Labor shall evaluate the average burial
20 and funeral expenses in the State and make a recommendation to the House
21 Committee on Commerce and Economic Development and the Senate

1 Committee on Finance as to whether an adjustment in compensation is
2 warranted.

3 Sec. 52. 21 V.S.A. § 640c is added to read:

4 § 640c. OPIOID USAGE DETERRENCE

5 (a) In support of the State’s fundamental interest in ensuring the well-being
6 of employees and employers, it is the intent of the General Assembly to protect
7 employees from the dangers of prescription drug abuse while maintaining a
8 balance between the employee’s health and the employee’s expedient return to
9 work.

10 (b) As it pertains to workers’ compensation claims, the Commissioner of
11 Labor, in consultation with the Department of Health, the State
12 Pharmacologist, the Vermont Board of Medical Practice, and the Vermont
13 Medical Society, shall adopt rules consistent with the best practices governing
14 the prescription of opioids, including patient screening, drug screening, and
15 claim adjudication for patients prescribed opioids for chronic pain. In adopting
16 rules, the Commissioner shall consider guidelines and standards such as the
17 Occupational Medicine Practice Guidelines published by the American
18 College of Occupational and Environmental Medicine and other medical
19 authorities with expertise in the treatment of chronic pain. The rules shall be
20 consistent with the standards and guidelines under 18 V.S.A. § 4289 and any
21 rules adopted by the Department of Health pursuant to 18 V.S.A § 4289.

1 Sec. 53. 21 V.S.A. § 641 is amended to read:

2 § 641. VOCATIONAL REHABILITATION

3 * * *

4 (e)(1) In support of the State’s fundamental interest in ensuring the
5 well-being of employees and employers, it is the intent of the General
6 Assembly that, following a workplace accident, an employee return to work as
7 soon as possible but remain cognizant of the limitations imposed by his or her
8 medical condition.

9 (2) The Commissioner shall adopt rules promoting development and
10 implementation of cost-effective, early return-to-work programs.

11 Sec. 54. 21 V.S.A. § 643a is amended to read:

12 § 643a. DISCONTINUANCE OF BENEFITS

13 Unless an injured worker has successfully returned to work, an employer
14 shall first notify ~~both the Commissioner and the employee prior to terminating~~
15 ~~benefits under either section 642 or 646 of this title~~ the employee at least seven
16 days prior to providing to the Commissioner a notice of discontinuance of
17 benefits under either section 642 or 646 of this title. The notice to the
18 employee shall include a specific explanation of the basis for discontinuance,
19 including any independent medical examination report, the claimant’s right to
20 object to the discontinuance, and the phone number and website address for the
21 Department. The ~~notice~~ notices to the employee and the Commissioner of an

1 intention to discontinue payments shall be filed on forms prescribed by the
2 Commissioner and shall include the date of the proposed discontinuance, the
3 reasons for it, and, if the employee has been out of work for 90 days, a
4 verification that the employer offered vocational rehabilitation screening and
5 services as required under this chapter. All relevant evidence, including
6 evidence that does not support discontinuance in the possession of the
7 employer ~~not already filed, shall be filed with the notice~~ shall be provided to
8 the injured worker. With the notice of discontinuance, the employer shall file
9 with the Commissioner only evidence specific to the discontinuance, including
10 evidence that does not support the discontinuance. The liability for the
11 payments shall continue for seven days after the notice is received by the
12 Commissioner ~~and the employee.~~ If the claimant disputes the discontinuance,
13 the claimant may file with the Commissioner an objection to the
14 discontinuance and seek an extension of an additional seven days. The
15 objection to the discontinuance shall be specific as to the reasons and include
16 supporting evidence. A copy of the objection shall be provided to the
17 employer at the time the request is made to the Commissioner. Those
18 payments shall be made without prejudice to the employer and may be
19 deducted from any amounts due pursuant to section 648 of this title if the
20 Commissioner determines that the discontinuance is warranted or if otherwise
21 ordered by the Commissioner. Every notice shall be reviewed by the

1 Commissioner to determine the sufficiency of the basis for the proposed
2 discontinuance. If, after review of all the evidence in the file, the
3 Commissioner finds that a preponderance of all the evidence in the file does
4 not reasonably support the proposed discontinuance, the Commissioner shall
5 order that payments continue until a hearing is held and a decision is rendered.
6 Prior to a formal hearing, an injured worker may request reinstatement of
7 benefits by providing additional new evidence to the Department that
8 establishes that a preponderance of all evidence now supports the claim. If the
9 Commissioner's decision, after a hearing, is that the employee was not entitled
10 to any or all benefits paid between the discontinuance and the final decision,
11 upon request of the employer, the Commissioner may order that the employee
12 repay all benefits to which the employee was not entitled. The employer may
13 enforce a repayment order in any court of law having jurisdiction.

14 Sec. 54a. REPEAL

15 21 V.S.A. § 643a shall be repealed on July 1, 2016.

16 Sec. 54b. STUDY; REPORT; DISCONTINUANCE OF BENEFITS

17 The Commissioner of Labor shall assess the financial and administrative
18 impacts of the statutory revisions to 21 V.S.A. § 643a, as amended by this act,
19 and shall submit to the House Committee on Commerce and Economic
20 Development and the Senate Committee on Economic Development, Housing
21 and General Affairs on or before January 15, 2016, a report addressing:

1 (1) whether the statutory revisions expedited the discontinuance process;

2 (2) whether the statutory revisions impacted workers' compensation
3 insurance rates;

4 (3) how many requests to discontinue benefits were received, acted on,
5 the time required for action, and whether there was a subsequent order for
6 reinstatement of benefits; and

7 (4) any other matters deemed relevant by the Commissioner.

8 Sec. 55. 21 V.S.A. § 691a is added to read:

9 § 691a. POSTING OF SAFETY RECORDS

10 (a) In support of the State's fundamental interest in ensuring the well-being
11 of employees and employers, it is the intent of the General Assembly to
12 improve the safety experience in the workplace.

13 (b) An employer subject to the provisions of this chapter shall post a notice
14 in the employer's place of business to advise employees of where they may
15 review the employer's record of workplace safety, including workplace injury
16 and illness data, in accordance with rules adopted by the Commissioner. The
17 employer's record of workplace safety, including workplace injury and illness
18 data, shall be available for review by employees at the employer's place of
19 business and the Commissioner, but shall not otherwise be public information.
20 The posting shall be in a format approved by the Commissioner. The posting
21 may be in a format provided by the Commissioner.

1 Sec. 56. 21 V.S.A. § 696 is amended to read:

2 § 696. CANCELLATION OF INSURANCE CONTRACTS

3 A policy or contract shall not be cancelled within the time ~~limited~~ specified
4 in the policy or contract for its expiration, until at least 45 days after a notice of
5 intention to cancel the policy or contract, on a date specified in the notice, has
6 been filed in the office of the ~~commissioner~~ Commissioner and provided to the
7 employer. The notice shall be filed with the Commissioner in accordance with
8 rules adopted by the Commissioner and provided to the employer by certified
9 mail ~~or certificate of mailing~~. The cancellation shall not affect the liability of
10 an insurance carrier on account of an injury occurring prior to cancellation.

11 Sec. 57. 21 V.S.A. § 697 is amended to read:

12 § 697. NOTICE OF INTENT NOT TO RENEW POLICY

13 An insurance carrier who does not intend to renew a workers' compensation
14 insurance policy of workers' compensation insurance or guarantee contract
15 covering the liability of an employer under the provisions of this chapter, ~~45~~
16 ~~days prior to the expiration of the policy or contract~~, shall give notice of ~~the~~ its
17 intention to the ~~commissioner of labor~~ Commissioner and ~~to~~ the covered
18 employer at least 45 days prior to the expiration date stated in the policy or
19 contract. The notice shall be given to the employer by certified mail ~~or~~
20 ~~certificate of mailing~~. An insurance carrier who fails to give notice shall
21 continue the policy or contract in force beyond its expiration date for 45 days

1 from the day the notice is received by the ~~commissioner~~ Commissioner and the
2 employer. However, ~~this latter provision shall not apply if, prior to such~~
3 ~~expiration date, on or before the expiration of the existing insurance or~~
4 ~~guarantee contract the insurance carrier has, by delivery of a renewal contract~~
5 ~~or otherwise, offered to continue the insurance beyond the date by delivery of a~~
6 ~~renewal contract or otherwise,~~ or if the employer notifies the insurance carrier
7 in writing that the employer does not wish the insurance continued beyond the
8 expiration date, or if the employer complies with the provisions of section 687
9 of this title, ~~on or before the expiration of the existing insurance or guarantee~~
10 ~~contract~~ then the policy will expire upon notice to the Commissioner.

11 Sec. 58. ROBERT H. WOOD CRIMINAL JUSTICE AND FIRE SERVICE

12 TRAINING CENTER STUDY

13 The Department of Labor and the Office of Risk Management, in
14 consultation with the Vermont League of Cities and Towns and any other
15 interested parties, shall conduct a study, to be submitted to the House
16 Committee on Commerce and Economic Development and the Senate
17 Committee on Finance on or before January 15, 2015, to:

18 (1) analyze existing and frequently occurring injuries suffered by
19 individuals while attending the Robert H. Wood Criminal Justice and Fire
20 Service Training Center;

21 (2) analyze preventive measures to avoid injuries;

1 (3) recommend who should bear the financial burden of the workers’
2 compensation premiums; and

3 (4) recommend preventive measures necessary to reduce injuries.

4 Sec. 59. WORKPLACE SAFETY RANKING STUDY

5 The Department of Labor and the Department of Financial Regulation, in
6 consultation with the *National Council on Compensation Insurance*, shall
7 study whether information may be made available to employers to allow an
8 employer to compare its workplace safety and workers’ compensation
9 experience with that of employers in similar industries or *North American*
10 *Industry Classification System* codes.

11 Sec. 60. 2013 Acts and Resolves No. 75, Sec. 14 is amended as follows:

12 Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY
13 COUNCIL

14 * * *

15 (b) The Unified Pain Management System Advisory Council shall consist
16 of the following members:

17 * * *

18 (4) the Commissioner of Labor or designee;

19 (5) the Director of the Blueprint for Health or designee;

20 ~~(5)~~(6) the Chair of the Board of Medical Practice or designee, who shall
21 be a clinician;

1 ~~(6)~~(7) a representative of the Vermont State Dental Society, who shall
2 be a dentist;

3 ~~(7)~~(8) a representative of the Vermont Board of Pharmacy, who shall be
4 a pharmacist;

5 ~~(8)~~(9) a faculty member of the academic detailing program at the
6 University of Vermont's College of Medicine;

7 ~~(9)~~(10) a faculty member of the University of Vermont's College of
8 Medicine with expertise in the treatment of addiction or chronic pain
9 management;

10 ~~(10)~~(11) a representative of the Vermont Medical Society, who shall be
11 a primary care clinician;

12 ~~(11)~~(12) a representative of the American Academy of Family
13 Physicians, Vermont chapter, who shall be a primary care clinician;

14 ~~(12)~~(13) a representative from the Vermont Board of Osteopathic
15 Physicians, who shall be an osteopath;

16 ~~(13)~~(14) a representative of the Federally Qualified Health Centers, who
17 shall be a primary care clinician selected by the Bi-State Primary Care
18 Association;

19 ~~(14)~~(15) a representative of the Vermont Ethics Network;

20 ~~(15)~~(16) a representative of the Hospice and Palliative Care Council of
21 Vermont;

1 ~~(16)~~(17) a representative of the Office of the Health Care Ombudsman;
2 ~~(17)~~(18) the Medical Director for the Department of Vermont Health
3 Access;

4 ~~(18)~~(19) a clinician who works in the emergency department of a
5 hospital, to be selected by the Vermont Association of Hospitals and Health
6 Systems in consultation with any nonmember hospitals;

7 ~~(19)~~(20) a member of the Vermont Board of Nursing Subcommittee on
8 APRN Practice, who shall be an advanced practice registered nurse;

9 ~~(20)~~(21) a representative from the Vermont Assembly of Home Health
10 and Hospice Agencies;

11 ~~(21)~~(22) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who
12 has experience in treating chronic pain, to be selected by the Board of
13 Psychological Examiners;

14 ~~(22)~~(23) a drug and alcohol abuse counselor licensed pursuant to
15 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for
16 Alcohol and Drug Abuse Programs;

17 ~~(23)~~(24) a retail pharmacist, to be selected by the Vermont Pharmacists
18 Association;

19 ~~(24)~~(25) an advanced practice registered nurse full-time faculty member
20 from the University of Vermont's Department of Nursing; ~~and~~

1 ~~(25)~~(26) a consumer representative who is either a consumer in recovery
2 from prescription drug abuse or a consumer receiving medical treatment for
3 chronic noncancer-related pain;

4 (27) a clinician who specializes in occupational medicine;

5 (28) a clinician who specializes in physical medicine and
6 rehabilitation; and

7 (29) a consumer representative who is or has been an injured worker and
8 has been prescribed opioids.

9 * * *

10 Sec. 61. 21 V.S.A. § 602 is amended to read:

11 § 602. PROCESS AND PROCEDURE

12 * * *

13 (c) Any communication from an employer or an insurer to a claimant that
14 is not otherwise required to be provided on a form prescribed by the
15 Commissioner must include a statement advising the claimant immediately to
16 contact the Vermont Department of Labor’s Workers’ Compensation Division
17 to determine a right to object or appeal, as provided by law, and to seek
18 information from the Department on the process and procedures.

1 Sec. 62. 21 V.S.A. § 655 is amended to read:

2 § 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL
3 EXAMINATION; VIDEO AND AUDIO RECORDING

4 After an injury and during the period of disability, if so requested by his or
5 her employer, or ordered by the Commissioner, the employee shall submit to
6 examination, at reasonable times and ~~places~~ within a two-hour driving radius
7 of the residence of the injured employee, by a duly licensed physician or
8 surgeon designated and paid by the employer. The Commissioner may in his
9 or her discretion permit an examination outside the two-hour driving radius if
10 it is necessary to obtain the services of a provider who specializes in the
11 evaluation and treatment specific to the nature and extent of the employee's
12 injury. The employee may make a video or audio recording of any
13 examination performed by the insurer's physician or surgeon or have a
14 licensed health care provider designated and paid by the employee present at
15 the examination. The employer may make an audio recording of the
16 examination. The right of the employee to record the examination shall not be
17 construed to deny to the employer's physician the right to visit the injured
18 employee at all reasonable times and under all reasonable conditions during
19 total disability. If an employee refuses to submit to or in any way obstructs the
20 examination, the employee's right to prosecute any proceeding under the
21 provisions of this chapter shall be suspended until the refusal or obstruction

1 ceases, and compensation shall not be payable for the period which the refusal
2 or obstruction continues.

3 Sec. 63. 21 V.S.A. § 663b is added to read:

4 § 663b. FRAUD

5 (a) Any claims of fraud submitted to the Department shall require action by
6 the Commissioner to determine if further investigation is warranted. The
7 Commissioner shall order the insurer to investigate specific allegations of
8 claimant fraud and submit a written report to the Department. Once the
9 insurer's report is received, the Commissioner shall afford the claimant an
10 opportunity to respond in person or in writing within 30 days. The
11 Commissioner may order additional information to be provided to the
12 Department from the insurer or the claimant. The Department shall issue a
13 determination on the fraud allegation, including penalties and any
14 reimbursement as provided under section 708 of this title. The party may
15 appeal the decision of the Commissioner as provided under 3 V.S.A.
16 chapter 25.

17 (b) An employee found to have committed fraud in order to receive
18 compensation under this chapter shall be ordered to repay all compensation
19 fraudulently received in addition to other administrative penalties ordered by
20 the Department. These payments shall not be charged to the employer for
21 purposes of calculating its experience rating.

1 Sec. 64. FRAUD STUDY AND REPORT

2 The Department shall initiate a study of the best practices to detect and
3 deter workers' compensation fraud by employees, employers, and other
4 persons involved with the workers' compensation system. The study shall
5 include investigation procedures, penalties, and recapture of fraudulently
6 obtained payments in a timely and cost-effective manner. On or before
7 January 15, 2015, the Department shall report its findings and
8 recommendations to the House Committee on Commerce and Economic
9 Development and the Senate Committee on Economic Development, Housing
10 and General Affairs.

11 Sec. 65. 21 V.S.A. § 624(e) is amended to read:

12 (e)(1) In an action to enforce the liability of a third party, the injured
13 employee may recover any amount which the employee or the employee's
14 personal representative would be entitled to recover in a civil action. Any
15 recovery against the third party for damages resulting from personal injuries or
16 death only, after deducting expenses of recovery, shall first reimburse the
17 employer or its workers' compensation insurance carrier for any amounts paid
18 or payable under this chapter to date of recovery, and the balance shall
19 forthwith be paid to the employee or the employee's dependents or personal
20 representative and shall be treated as an advance payment by the employer on
21 account of any future payment of compensation benefits. Reimbursement

1 required under this subsection, except to prevent double recovery, shall not
2 reduce the employee's recovery of any benefit or payment provided by a plan
3 or policy that was privately purchased by the injured employee, including
4 ~~uninsured-under-insured~~ uninsured-underinsured motorist coverage, or any
5 other first party insurance payments or benefits.

6 (2) Should the recovery against the third party for damages resulting
7 from personal injuries or death only, after deducting expenses of recovery, be
8 less than the full value of the claim for personal injuries or death, the
9 reimbursement to the employer or workers' compensation insurance carrier
10 shall be limited to that portion of the recovery allocated for damages covered
11 by the Workers' Compensation Act. If a court has not allocated or the parties
12 cannot agree to the allocation of the recovered damages, either party may
13 request that the Commissioner make an administrative determination. Upon
14 receiving a request, the Commissioner shall order mediation with a mediator
15 selected from a list approved by the Commissioner. If mediation is
16 unsuccessful, the Commissioner may adjudicate the dispute or refer the dispute
17 to an arbitrator approved by the Commissioner. The determination of the
18 Commissioner or of an arbitrator approved by the Commissioner shall be final.
19 The cost of any mediation or arbitration shall be split equally by the parties.

20 Sec. 66. 21 V.S.A. § 678 is amended to read:

21 § 678. COSTS; ~~ATTORNEY~~ ATTORNEY'S FEES

1 (a) Necessary costs of proceedings under this chapter, including deposition
2 expenses, subpoena fees, and expert witness fees, shall be assessed by the
3 ~~commissioner~~ Commissioner against the employer or its workers'
4 compensation carrier when the claimant prevails. The ~~commissioner~~
5 Commissioner may allow the claimant to recover reasonable ~~attorney~~
6 attorney's fees when the claimant prevails. Costs shall not be taxed or allowed
7 either party except as provided in this section.

8 (b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court,
9 if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~
10 attorney's fees as approved by the ~~court~~ Court, necessary costs, including
11 deposition expenses, subpoena fees, and expert witness fees, and interest at the
12 rate of 12 percent per annum on that portion of any award the payment of
13 which is contested. Interest shall be computed from the date of the award of
14 the ~~commissioner~~ Commissioner.

15 * * *

16 * * * Notice of Data Security Breach * * *

17 Sec. 67. 9 V.S.A. § 2435(b)(4) is amended to read:

18 (4)(A) The notice to a consumer required by this subsection shall be
19 delayed upon request of a law enforcement agency. A law enforcement agency
20 may request the delay if it believes that notification may impede a law
21 enforcement investigation, or a national or Homeland Security investigation or

1 jeopardize public safety or national or Homeland Security interests. In the
2 event law enforcement makes the request for a delay in a manner other than in
3 writing, the data collector shall document such request contemporaneously in
4 writing, including the name of the law enforcement officer making the request
5 and the officer's law enforcement agency engaged in the investigation. A law
6 enforcement agency shall promptly notify the data collector in writing when
7 the law enforcement agency no longer believes that notification may impede a
8 law enforcement investigation, or a national or Homeland Security
9 investigation or jeopardize public safety or national or Homeland Security
10 interests. The data collector shall provide notice required by this section
11 without unreasonable delay upon receipt of a written communication, which
12 includes facsimile or electronic communication, from the law enforcement
13 agency withdrawing its request for delay.

14 (B) A Vermont law enforcement agency with a reasonable belief that
15 a security breach has or may have occurred at a specific business shall notify
16 the business in writing of its belief. The agency shall also notify the business
17 that additional information on the security breach may need to be furnished to
18 the Office of the Attorney General or the Department of Financial Regulation
19 and shall include the website and telephone number for the Office and the
20 Department in the notice required by this subdivision. Nothing in this
21 subdivision shall alter the responsibilities of a data collector under this section

1 or provide a cause of action against a law enforcement agency that fails,
2 without bad faith, to provide the notice required by this subdivision.

3 * * * Insurance; Form of Notice * * *

4 Sec. 68. 8 V.S.A. § 3666 is added to read:

5 § 3666. RULES; METHODS OF NOTICE

6 Notwithstanding the requirements under sections 3883, 4226, and 4714 of
7 this title, the Commissioner of Financial Regulation shall adopt rules
8 specifying the methods by which a notice to a party required under section
9 3880, 3881, 4224, 4225, 4712, or 4713 of this title shall be given.

10 * * * Effective Dates * * *

11 Sec. 69. EFFECTIVE DATES

12 (a) This section, Secs. 28 (Public Service Board; order revision), 52, 53,
13 54a, 54b, and 58–66 (certain workers’ compensation provisions) shall take
14 effect on passage.

15 (b) 16 V.S.A. § 2888(b)(3) (Vermont Strong loan forgiveness) in Sec. 47
16 shall take effect on July 1, 2015.

17 (c) Sec. 54 (discontinuance of benefits) shall take effect September 1, 2014.

18 (d) 10 V.S.A. § 531(c) in Sec. 42 shall take effect July 2, 2014.

19 (e) The remainder of this act shall take effect on July 1, 2014.